

Future Glass Processing Requirements

Date:	December 14, 2011
To:	Public Works and Infrastructure Committee
From:	Acting General Manager, Solid Waste Management Services
Wards:	All
Reference Number:	P:2012/SWMS/January/001PW (AFS #14852)

SUMMARY

This report requests authority to terminate the Agreement between the City and Klareco Traitement de Verre Inc. (formerly Unical Inc.) for the processing of mixed broken glass by mutual agreement. This report also requests authority to extend the current emergency sole source agreement with Recyclable Materials Marketing pending the issuing and award of a Request for Quotation for the processing of mixed broken glass in mid 2012.

RECOMMENDATIONS

The Acting General Manager, Solid Waste Management Services recommends:

1. City Council consent to the mutual termination of the Agreement dated November 27, 2007 between the City of Toronto and Klareco Traitement de Verre (formerly Unical Inc.) and authorize the Acting General Manager, Solid Waste Management Services, to execute an agreement to terminate the Agreement on terms and conditions satisfactory to the Acting General Manager, Solid Waste Management Services, and otherwise in a form satisfactory to the City Solicitor; and
2. City Council authorize the Acting General Manager, Solid Waste Management Services, to extend the current Sole Source Contract 47016121 with Recyclable Materials Marketing from the current end date of January 31, 2012 to a revised end date of May 31, 2012 and amend the contract value from \$472,114.56 to \$681,577 net of taxes on the same terms and conditions and such other terms as may be satisfactory to the Acting General Manager, Solid Waste Management Services, and in a form satisfactory to the City Solicitor.

Financial Impact

The approved 2012 Operating Budget for Solid Waste Management Services includes \$528,007 (Cost Centres SW0742-4403 and SW0751-4403) for the processing of glass in 2012. This amount includes the amendment required as identified in Table 1.

Table 1 – 2012 Approved Budget for Processing Mixed Broken Glass Net of HST Recoveries

Contract Term	Price per Tonne	Estimated Tonnes	Estimated Expenditure
January 1, 2012 – January 31, 2012 to Recyclable Materials Marketing under current contract	\$36.00	1,666	\$61,031.58
February 1, 2012 – May 31, 2012 to Recyclable Materials Marketing in the amendment	\$36.00	5,818	\$213,148.98
June 1, 2012 – December 31, 2012 – Balance		5,889	\$253,826.44
Total 2012 Approved Budget		13,373	\$528,007.00

The extension of the contract with Recyclable Materials Marketing to May 31, 2012 will result in an estimated expenditure of \$209,462.44 net of taxes for the extension period of February 1, 2012 to May 31, 2012 as identified in Table 2:

Table 2 - Estimated Expenditures to Recyclable Materials Marketing to May 31, 2012 Net of all Taxes

Contract Term	Price per Tonne	Estimated Tonnes	Estimated Expenditure
June 14, 2011 – January 31, 2012	\$37.33	12,646	\$472,114.56
February 1, 2012 – May 31, 2012	\$36.00	5,818	\$209,462.44
Total June 14, 2011 to May 31, 2012	\$36.91	18,464	\$681,577.00

The amendment required of \$209,462.44 net of taxes is equivalent to \$213,148.98 net of HST Recoveries.

A short term Departmental Purchase Order issued to Recyclable Materials Marketing in May 2011 for \$38,000 is not included in Table 2.

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

DECISION HISTORY

At its meeting on December 5, 6 and 7, 2005, City Council adopted without amendment Clause No. 6 of Report No. 11 of the Works Committee entitled “Negotiations of Long-Term Mixed Broken Glass Contract Resulting from Stewardship Ontario’s Glass Market Development Fund Request for Proposals for the Provision of Processing Capacity for Mixed Broken Glass”. That report recommended that the Acting General Manager, Solid Waste Management Services, be authorized to negotiate the terms of an agreement with Unical-Gaudreau Group to process Toronto’s mixed broken glass.

Clause No. 6 of Report No. 11 of the Works Committee can be viewed at:

<http://www.toronto.ca/legdocs/2005/agendas/council/cc051205/wks11rpt/cl006.pdf>

At its meeting on January 31, February 1 and 2, 2006, City Council adopted without amendments Clause No. 1 of Report 1 of the Works Committee entitled “Award of Long-term Mixed Broken Glass Contract to Unical Inc. Resulting from Stewardship Ontario’s Glass Market Development Fund Request for Proposals for the Provision of Processing Capacity for Mixed Broken Glass”. These recommendations authorized the Acting General Manager, Solid Waste Management Services to enter into an agreement with Unical Inc. to process Toronto’s mixed broken glass for a term of seven years plus three optional one-year extensions at the City’s sole discretion as outlined in the Glass Market Development Fund Request for Proposals for the Provision of Processing Capacity for Mixed Broken Glass and Unical-Gaudreau Group’s June 10, 2005 proposal.

Clause No. 1 of Report No. 1 of the Works Committee can be viewed at:

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060131/wks1rpt/cl001.pdf>

ISSUE BACKGROUND

The City’s blue box program includes the collection and processing of glass products, as mandated under Ontario Regulation 101/94. Our current mixed glass processor in Quebec is unable to continue to accept loads from the City due to fire insurance requirements related to glass loads containing residue levels above 10%.

COMMENTS

History and Initial Agreement

In 2005, Stewardship Ontario worked with municipalities interested in providing mixed broken glass and developed and administered a joint Request for Proposals for mixed broken glass processing.

As a result of this Request for Proposal, the City entered into an Agreement dated November 27, 2007 with Unical Inc. (the Agreement) to process up to 20,000 tonnes of mixed broken glass annually at its proposed facility in Brampton for seven (7) years with three (3) additional one-year terms at the sole discretion of the General Manager.

Following construction and commissioning of the processing facility, the City began shipping mixed broken glass in 2008.

The processing rate paid to Unical Inc. includes an allowance for residue in the mixed broken glass of up to 10% by weight. This residue results from the City's processing operation and is made up of paper, metal and plastic caps and other items that are not removed during the processing operation. The Agreement provides for two different options to Unical Inc. if the loads of mixed broken glass contain residue exceed 10%, as follows:

- 1) Unical Inc. can accept the load of mixed broken glass and charge the City an additional fee for the portion of the glass containing more than 10% residue rate as determined by sampling analysis results. Solid Waste Management Services then charges this penalty back to the City's processing contractor to recoup the charges; or
- 2) Unical Inc. may reject the load of mixed broken glass containing more than 10% residue. If the load is rejected, the City will be immediately contacted to agree upon a disposal arrangement or to authorize the return of the rejected load back to the City.

The majority of the City's mixed broken glass loads exceed the 10% residue level. Under the Agreement, the City makes no representations or warranty regarding the quality of the mixed broken glass.

Shipment of Glass to Unical's Quebec Facility

On April 9, 2010, Unical Inc. filed a Notice of Intention to Make a Proposal under the *Bankruptcy and Insolvency Act* for its Brampton facility. Recognizing the limited processing capacity available to process the City's mixed broken glass mix, Solid Waste Management Services worked directly with Unical Inc. to allow it to meet its contractual obligations at Unical Inc.'s glass processing facility in Longueuil, Quebec under the same terms and conditions as the existing processing agreement. Due to the increased distance to the new facility, an additional haulage agreement was negotiated with Unical Inc. that included Unical Inc. subsidizing the haulage rate to offset the additional costs incurred by the City.

Effective March 17, 2011 Unical Inc. changed its name to Klareco Traitement de Verre Inc. There was no change in contractual obligations associated with this change.

Fire Issues at Quebec Facility and Agreement with Recyclable Materials Marketing

On May 9, 2011, Solid Waste Management Services was notified that due to a fire, the Longueuil facility was unable to accept mixed broken glass shipments from the City, pending repairs.

Mixed broken glass product must be moved daily from the City's processing facilities as the City does not have the capacity to stockpile approximately 400 tonnes per week of mixed broken glass it generates. Failure to move the mixed broken glass puts the City at risk of being in contravention of its processing contracts, the Certificate of Approval's at each facility and Regulation 101/94. Further it would impact the City's current diversion rate.

As there were no other viable mixed broken glass processing options in Ontario at the time and as an alternative to landfilling the mixed broken glass at a significantly higher cost, Solid Waste Management Services entered into emergency sole source agreements with Recyclable Materials Marketing for the haulage and processing of Toronto's mixed broken glass at a processing facility located in Attica, New York. The Attica facility currently processes municipal mixed broken glass from other Ontario municipalities as well. There was an initial short-term Departmental Purchase Order to process 1,000 tonnes of a cost of \$38,000.00. Once it was realized that damage from the fire was going to take a significant amount of time to repair, a legal agreement was required. Therefore, we entered into an agreement with Recyclable Materials Marketing to process 7,000 tonnes of mixed broken glass with an estimated value of \$266,000 for the period of June 14, 2011 to September 30, 2011.

Ongoing meetings were held with Klareco and we were advised that as a result of the fires, Klareco's, insurance company was requiring that Klareco exercise its right under the Agreement to reject any load of mixed broken glass with an excess of 10% (by weight) of residue, otherwise the Klareco Traitement de Verre Inc. facility will not be insured. Therefore, on October 11, 2011 an amendment was issued to extend this contract with Recyclable Materials Marketing to January 31, 2012 and increase the estimated value by \$206,114.56 to \$472,114.56 net of taxes.

Termination of the Agreement

Throughout the Agreement with Klareco Traitement de Verre Inc. (and formerly Unical Inc.) the majority of the City's mixed broken glass loads have exceeded the 10% residue level. Prior to the fire, Unical (Klareco) always accepted our glass loads. Solid Waste Management Services has worked with the City's processing contractors in an effort to improve the glass quality at the City's processing facilities. However, the City is not able to guarantee that any mixed broken glass loads will be less than 10% residue to meet the required standards to be processed at the Longueuil facility. As a result of any rejection, the City is required to incur the transportation costs for the return haulage of the rejected mixed broken glass. Further, the City will be required to immediately secure haulage and a market for all returned loads of mixed broken glass.

Solid Waste Management Services met with Klareco Traitement de Verre Inc. to discuss options to address the current situation between the City and Klareco Traitement de Verre Inc. with respect to the handling of residue in the loads delivered by the City. It was agreed, in principle, that both parties did not want to needlessly spend money shipping loads of glass between Ontario and Quebec. Since it is the City's opinion that the

majority of loads shipped to Klareco Traitement de Verre Inc. will have a residue content of greater than 10% and Klareco Traitement de Verre Inc. will refuse those loads pursuant to the Agreement, both parties agreed that it would be best to mutually terminate the Agreement.

Request for Quotations and Interim Processing Contract

We are currently developing a Request for Quotations for the processing of the City's mixed broken glass and will be soliciting bids in February 2012. Council approval to terminate the contract with Klareco Traitement de Verre Inc. will be required before we can award a tender. It is expected that a new contractor could be ready to process mixed broken glass by June 1, 2012 at the latest.

Until then, Solid Waste Management Services must continue to move mixed broken glass to ensure compliance with the City's current processing contracts, facility Certificate of Approvals and Regulation 101/94 and therefore, authority is required to extend the current contract with Recyclable Materials Marketing to May 31, 2012 and increase the total target value to \$681,577 net of taxes.

CONTACT

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SIGNATURE

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