



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

**Amendments to Solid Waste Management Services
Diversion Contracts**

Date:	April 21, 2009
To:	Public Works and Infrastructure Committee
From:	General Manager, Solid Waste Management Services
Wards:	All
Reason for Confidential Information:	This report involves the security of property belonging to the City.
Reference Number:	p:/2009/swms/May/009PW

SUMMARY

The purpose of this report is to request authority to amend the contracts with Canada Fibers Ltd. to process additional Single Stream Recyclable Material (SSRM) and with OrgaWorld Canada Ltd. to process additional Source Separated Organics (SSO) and to receive authority to negotiate further amending SSRM and SSO contracts or enter into new agreements as necessary to ensure the City has sufficient available processing capacity for SSRM, SSO and SSO digestate.

RECOMMENDATIONS

The General Manager, Solid Waste Management Services recommends that:

1. City Council approve an increase in the maximum contracted single stream recycling tonnage to be processed by Canada Fibers Ltd. by an additional 20,000 tonnes to 105,000 tonnes per year at an additional \$16.00 per tonne above the current processing rate with CPI adjustments on the new tonnes effective January 1, 2010 and annually thereafter, all net of GST;

2. City Council approve an increase in the maximum contracted source separated organic tonnage to be hauled and processed by OrgaWorld Canada Ltd. by 25,000 tonnes to 75,000 tonnes per year at a rate reduced by \$5.00 per tonne from the current processing rate of \$112.50 per tonne to \$107.50 per tonne on both the currently committed tonnes and the new tonnes with CPI adjustments effective June 1, 2009 and annually thereafter and no change in the current contracted rate of \$17.25 per tonne for haulage, all net of GST;
3. Subject to the adoption of Recommendation 2, City Council approve a put or pay commitment of 70% of the full 75,000 tonnes until May 31, 2013, provided that OrgaWorld Canada Ltd. is capable of processing the full amount;
4. Subject to the adoption of Recommendation 2, City Council authorize the General Manager, Solid Waste Management Services to exercise the two (2) option years from June 1, 2013 to May 31, 2014 and June 1, 2014 to May 31, 2015 with OrgaWorld Canada Ltd. as part of the agreement for increased capacity;
5. City Council authorize the General Manager, Solid Waste Management Services to enter into any necessary amending agreements with both Canada Fibers Ltd. and OrgaWorld Canada Ltd. to reflect Recommendations 1, 2, 3 and 4, and otherwise on terms and conditions satisfactory to the General Manager, Solid Waste Management Services and in a form satisfactory to the City Solicitor;
6. City Council:
 - (a) extend the existing authority of the General Manager of Solid Waste Management Services to negotiate and enter into amending agreements with the City's current SSO processing contractors and/or negotiate and enter into agreements with other SSO processing contractors as required to meet the City's SSO (including SSO digestate) processing needs for terms up to December 31, 2015 on terms and conditions satisfactory to the General Manager, Solid Waste Management Services, and in a form satisfactory to the City Solicitor, provided that the prices do not exceed the increased processing fees identified in Attachment 1 – Confidential Information; and
 - (b) authorize the General Manager of Solid Waste Management Services to negotiate and enter into amending agreements with the City's current SSRM processing contractors and/or negotiate and enter into agreements with other SSRM processing contractors as required to meet the City's SSRM processing needs for terms up to December 31, 2015 on terms and conditions satisfactory to the General Manager, Solid Waste Management Services, and in a form satisfactory to the City Solicitor, provided that the prices do not exceed the processing fees identified in Attachment 1 – Confidential Information;

7. City Council amend the 2009 Approved Operating Budget for Solid Waste Management Services by increasing expenditures in Cost Centre SW0751 (MRF: Single Stream - Dufferin) by \$1,008,410.; by decreasing expenditures in Cost Centre SW0476 (MWPF-DUFFERIN) by \$218,750 and by increasing revenue in Cost Centre SW0751 (MRF: Single Stream - Dufferin) by \$789,660;
8. This report be forwarded to Budget Committee.

Financial Impact

Canada Fibers Ltd.

The 2009 approved budget for single stream recycling processing costs at Canada Fibers Ltd. is \$7,411,061.76 (Cost Centre SW0751-MRF: Single Stream - Dufferin).

The proposed increased tonnage and processing fees will result in an estimated incremental increase of 16,200 recovered tonnes at \$106.71 per tonne or \$1,008,410 net of GST to be paid to Canada Fibers Ltd. for the period June 1, 2009 to December 31, 2009, if all additional processing capacity is utilized. The rate is increased by \$16.00 per tonne from the current processing rate of \$90.71 per tonne to \$106.71 per tonne. The total rate charged by Canada Fibers Ltd. includes residue rates between \$4.20 for residue in the range of 14.01-15%, to \$21.14 for residue in the range of 27.01-28%. Residue calculations will be done monthly and applied accordingly to the fee payable to Canada Fibers Ltd. Based on current markets and current trends, it is anticipated that we will receive approximately \$789,660 in additional revenue from the sale of recycled material for the same period resulting in a net cost to the City of \$218,750.

OrgaWorld Canada Ltd.

The 2009 approved budget for source separated organics processing costs for OrgaWorld Canada Ltd. is \$6,953,850.76 (Cost Centre SW0476-MWPF-DUFFERIN). The proposed increased tonnage and immediate option year extensions with OrgaWorld Canada Ltd. will result in a decrease in the current processing fee by \$5.00 per tonne which, if all additional capacity is utilized, will result in savings to the City of approximately \$218,750 net of GST for the period June 1, 2009 to December 31, 2009. The option year extensions are detailed in Table 1 below and will be included in the appropriate operating budget submissions of Solid Waste Management Services.

Table 1: OrgaWorld Canada Ltd.

Cost Centre	Revised 2009	2010	2011	Total
SW0476	\$6,735,101	\$9,736,250	\$9,927,750	\$26,399,101

* The above costs include transportation costs

With the approval of these amendments, the Canada Fibers Ltd. and OrgaWorld Canada Ltd. contracts essentially offset each other. However, it should be noted that while the approved 2009 Solid Waste Management Services Operating Budget has included estimated costs associated with the processing of all estimated SSRM, SSO and SSO digestate tonnes, new short term contracts may result in the City incurring costs as identified in Attachment 1 – Confidential Information.

The following table outlines the necessary budget adjustments should these contract amendments be approved and represents a net zero impact:

Table 2: Operating Budget Adjustment.

Cost Centre	Cost Element	2009
SW0751-MRF: Single Stream - Dufferin	4403 C. SVCS-MACH & EQUIP	\$1,008,410
SW0476-MWPF-DUFFERIN	4403 C. SVCS-MACH & EQUIP	(\$218,750)
Total Expenditures		\$789,660
SW0751-MRF: Single Stream - Dufferin	9495 SALE OF RECYCLED MATERIALS	\$789,660
Total Revenues		\$789,660

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

DECISION HISTORY

At its meeting held on September 22, 23, 24, and 25, 2003, City Council considered Report No. 9, Clause 34 of the Policy and Finance Committee and awarded a recycling processing contract to Canada Fibers Ltd. for up to 85,000 tonnes of single stream recyclable materials. The staff report titled “Processing of Single Stream Recyclable Materials Request for Proposals No. 9150-03-7092” and City Council Decision can be viewed at:

<http://www.toronto.ca/legdocs/2003/agendas/council/cc030922/pof9rpt/cl034.pdf>

At its meeting held on September 25, 26 and 27, 2006, City Council considered Report No. 6, Clause 5 of the Works Committee and authorized the General Manager, Solid Waste Management Services to negotiate and enter into agreements with current and new SSO processors for terms of three to five years subject to acceptable pricing. The staff report titled “Planning Study for an Expanded SSO Processing System Status Report” and City Council Decision can be viewed at:

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060925/wks6rpt/cl005.pdf>

At its meeting held on July 16, 17, 18 and 19, 2007, City Council considered PW7.22 “Results for the Request for Proposals No. 6035-07-3064 for Provision of Organic Material Processing Services” and awarded a haulage and processing contract to OrgaWorld Canada Ltd. for up to 50,000 tonnes per year of source separated organics. The staff report and City Council Decision can be viewed (Pages 108 and 109): <http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-07-16-cc11-dd.pdf>

ISSUE BACKGROUND

With the City’s new diversion initiatives and public education campaign, the capture rates of SSRM and SSO have increased annually but securing processing capacity proves to be a challenge due to these increases and seasonal peaks. The City has contracts with various processors across the province including Canada Fibers Ltd. operating the City’s Dufferin Material Recovery Facility and OrgaWorld Canada Ltd. for the haulage and processing of a portion of the City’s SSO at their own facility in London, Ontario. While the City has previously entered into sole source agreements to meet its continued capacity requirements, both the Canada Fibers Ltd. and OrgaWorld Canada Ltd. contracts were awarded through competitive calls.

Both Canada Fibers Ltd. and OrgaWorld Canada Ltd. have proven track records as reliable processors and both have the capacity to expand their current operations to process additional City of Toronto materials.

COMMENTS

To ensure sufficient capacity for SSRM and SSO, staff entered into extensive discussions with both Canada Fibers Ltd. and OrgaWorld Canada Ltd. to acquire additional capacity to process increased amounts of material as required throughout the year. These discussions have resulted in both rate increases and decreases that would require contract amendments identified in this request.

Canada Fibers Ltd. has agreed in principle to receive up to an additional 20,000 tonnes per year of SSRM above the current contracted amount of 85,000 TPY at an extra \$16.00 per tonne on the new tonnage with CPI adjustments on the 20,000 new tonnes effective on the contract anniversary date of January 1, 2010. This additional capacity is being made available by adding additional overtime hours to the current operation which involves two eight-hour shifts. This allows the additional capacity to be turned on and off as required during seasonal adjustments on very short notice. The additional capacity does not become part of the put or pay component of the contract with Canada Fibers Ltd. but will be made available as required to the City.

OrgaWorld Canada Ltd. has agreed in principle to process additional tonnages up to 25,000 tonnes of SSO above the current contracted amount of 50,000 tonnes per year at a reduced tip fee of \$107.50 per tonne on the additional tonnes. This additional capacity becomes part of the put or pay component of the contract with OrgaWorld Canada Ltd. until May 31, 2013. In addition to the additional capacity, OrgaWorld Canada Ltd. has advised that should the City agree to commit to the two (2) option years immediately (June 1, 2013 to May 31, 2014 and June 1, 2014 to May 31, 2015), they will commit to reduce the tip fee for all tonnes received (up to 75,000 tonnes) from \$112.50 per tonne to \$107.50 per tonne. There is no change in the haulage rate of \$17.50 per tonne. Given the time frame for completion of construction and commissioning of the City's two new SSO facilities, it is recommended that the option years be exercised to ensure capacity in the event of construction or commissioning delays. If the City commits to the option years now, the City will realize potential savings of approximately \$2.25M in processing fees through to 2015, in addition to the security of committed capacity.

Staff believes that the above-mentioned rates are fair and reasonable and will help to ensure the successful implementation and ongoing performance of the City's diversion initiatives.

In addition to securing the additional SSRM and SSO capacity over the long term, there continues to be the need to secure short term SSRM, SSO and SSO digestate capacity when tonnages increase and/or contractors encounter difficulties, or fail due to the challenges inherent in the industry. The processing capacity issue has been recognized previously with City Council, in 2006, authorizing the General Manager to negotiate and enter into amending agreements with the City's SSO processors and/or negotiate and enter into agreements with other SSO processing contractors as required to meet the City's processing needs. These agreements were authorized for terms up to five (5) years in length provided that the prices did not exceed an approved upper limit. This authority has been essential in the maintenance of our SSO diversion program by permitting immediate purchasing capability in emergency situations and has ensured reliable interim SSO processing capacity.

An extension to this authority is sought to take the City through to the successful commissioning of new facilities in 2012 and beyond. Staff is requesting that the existing authority to enter into amending agreements or new agreements with SSO and SSO digestate contractors be extended to December 31, 2015. Equivalent authority for SSRM processors to deal with periodic short term processing challenges is also sought. Terms and conditions of any contract will be to the satisfaction of the General Manager, Solid Waste Management Services and in a form satisfactory to the City Solicitor, and pricing will not exceed the amounts outlined in Attachment 1 – Confidential Information.

Securing additional processing capacity for both SSRM, SSO and SSO digestate through our long term, competitively bid contracts at attractive pricing along with authority to deal, on a sole source basis, with future capacity issues in an expeditious manner will ensure the continued success of the City's diversion programs.

CONTACT

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SIGNATURE

Geoff Rathbone
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ATTACHMENTS

Attachment 1 – Amendments to Solid Waste Management Services Diversion Contracts