

TORONTO STAFF REPORT

September 18, 2006

To: City Council IN CAMERA

From: Richard Butts, General Manager, Solid Waste Management Services
Joseph Pennachetti, Deputy City Manager and Chief Financial Officer

Subject: Long Term Waste Disposal Capacity

Purpose:

To recommend that the City of Toronto (the "City") purchase the Green Lane Landfill, located in the Township of Southwold, in Elgin County, Ontario, in order to provide contingency and long-term security of disposal capacity for residual solid waste and biosolids.

Financial Implications and Impact Statement:

The re-direction of City solid waste to Ontario, closure of the border, application of restrictions to the disposal of waste in Michigan, and the recent prohibition on delivery of the City's biosolids to Michigan will result in higher disposal costs for the City. The exact magnitude and timing of the impact will depend on the option selected, the timing of the closure of the border, the amount of waste diversion achieved, the amount of Industrial, Commercial and Institutional ("IC&I") waste disposal service retained, and general market conditions and capacity affecting haulage and disposal services.

Republic Services Contract:

Barring uncontrollable circumstances (e.g. border closure), the City is contractually obligated to provide all of its residual municipal solid waste ("MSW") and IC&I waste to Republic Services Inc. for disposal to the end of the year 2010, save and except for a small amount of waste allowed to be re-directed to other service providers. The 2006 Republic cost per tonne is \$61.15 (\$41.25 for haulage and \$19.90 for disposal), plus any applicable fuel surcharge calculated when the price of diesel fuel exceeds \$0.80 per litre (the fuel surcharge is presently estimated at \$1.40 per tonne), for a 2006 operating budget requirement of \$50.1 million gross and \$39.8 million net of transfer station IC&I revenue. The cost per tonne is adjusted annually based on CPI increases.

Green Lane – Contract Option (\$706 million NPV):

St. Thomas Sanitary Collection Service Limited Partnership, responding with respect to the Green Lane Landfill, was the only respondent to the City's Request for Proposal ("RFP") that could provide all of the City's needs for contingency and future disposal capacity (RFP No. 6033-06-3218). Its recent environmental assessment approval would allow it to meet all of the City's annual disposal volumes. Its 2007 contract contingency price for disposal is \$62.00 per tonne for MSW and IC&I waste, and \$105.00 per tonne for biosolids and street sweepings. A "reserve" fee of \$2.5 million in 2007, and \$0.5 million in each of 2008, 2009 and 2010, would also apply. This disposal cost per tonne is also to be adjusted annually based on Consumer Price Index ("CPI") increases. Solid Waste Management Services staff have estimated the haulage cost to St. Thomas to be in the order of \$24 per tonne based on an \$0.80 per litre fuel cost.

At the RFP prices presented, this option has a net present value ("NPV") to the City of \$706 million over twenty years.

Green Lane – Purchase Option (\$516 million NPV):

The Green Lane Landfill environmental assessment approval and existing capacity provide for 15.2 million cubic metres of capacity. Assuming existing contracts with local municipalities and spot market tonnages (280,000) annually, together with the City's projected tonnages, the service life of the landfill is estimated at between 20 and 23 years. Assuming a conservative private sector required rate of return of approximately 10 percent, an investor would value this landfill capacity to be in the order of \$500 million with the security of a long-term contract with the City. Without the magnitude of the City's waste, having regard for the time value of money, the landfill would be valued significantly lower.

The owners of the Green Lane Landfill have, as an alternative to their response to the RFP, exclusively offered the landfill and associated buffer lands for purchase by the City at a negotiated purchase price of \$220.31 million. Under this option, the cost for disposal would be the landfill operating costs together with the acquisition financing cost and legal and due diligence costs related to the acquisition.

Staff estimate the landfill operating costs, which include landfill development, closure and post-closure provisions, technical and general and administrative expenses, capital expenditures, and royalties to the local municipality, at \$23.00 per tonne (2007). This estimate will be confirmed through the due diligence process.

On the operating side, this option provides for SWM budget reductions through the lower cost of disposal that accompanies ownership and from the additional revenue the City would receive from existing Green Lane contracts with the local municipalities and tipping fees from spot market disposal. The incremental operating budget reduction, before financing costs, is estimated at \$10.0 million cumulatively between 2007 and 2010.

Most importantly, an estimated \$13.9 million reduction in 2011, before financing costs, will result under a purchase option due to significantly lower operating landfill costs versus contracted costs.

Implicit in the contracted cost of shipping the City’s solid waste to either Michigan or Green Lane is a portion of the cost of financing and providing a rate of return on capital. With the purchase of the Green Lane landfill site, the City will be able to use this portion of the tipping fees received at that site to assist in servicing the debt incurred through the acquisition.

The net present value of the purchase alternative to the City is \$516 million, which is significantly lower than the Net Present Value of \$706 million of the RFP contract price option. The purchase alternative is clearly the preferred option from a financial perspective.

SWM staff in conjunction with the Deputy City Manager and Chief Financial Officer will report on the long term operating budget impacts as part of the 2007/08 Operating Budget process.

Landfill Options – Cost per tonne Comparison:

Table 1 below provides a comparison, on a per tonne basis, of the current contract with Michigan with the two options available to the City for 2007 and beyond, and particularly 2010 and beyond if the Michigan border closes to Ontario solid waste.

Under the Republic contract, the City is paying \$61.00-\$65.00 per tonne (2007) for the haulage and disposal of its solid waste (the range in haulage cost is due to potential fluctuations in diesel fuel prices). The Green Lane response to the City’s RFP provides for a disposal cost for the City’s solid waste of \$62.00 per tonne (2007). With the City’s estimate of \$23.00 to \$25.00 per tonne for haulage, the total cost of the Green Lane contract option is \$85.00 to \$87.00 per tonne (2007). By comparison, the total cost per tonne of the Green Lane purchase option is approximately \$70.00 - \$72.00 per tonne.

Table 1 – Solid Waste Options – Cost per tonne Comparison

	Current	Future Options (2007 Prices)	
	Michigan Contract	Acquisition	RFP Proposal
Haulage	\$40-44/tonne	\$23-25/tonne	\$23-25/tonne
Disposal	\$21/tonne	\$23/tonne	\$62/tonne
Financing	\$0	\$24/tonne	\$0
Total	\$61-65/tonne	\$70-72 per tonne	\$85-87 per tonne

Financing the Purchase of Green Lane Landfill:

Several capital financing strategies have been analyzed to date but the actual structure of the debt, timing and terms-to-maturity will be based upon prevailing and forecasted capital market conditions during 2007. A potential financing strategy would involve timing debenture issues in 2007 and 2011 to moderate the year-over-year budget impact from financing.

The Deputy City Manager and Chief Financial Officer will report back to Council in 2007 on a recommended financing strategy that will identify an option that provides the lowest cost of funds in the debt markets while matching the project's projected cash flows. Also, as noted above, the increase in debt charges for financing the purchase are effectively offset with the reduction in contract landfill costs in 2007.

Since the City is acquiring an asset which has a lower overall cost than the contract option, and will use a portion of the current tipping fee to fund additional debt charges, it is expected that this investment should be viewed as having a neutral impact on the City's fiscal capacity.

The recommended site acquisition would increase the City's capital budget by \$220.31 million with a corresponding increase in the City's debt level. The Deputy City Manager and Chief Financial Officer has certified that the debt is within the City's updated Debt and Financial Obligation Limit.

The Deputy City Manager and Chief Financial Officer has reviewed this report and concurs with the financial impact statement.

Recommendations:

It is recommended that:

- (1) the General Manager of Solid Waste Management Services be authorized to enter into and execute on behalf of the City of Toronto the letter of intent, dated September 15, 2006 and summarized in the Term Sheet, attached as Appendix A, for the purchase of the Green Lane Landfill and all related waste disposal assets beneficially owned by St. Thomas Sanitary Collection Service Limited Partnership, Green Lane Environmental Group Limited Partnership and their respective principals;

and, subject to the adoption of Recommendation No. 1, it is further recommended that:

- (2) the General Manager of Solid Waste Management Services be authorized to negotiate and execute:
 - (i) an agreement of purchase and sale based on the terms and conditions set out in the Term Sheet attached as Appendix A, including any adjustment to the purchase price as set out in recommendation (9) of this report, and otherwise on terms and conditions satisfactory to the General Manager of Solid Waste Management

Services and the Deputy City Manager and Chief Financial Officer and in a form satisfactory to the City Solicitor; and

- (ii) such other related agreements, including a non-disclosure and confidentiality agreement, as are referenced in the letter of intent, and in accordance with the letter of intent and otherwise on terms and conditions satisfactory to the General Manager of Solid Waste Management Services and the Deputy City Manager and Chief Financial Officer and in a form satisfactory to the City Solicitor;
- (3) the Solid Waste Management Services 2006 Capital Budget be increased by \$220.310 million to purchase the Green Lane Landfill Site with cash flow commitments in 2006 for any purchase deposit required, and with cash flow commitments for the balance in 2007, and that this project be financed through the issuance of debenture(s) with a term not exceeding twenty years;
- (4) the Deputy City Manager and Chief Financial Officer be authorized to finance any deposit payment required in 2006 as part of the Agreement of Purchase and Sale from the Solid Waste Management Reserve Fund pending issuance of debentures in 2007;
- (5) the General Manager of Solid Waste Management Services report back during the 2007/2008 Budget Process on the Operating Budget impact associated with the acquisition and maintenance of this site;
- (6) the Deputy City Manager and Chief Financial Officer report back in 2007 on a financing strategy;
- (7) the General Manager of Toronto Water be directed to consider the implications of purchasing the Green Lane Landfill on the preferred options for managing biosolids for the Ashbridges Bay Treatment Plant as identified in the draft Biosolids and Residuals Master Plan;
- (8) the General Manager of Solid Waste Management Services be authorized to give notice under the Waste Transport and Disposal Agreement between the City of Toronto, Republic Services, Inc., Republic Services of Canada, Inc., Republic Services of Michigan I LLC., doing business as Carleton Farms Landfill, and Republic Transportation Services of Canada, Inc., dated February 28, 2006, that the City intends to redirect the maximum allowable waste quantities under that Agreement to an Ontario landfill prior to the Agreement's expiry at the end of 2010;
- (9) the General Manager of Solid Waste Management Services be authorized, prior to the final closing date of the Green Lane Landfill purchase transaction, to consent on behalf of the City to the acquisition of properties within the Buffer of the landfill by the Vendor pursuant to the Green Lane Landfill Property Value Protection Plan ("PVPP") if the General Manager, in consultation with the Deputy City Manager and Chief Financial Officer, determines such acquisition to be in the best interests of the City, and to add such cost to the total purchase price;

- (10) the General Manager of Solid Waste Management Services be directed to proceed to the completion of the Terms of Reference for the City of Toronto's Environmental Assessment of a long-term post-diversion solid waste management system, in collaboration with the Council appointed Community Environmental Assessment Team, and incorporate the impact of the purchase of the Green Lane Landfill on the analysis of long-term treatment needs for residual solid waste;
- (11) City Council not restrict the City of Toronto's Environmental Assessment of a long-term post-diversion solid waste management system to a policy of one-hundred percent diversion from landfill, and allow the Environmental Assessment to include landfill in the mix of technologies to be considered through the Environmental Assessment;
- (12) City staff prepare a Business Plan for the operation and management of the Green Lane Landfill by the Fall of 2007 based on the principles of full cost accounting, asset preservation and achieving Council-approved diversion strategies as outlined in the Multi-Year Solid Waste Business Plan;
- (13) the General Manager of Solid Waste Management Services be authorized to retain Gartner Lee Ltd., and Jason Price Chartered Accountants on a sole source basis to a maximum of \$50,000.00 funded from the Solid Waste Management Reserve Fund to provide assistance with the completion of environmental and financial due diligence of the Green Lane Landfill, and to execute agreements with these firms on terms and conditions satisfactory to the General Manager of Solid Waste Management Services and in a form satisfactory to the City Solicitor;
- (14) the City Solicitor be authorized to retain the law firm of Stikeman Elliott on a sole source basis to provide legal assistance in the purchase of the Green Lane Landfill, and to execute a retainer agreement on terms and conditions and in a form satisfactory to the City Solicitor to a maximum of \$200,000 funded from the Solid Waste Management Reserve Fund;
- (15) the General Manager of Solid Waste Management Services be authorized and directed to create the position of "Local Liaison and Environmental Manager, Green Lane Landfill", and to staff or contract the position immediately on a sole source basis at an estimated cost of \$200,000 annually to be funded from the Solid Waste Management Operating Budget;
- (16) the General Manager of Solid Waste Management Services be authorized on an as needed basis to hire up to two additional management and accounting personnel on a staff or contract basis at an estimated cost of \$200,000 annually to be funded from the Solid Waste Management Operating Budget;
- (17) upon successful execution of the agreement of purchase and sale as set out in recommendation (3) of this report and closing of the transaction, the General Manager of

Solid Waste Management Services be directed to discontinue work on the examination of closed City of Toronto landfill sites for the purpose of contingency disposal; and

- (18) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto, including the introduction of any necessary bills in Council.

Background:

Green Lane Landfill, a division of St. Thomas Sanitary Collection Service Limited Partnership, was commissioned in 1978, and is currently approved to serve the Province of Ontario under Certificate of Approval No. A 051601. The Ministry of the Environment recently approved a Site Optimization Environmental Assessment that will accommodate an additional 10.9 million cubic metres of waste and daily cover.

The landfill is located in the Township of Southwold, Elgin County, Ontario (near London). A one-way trip from Toronto City Hall is 201 kilometres. The site is located directly adjacent to Highway 401, 7.5 kilometres from the Highway 4 exit from the 401.

The opportunity to purchase the Green Lane Landfill arose during the recent efforts by the City to attain alternative locations to dispose of biosolids, following the decision by the Michigan Department of Environmental Quality to restrict the disposal of biosolids at Republic Services' Carleton Farms Landfill, which until recently accepted biosolids from the City under contract.

In a similar timeframe, Green Lane Landfill, a division of St. Thomas Sanitary Collection Service Limited Partnership ("Green Lane") responded to the City's request for proposal ("RFP") for contingency disposal capacity (RFP No. 6033-06-3218). In its proposal, Green Lane offered disposal capacity on a contingency basis for all of the waste types identified in the RFP: residential solid waste; Industrial, Commercial and Institutional waste; biosolids and other Water and Wastewater systems by-products; and street sweepings, as was identified in the RFP. Its proposal also included an offer to receive and dispose of all of the City's residual solid waste and biosolids after 2010.

The 2010 date is significant because the City is committed through its contract with Republic Services to have its residual solid waste hauled and disposed at Republic's Carleton Farms Landfill in Michigan, until December 31, 2010.

The deadline for Toronto's acceptance of any RFP proposals is December 18, 2006.

In light of the City's current limited access to disposal capacity and faced with a potential legislated closure of the U.S.-Canada border as early as November 2006, or restrictive financial penalties and Customs regulations and the high cost of options presented in the response to the RFP, City staff engaged in discussions with Green Lane regarding an option to purchase the facility in order to provide Council with a full range of viable options.

In order to investigate the merits of the purchase option in contrast to a contract for the receipt and disposal of City waste on a per tonne basis, a comparative financial analysis was undertaken

under the direction of the Deputy City Manager and Chief Financial Officer and by an independent third party accounting firm. Subsequently, the terms and conditions of the purchase proposal were negotiated and recorded in a Letter of Intent which is described in Appendix A.

Gartner Lee Ltd. and Jason Price Chartered Accountants were retained to provide environmental and accounting due diligence expertise related to the options arising from the RFP. This work is being completed and we are seeking additional funds in the amount of \$50,000 for further due diligence work prior to closing of the proposed transaction.

Outside counsel, Stikeman Elliott LLP, have been retained by the City Solicitor to assist with negotiation of this asset purchase and, subject to Council approval of the recommendations in this report, finalization of an agreement of purchase and sale and closing of the transaction. Outside counsel costs are anticipated to be between \$150,000 and \$200,000.

Another report on Council's agenda describes the proposals received in response to the RFP for contingency disposal capacity. That report carries a recommendation to contract with Green Lane for the disposal of solid waste "re-directed" from the Republic Contract starting in 2006 and reaching a maximum of 50,000 tonnes in 2010. Should authority be given to complete the purchase of the Green Lane Landfill, that portion of the RFP report regarding Green Lane would be redundant for any period following the closing date.

Comments:

Long Term Security for Waste Disposal:

The purchase of the Green Lane Landfill would provide the City with long-term disposal capacity and enable it to honour its pledge to terminate waste exports to Michigan at the end of 2010. It would also provide immediate protection in the event of a disruption to the U.S.-Canada border for any reason. The purchase would also limit, after 2010, the City's exposure to U.S. Superfund liability as a generator of solid waste being disposed in a landfill located in the U.S.

The Green Lane Landfill can address all of the City's disposal needs. The City's post-diversion solid waste, biosolids not beneficially used, other by-products from the Water and Wastewater systems (such as water treatment plant residuals and grits and screenings), street sweepings and excavation soils can be disposed at Green Lane. Ownership of the site also allows for the consideration of landfill as a more permanent contingency option for the disposal of biosolids in the Biosolids Master Plan.

Green Lane currently services under contract several municipal customers, including the City of Guelph and the Regional Municipality of York and a number of local municipalities. Those contracts will be honoured under the terms and conditions previously arrived at by Green Lane. In addition, the City will have obligations under the Property Value Protection Plan and several local host agreements, including a host agreement with a First Nations organization, previously negotiated by Green Lane.

The recommendation to purchase Green Lane does not signal a reduction in commitment to waste diversion or the beneficial use of biosolids. On the contrary, advancements in these

endeavours will ensure the service life of Green Lane and in so doing ensure that this asset is fully utilized and provides long-term security of disposal for the City of Toronto. It is estimated that with the aggressive waste diversion plan already underway and ongoing diligence related to airspace preservation, the site can provide disposal capacity for the City until 2026-2029.

This report has also recommended that the City continue with its EA of a long-term post-diversion solid waste management system in order to arrive at a comprehensive long-term waste management plan that includes (subject to the actual purchase) Green Lane in its system mix of waste management technologies and associated policies.

In connection with the proposed purchase of Green Lane, this report recommends that the City not maintain its policy of one-hundred percent diversion from landfill by 2010 and instead allow the EA process now underway to define the mix of technologies that the City will utilize to address its disposal needs. The City's Citizen Environmental Assessment Team concurs with this approach.

Biosolids:

Recently, the City has been faced with the need to sign new contracts for disposal following Michigan's decision to no longer permit the acceptance of biosolids at Republic's Carleton Farms Landfill. While new contracts are in place, the City remains reliant on its ability to have biosolids cross the Ontario border, which may be disrupted at any time due to such factors as terrorist threat or action, or concerns over infectious diseases such as Mad Cow disease or regulatory changes by external jurisdictions.

Similar to the need to continue to advance waste diversion, it is imperative that the City maintain its program of beneficial use for biosolids in order to provide long-term solutions for the management of this material and extend the service life of Green Lane.

The merits of owning Green Lane are similar for addressing the City's disposal needs for biosolids.

Financial Analysis:

This section presents a summary of the financial analysis of the Green Lane RFP contingency and contract pricing option versus the Green Lane purchase option. At this time, these are the only two reasonable options before the City.

Tonnage and Cost Assumptions:

In order to compare the two disposal options, from a financial perspective, Finance staff performed a cash flow analysis of each of the options. Net cash flows were calculated in each period based on available costing information and the tonnage projections provided for in the SWM business plan. These cash flows were then discounted at the City's cost of capital (5.0%) to arrive at the cost to the City of each option in today's dollars taking into account the time value of money (i.e. each option's net present value - NPV).

The Toronto tonnage projections provided by SWM Division incorporate the positive effects of the City's aggressive diversion initiatives as described in the Council-approved Multi-Year Solid Waste Business Plan. Both options – the contract option and the purchase option - were considered over a twenty year period on the basis of the available landfill airspace capacity of approximately 15.2 million cubic metres, per the environmental assessment approval, and to provide for an “apples-to-apples” comparison.

In addition to the tonnage projections, several other assumptions were required to carry out the financial comparison, which were made in a reasonable and realistic manner. The same assumptions were applied to both options equally. Prices and cost were escalated annually with a CPI rate of 2.5%.

Other assumptions could have been used, and while they may change the NPV value, it would not change the relative rankings of the two options.

Net Present Value Comparison:

Table 2 provides a comparison of cash flow under the two options over the life of the landfill (2007-2026). Haulage cost to Green Lane would be the same under either scenario, and is estimated at \$462 million over twenty years, based on the estimate of \$25.00 per tonne (2007). Disposal costs, however, will be significantly lower under the purchase option. This is because under the Green Lane contract option, the cost for disposal is \$62.00 (MSW and ICI – 2007), whereas, if the City owned the landfill, the cost of disposal would be the real cost of disposal operations, estimated at \$23.00 per tonne (2007, excluding financing costs). Revenues to the City of Toronto would also be higher under the purchase option because the City would assume Green Lane's existing disposal contracts with its surrounding municipalities, as well as any tonnages from the spot disposal market. The conservative revenue estimate from the Green Lane contracts and tipping fees is about \$200 million over 20 years. It would be Council's prerogative to adjust tipping fees as may be desirable from time to time once existing contract prices have expired.

The purchase option will require external financing for the \$220.31 million purchase price. Based on the cash flow profile, one potential financing strategy would be to take advantage of the operating budget reductions through ownership, and would involve timing debenture issues in 2007 and 2011 to moderate the year-over-year budget impact from financing. Staff will report back in 2007 on a recommended financing strategy that will identify an option that provides the lowest cost of funds in the debt markets while matching the project's projected cash flows.

**Table 2 – Comparison of Cash Flows 2007-2026 (\$ millions)
Green Lane Contract Option versus Green Lane Purchase Option**

	Contract	Purchase	Difference
Haulage	\$ 462.5	\$ 462.5	\$ -
Disposal	\$ 986.4	\$ 373.0	\$ (613.4)
Revenues	\$ (251.7)	\$ (457.0)	\$ (205.3)
Financing	<u>\$ -</u>	<u>\$ 329.0</u>	<u>\$ 329.0</u>
Total (Nominal Dollars 2007-2026)	\$ 1,197.2	\$ 707.5	\$ (489.7)
NPV (2007 Dollars)	\$ 706.3	\$ 516.4	\$ (189.9)

From Table 2 above, the total (nominal) cash flows over 20 years associated with the Green Lane contract option is approximately \$1.2 billion, compared with \$708 million if the City purchased the landfill (a savings of almost \$500 million). Similarly, on a net present value basis, the NPV of the purchase option to the City is \$516 million, which is significantly lower than the NPV of \$706 million from the RFP contract price option, and hence the purchase acquisition is clearly the preferred option from a financial perspective, and would result in a savings to the City of close to \$200 million over twenty years, expressed in today's dollars.

It must be noted that this analysis was independently confirmed by the consultants retained by the City to assist with the financial and environmental due diligence related to this matter.

Conclusions:

The purchase of the Green Lane Landfill solves three critical issues facing the City of Toronto:

- contingency capacity in the event of a closure of the border between this date and 2010; and
- long-term post-diversion disposal of solid waste and biosolids remaining after beneficial use programs; and,
- long-term financial predictability.

The purchase is supported by a financial analysis by staff and confirmed by an independent consultant analysis that shows that ownership represents the preferred option from a financial perspective, as compared to contracting for the receipt and disposal of waste.

In 2010, the City faces the expiration of the current term of the Republic Agreement and the requirement to meet its commitment to Michigan to conclude exports at that time. The City's EA for a post-diversion solid waste management system is proceeding; however, the EA will not be completed with a time allowance for facility construction and commissioning by the end of

2010. Therefore an interim arrangement for disposal capacity will be needed. The purchase of the Green Lane Landfill would address this short-term need and on-going disposal needs.

It is imperative that the City maintain its aggressive diversion efforts in order to ensure that Green Lane's service life is extended as far as possible and to continue to advance the environmental and economic benefits of recycling and composting and meet our community's and the Province of Ontario's expectations for leadership in this field.

The strategic acquisition of Green Lane Landfill is integral to ensure long-term security of supply related to waste disposal and represents a key missing element of a sustainable integrated waste management system.

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Appendix A.

[To be distributed under separate cover at Council session]