



**STAFF REPORT
INFORMATION ONLY**

**Solid Waste Curbside Collection, District 2 Contract
Monitoring Plan – Supplementary Report**

Date:	June 1, 2012
To:	City Council
From:	Acting General Manager, Solid Waste Management Services
Wards:	7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 27
Reference Number:	P:2012/SWMS/June/009CC

SUMMARY

This report provides additional supplementary information to an April 27, 2012 staff report and May 16, 2012 supplementary report concerning Solid Waste Curbside Collection, District 2 Contract Monitoring Plan.

This report provides further clarification regarding the circumstances (liquidated damages, remedial action and default) that will necessitate a staff report to Public Works and Infrastructure Committee.

RECOMMENDATIONS

The Acting General Manager, Solid Waste Management Services, recommends that the Public Works and Infrastructure Committee:

1. Receive this report for information.

Financial Impact

This report has no financial impacts.

COMMENTS

Reporting Back to Public Work and Infrastructure Committee

At its meeting on October 24 and 25, 2011, City Council directed staff to prepare reports to the Public Works and Infrastructure Committee on various aspects of the Curbside Collection, District 2 Contract (the "Contract") and the provision of collection services City-wide. The reporting schedule to be followed by City staff to meet these requirements has been included as an attachment.

Reporting Back on Non-Performance

As outlined in the April 27, 2012 Public Works and Infrastructure Committee report, Solid Waste Curbside Collection, District 2 Contract Monitoring Plan, contract management staff will be monitoring day to day operations. All incidences of non-compliance will be investigated and documented. Should important operational deficiencies occur and written notice is provided to the Contractor as referenced below, staff will report back accordingly to Public Works and Infrastructure Committee as described in the following circumstances.

Liquidated Damages

The May 15, 2012 supplementary report, Waste Curbside Collection, District 2 Contract Monitoring Plan – Supplementary Report contained a list of non-performance items to which liquidated damages may be applied. The City will consider operational reasonableness and situations such as inclement weather or road closures that may be beyond the control of the contractor, Green for Life, (the "Contractor") in determining whether liquidated damages should apply. For example, liquidated damages would not be applied when the Contractor is late finishing collection or fails to finish collection due to inclement weather, road closure, or heavy leaf and yard waste season. If it is determined that liquidated damages should apply, the Contractor will be provided with written notification and the amount will either be credited to the City on the monthly invoice or recovered from the Contractor's performance security and staff will report out to Public Works and Infrastructure Committee.

Remedial Action

The Contract between the City and the Contractor provides the City with the authority to require remedial action on the part of the Contractor for service and operational deficiencies, such as providing additional trucks to address repeated incomplete collections. When it becomes necessary for the General Manager to provide formal written notice under the Contract for remedial action, a report to Public Works and Infrastructure Committee will be provided. The following cases are instances when written notification is issued and a staff report to Public Works and Infrastructure Committee is submitted.

Default and Termination

In addition, staff will report back to the Public Works and Infrastructure Committee on any notification of Contractor default and termination as per the requirements in the Contract.

Routine Disclosure

Please also note that where the aforementioned performance information falls within one or more categories of the Solid Waste Division's routine disclosures, the information will be publicly disclosed in reports to Public Works and Infrastructure. Otherwise, City staff will consult with the City Solicitor on a case-by-case basis to determine whether public disclosure remains appropriate.

Provincial Labour Law Violations

In addition to what City staff reports to the Public Works and Infrastructure Committee, the Contract requires the Contractor to immediately advise the General Manager or his designate in the event of any of the following:

- i) A critical injury that arises out of Work that is the subject of this Contract;
- ii) An order(s) is issued to the Contractor by the Ministry of Labour arising out of the Work that is the subject of this Contract;
- iii) A charge is laid or a conviction is entered arising out of the Work that is the subject of this Contract, including but not limited to a charge or conviction under the OHS Act, the Criminal Code, R.S.C 1985, c. C-46, as amended and the Workplace Safety and Insurance Act, 1997, S.O. 1997, c. 16, Sched. A, as amended.

As part of the monitoring plan, City staff also will review and report on any convictions for violations of Ministry of Labour legislation.

Compliance with the Fair Wage Policy

Request for Quotation No. 6033-11-3186 – Curbside Collection, District 2 requires that the Contractor comply with the City's Fair Wage Policy which sets out specific wages for a driver/loader performing similar work to that required in the Request for Quotation documents.

The Contractor is aware and understands their obligations under the City's Fair Wage Policy and has agreed to comply fully.

For high profile contracts such as Curbside Collection in District 2, the Fair Wage Office will take initiative to conduct periodic payroll audits of contractors. The first audit of the Contract will take place within the first six months. Payroll audits will also be conducted in response to any complaints received.

The Fair Wage Office reports all non-compliance activities to Council annually. In addition, the Manager of the Fair Wage Office must report to the Government Management Committee when a contractor is found to be in non-compliance in two separate instances over a period of three years and may recommend that the contractor be disqualified from conducting business with the City of Toronto for a period of two years.

CONTACT

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SIGNATURE

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ATTACHMENT – Reporting Schedule