



**STAFF REPORT  
ACTION REQUIRED  
Confidential Attachment**

**Settlement of Claim – Prudential Consulting Inc.**

<b>Date:</b>	September 26, 2008
<b>To:</b>	Public Works and Infrastructure Committee
<b>From:</b>	General Manager, Solid Waste Management Services City Solicitor
<b>Wards:</b>	All
<b>Reason for Confidential Information:</b>	This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions. [Litigation includes matters before administrative tribunals.]
<b>Reference Number:</b>	

**SUMMARY**

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This report advises on the results of negotiations with Prudential Consulting Inc. regarding the litigation arising from a 2005 Automated Vehicle Location (“AVL”) and Radio Frequency Identification System (“RFID”) Contract and seeks instructions in that regard, as described in the Confidential Attachment, Attachment 1.

**RECOMMENDATIONS**

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The General Manager, Solid Waste Management Services and the City Solicitor recommend that:

1. Council adopt the confidential instructions to staff set out in Attachment 1; and
2. City Council authorize the release of the confidential recommendations in Attachment 1 once the settlement and appropriate documentation are finalized to the satisfaction of the City Solicitor.

## **FINANCIAL IMPACT**

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The financial implications resulting from the adoption of this report are set out in Confidential Attachment 1.

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

## **DECISION HISTORY**

In 2002, the City of Toronto issued a Request for Proposals (document 2104-02-3084), titled “Request for Proposals to supply, install, maintain and to provide programme support for an automated vehicle location and management control system for a pilot project – City of Toronto Works and Emergency Services Division” (the “AVL Pilot Project”). Prudential Consulting Inc (‘Prudential’) was awarded the contract (the “2002 AVL Contract”).

On July 22, 23 and 24, 2003, City Council approved increasing the AVL Pilot Project by an additional 40 vehicles.

<http://www.toronto.ca/legdocs/2003/agendas/council/cc030722/wks6rpt/cl005.pdf>

At its meeting held on May 4, 2005, City Council referred Works Committee Report 3 Clause 2a (“Review of Automated Vehicle Location (AVL) and Management Control System Pilot Project in Solid Waste Management Services”) to the Works Committee and the eCity Committee for a report back on the implementation of a co-ordinated effort across the Corporation and its ABCs on AVL.

<http://www.toronto.ca/legdocs/2005/agendas/council/cc050504/wkscl002a.pdf>

A Multi Unit Waste Reduction Levy (“levy”) was adopted as part of the 2005 Solid Waste Management Services (“SWMS”) Operating budget with an implementation date of September 1, 2005. At its meeting held on July 19, 20, 21 and 26, 2005, City Council, by approving, as amended, Policy and Finance Committee Report 7, Clause 39 (“Implementation of Multi-Unity Waste Reduction Levy”), directed Solid Waste Management Services staff to implement that levy by July 1, 2006, with mock billing from January 1, 2006 to July 1, 2006.

<http://www.toronto.ca/legdocs/2005/agendas/council/cc050719/pof7rpt/cl039.pdf>

Council in that report also authorized SWMS to enter into a sole source agreement (the “2005 Contract”) with Prudential for additional hardware, software and services related to the AVL and RFID projects for one year, with the option of two additional one year periods subject to satisfactory performance. If the renewal options were exercised, the maximum value of the contract would be \$1,373,214.59.

## ISSUE BACKGROUND

Pursuant to an RFP process, Prudential was awarded the 2002 AVL Contract to supply, install, maintain and to provide programme support for an automated vehicle location and management control system for the AVL Pilot Project. The Pilot Project was planned to assist the City with the implementation of an automated vehicle location (“AVL”) and management control system that utilized global positioning system satellites and cellular wireless technology to locate and track assets, monitor movement and provide location history reports. The project was to be a 14 month pilot project involving AVL on 33 Solid Waste vehicles. The 2002 AVL Contract was entered into on October 21, 2002. In July 2003, this pilot project was expanded by adding an additional 40 vehicles.

In May 2005, Solid Waste staff submitted a report to Works Committee to initiate a competitive bid process, negotiate with the preferred proponent, and award a contract to continue monitoring the pilot vehicles in Solid Waste Management Services that were by then equipped with AVL, and to expand the AVL Pilot Project to other vehicles as operationally required. City Council referred the report back to the Works Committee and the eCity Committee for a report back on the implementation of a co-ordinated effort across the Corporation and its ABCs on AVL.

However, during the time frame of the report referral, the implementation of a Multi Unit Waste Reduction Levy (‘levy’) was adopted by Council with an implementation date of September 2005. This levy would provide a financial incentive to encourage maximum use of the no-charge recycling service provided by the City by placing a levy on a portion of the residual solid waste that is generated by each multi-unit residential building. Due to the complexities involved with the implementation of the levy, a revised implementation date of July 1, 2006 with mock billing period from January 1, 2006 to July 1, 2006 was approved.

For the purpose of the implementation of the levy, it was planned that the amount of waste and recyclable materials each building set out for collection would be measured and recorded using a Radio Frequency Identification System (“RFID”) in conjunction with the AVL technology being used by SWMS. Due to the timelines associated with the implementation of the levy, Council authorized SWMS to enter into a sole source agreement with Prudential for additional hardware, software and services related to the AVL and RFID projects for one year with the option of two additional one year periods (subject to satisfactory performance); this was the 2005 Contract.

A payment schedule was written into the 2005 Contract, with payments based on certain project milestones being satisfactorily completed by Prudential. Also, as part of the Contract, Prudential was to complete the installation, configuration, set up and testing, and to confirm functional operation of the required hardware and software in designated vehicles and waste bins by December 15, 2005 or earlier.

Ultimately Council cancelled the Multi Unit Waste Reduction Levy in favour of the more comprehensive Target 70 initiative which took effect July 1, 2008.

Prudential has sued the City with respect to the 2005 Contract, seeking damages of \$361,345.25 plus interest and legal costs. After negotiations the parties have reached a proposed settlement of that dispute (subject to Council approval) as noted and recommended in Attachment 1.

## **COMMENTS**

These negotiations have resulted in a proposed settlement with Prudential as noted in Attachment 1.

## **CONTACT**

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## **SIGNATURE**

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Geoff Rathbone  
General Manager  
Solid Waste Management Services

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Anna Kinastowski  
City Solicitor

## **ATTACHMENTS**

Confidential Attachment 1 Confidential Information