



**STAFF REPORT  
ACTION REQUIRED**

**Green For Life Commercial Vehicle Operator  
Registration Safety Rating Downgrade**

<b>Date:</b>	May 13, 2014
<b>To:</b>	Public Works and Infrastructure Committee
<b>From:</b>	Acting General Manager, Solid Waste Management Services
<b>Wards:</b>	All
<b>Reference Number:</b>	P\2014\Cluster B\SWM\May\009PW (AFS #19659)

**SUMMARY**

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The purpose of this report is to respond back to the Public Works and Infrastructure Committee as directed by City Council Decision MM51.47 (May 6, 7 and 8, 2014). That decision requires Solid Waste Management Services to report on the change to the Green For Life (“GFL”) Commercial Vehicle Operator Registration (CVOR) safety rating from “Satisfactory” to “Conditional” that the Ontario Registrar for Motor Vehicles made on April 10, 2014, the performance requirements of the City’s contract with GFL, and the steps the City is taking in response to the rating change.

**RECOMMENDATIONS**

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**The Acting General Manager, Solid Waste Management Services, recommends that:**

1. The Public Works and Infrastructure Committee receive this report for information.

**Financial Impact**

This report has no financial impact.

## **DECISION HISTORY**

At its meeting on May 6, 7 and 8, 2014, City Council adopted Member Motion Item MM51.47 requesting that the City Manager report to the May 14, 2014 Public Works and Infrastructure Committee on:

- a) the performance requirements for the GFL contract with respect to its commercial vehicle operating registration rating; and
- b) the steps the City is taking in response to this recent downgrading of GFL's Commercial Vehicle Operator Registration rating.

## **ISSUE BACKGROUND**

The Highway Traffic Act (the "Act") requires a corporation or individual that is responsible for operating a truck or bus in Ontario (the "operator" or "holder") to hold a valid Commercial Vehicle Operator's Registration ("CVOR") certificate. The Act further requires the Registrar of Motor Vehicles (the "Registrar") to assign a safety rating for the CVOR. Ontario Regulation 424/97 (the "Regulation") details how CVOR safety ratings are assigned to operators.

On April 10, 2014, the Registrar changed the CVOR safety rating for GFL from "Satisfactory" to "Conditional" based on data points collected over a two year period from December 18, 2011 to December 17, 2013.

Under the terms of the GFL contract with the City for the provision of collection services in the District 2 area: "GFL shall make all efforts to maintain its rating equivalent to or better than satisfactory at all times during the term of the contract".

## **COMMENTS**

### **CVOR and Safety Ratings**

The CVOR safety rating is based on the operator's overall violation rate, together with the results of a facility audit. The overall violation rate is determined by comparing the operator's collision, inspection, and conviction results with thresholds appropriate to the distance travelled by the operator's fleet during the 24 month period prior to point in time when the Registrar makes the calculation.

Using the overall violation rate, the collision rate, and the audit results, the Registrar assigns one of five ratings:

1. Excellent: If the overall violation rate is 15% or less and the collision rate is 10% or less and the audit result was excellent.

2. Satisfactory: If the overall violation rate is 70% or less and the audit was satisfactory, then the Registrar assigns a rating of Satisfactory.
3. Satisfactory Unaudited: If the overall violation rate is 70% or less but no audit has occurred, the rating is Satisfactory-Un-audited.
4. Conditional: Whenever the overall violation rate exceeds 70%, then regardless of the audit results, the rating becomes “Conditional”. Following a six month minimum probationary period, the Registrar can reassess the operator to determine whether the previous rating should be restored.
5. Unsatisfactory: A rating is downgraded to Unsatisfactory if, among other things, the operator’s CVOR certificate is suspended or cancelled. Such suspension or cancellation would occur because of misconduct by the operator, conviction of the operator, or a finding by the Registrar that the holder cannot operate its vehicles safely or in accordance with the Highway Traffic Act and its regulations.

### **GFL’s CVOR and Safety Rating**

For GFL’s renewed CVOR certificate, the Registrar calculated an overall violation rate for the 24 month period of December 18, 2011 to December 17, 2011 of 74.59%. With that result exceeding the 70% threshold, the Registrar notified GFL on January 16, 2014 of its intention to change GFL’s “Satisfactory” rating to “Conditional”. The Registrar issued a determination on April 10, 2014, to assign a “Conditional” safety rating to GFL.

On April 30, 2014, GFL sought judicial review of the Registrar’s determination. On May 1, 2014, the Divisional Court upheld the Registrar’s determination.

### **Contract between City and GFL for District 2 Area of Toronto**

Following award of RFQ No. 6033-11-3186, the City and GFL entered into a legal agreement on November 2, 2011. That agreement contains the following provision regarding the CVOR rating:

“For the purposes of this contract, the CVOR safety and performance rating issued by the Province will be monitored by City staff to evaluate the safety performance of the Contractor. The Contractor shall make all efforts to maintain its rating equivalent to or better than “Satisfactory” at all times during the term of the contract. The loss by the Contractor of its CVOR certification renders the Contractor unable to perform the Work under this Contract and shall constitute default under the contract. The City may terminate the Contract and find a replacement Contractor. The City may also recover damages from the Contractors Performance Security”.

As per the summary above, “the loss by the Contractor of its CVOR certification” is akin to receiving a rating of “Unsatisfactory”.

### **Action Taken by the City**

The General Manager of Solid Waste Management Services has sent correspondence to GFL requesting a detailed written explanation with detailed supporting documentation by May 15, 2014, describing GFL's action plan to significantly improve its performance going forward, to ensure that the Registrar restores its rating to Satisfactory when the Registrar next assesses GFL's performance. Such new assessment cannot commence until after the minimum six-month period for the Conditional rating required by the Act's CVOR regulation ends in September 2014.

As the General Manager of Solid Waste Management Services indicated to City Council on May 8, 2014, City staff is concerned about the change in GFL's rating. Upon learning about the rating change, Solid Waste staff immediately spoke with GFL to discuss this matter. During these conversations, GFL explained that there were several occurrences and issues that occurred at the start of the District 2 collection contract that resulted in CVOR points being assigned to them that caused the changed rating. Since then, GFL has informed the City that they are taking the steps to improve their CVOR rating. These improvements include hiring a safety manager to oversee operation/operator safety issues, hired a driver trainer manager to work with drivers to improve their safety skills and knowledge, and have implemented various other safety initiatives. GFL has advised staff that based on current safety record trends for GFL, their safety rating has significantly improved. For additional information on the GFL CVOR trend in Districts 1 and 2 refer to Appendix 1 – GFL CVOR Trend Analysis.

Only after the City staff reviews GFL's plan of action, monitors GFL's progress, and learns of GFL's new safety rating in the fall 2014, would the City be in a position to assess whether GFL continues to comply with its D2 contract obligations.

## **City of Toronto's CVOR and Safety Rating**

The City of Toronto's current CVOR rating for all trucks operated by the City is satisfactory with a total 55.8 percent. Solid Waste Management Services vehicles represent approximately 61% of the total City vehicles in the CVOR rating calculation. For additional information on the CVOR trend in SWMS refer to Appendix 2 – SWMS CVOR Trend Analysis.

### **CONTACT**

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### **SIGNATURE**

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Vincent Sferrazza  
Acting General Manager  
Solid Waste Management Services

### **ATTACHMENTS**

Appendix 1 – GFL CVOR Trend Analysis  
Appendix 2 – SWMS CVOR Trend Analysis