



ADMINISTRATIVE REPORT

IN CAMERA

Report Date: September 11, 2013
Contact: Albert Shames
Contact No.: 604.873.7300
RTS No.: 10285
VanRIMS No.: 08-2000-21
Meeting Date: September 12, 2013

TO: Vancouver City Council
FROM: General Manager of Engineering Services
SUBJECT: Extended Producer Responsibility for Packaging and Printed Paper

IN CAMERA RATIONALE

This report is submitted for recommendation to Council in the In Camera agenda as it relates to Section 165.2(1) of the *Vancouver Charter*: (k) negotiations and related discussions respecting the proposed provision of an activity, work or facility that are at their preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the city if they were held in public.

RECOMMENDATION

THAT Council authorise the City Engineer to advise Multi Material BC (MMBC) that the City is interested in continuing to provide recycling services to the residents of the City of Vancouver consisting of:

- i. single-family (SF) curbside recycling,
- ii. multi-unit residential building (MURB) recycling, and
- iii. depot recycling at the Vancouver South Transfer Station (VSTS) and Vancouver Landfill (VL).

under contract to MMBC subject to negotiation of a mutually agreeable contractual and financial arrangement.

REPORT SUMMARY

In April 2013, Multi Material BC's (MMBC) plan outlined how they intended to address their responsibilities under the Province's Extended Producer Responsibility (EPR) program which requires producers of packaging and printed paper (PPP) to assume responsibility and pay for collection and processing of materials currently collected as part of municipal blue box

programs, was approved by the Ministry of Environment. The approved plan states that MMBC would do this through offering municipalities first right of refusal to continue providing recycling services, a financial incentive called a “market clearing price” to cover the costs, and a contract for services which municipalities would sign to receive the market clearing price.

In June 2013, MMBC issued their market clearing prices. Separate market clearing prices were provided for single family (SF) curbside households, multi-unit residential buildings (MURBs), and recycling depots. Shortly afterwards, MMBC released the sample contract documents under which local governments would continue to provide recycling collection services. MMBC has indicated that local governments must *unconditionally* accept or decline the financial incentive and contract by September 16, 2013. If a local government does not respond by this date or provides a conditional response, MMBC indicated they will assume the City wishes to provide SF curbside and depot collection independently without a financial incentive, and MMBC will allow private haulers to start contracting recycling collection with individual MURBs, effective May 19, 2014.

This report provides a summary of the issues surrounding the financial and contract offer and discusses the implications of the choices available to the City.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

The EPR model that shifts the burden and cost of waste management from government and taxpayers to producers and consumers has received significant support from Council over the past decade.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

Although the move to EPR through provincial legislation and the subsequent establishment of MMBC is aligned with the City's Greenest City and Metro Vancouver's goals for waste diversion, the process of working with MMBC to reach an agreement on a contract which meets basic business standards and provides for appropriate risk allocation has been extremely difficult. At this point in time, the City Manager and the City Engineer cannot responsibly recommend signing the proposed contract with MMBC, and accepting the financial incentive to enable the City to continue to provide recycling services to residents in the City of Vancouver. However, it is our intention to continue to negotiate a contract with MMBC and to work in partnership with the other municipalities of the Metro Vancouver region - all of whom are faced with the same challenges.

REPORT

Background/Context

MMBC Offer for SF Curbside, MURB, and Depot Collection

On June 17, 2013, MMBC sent the City a letter detailing financial incentives it would pay the City (Appendix A) to provide SF curbside, MURB, and depot collection services on MMBC's behalf.

For SF curbside households up to four units, the offer to the City from MMBC works out to \$36.50 per household for single stream or \$39.50 per household for source separated collection, plus \$80/tonne of glass collected separately from other recyclables.

For MURBs with five or more units, the offer is \$20.75 per household for single stream and \$23.75 per household for source-separated collection, plus \$80/tonne of glass collected separately from other recyclables.

Over the life of the 5 year contract proposed by MMBC, total revenues received from MMBC are estimated approximately between \$28 to \$31 million. The City would no longer receive any revenue for recyclable material collected and sold to processors.

To be eligible for receiving payment from MMBC, the City must agree to the terms and conditions provided in MMBC's draft contract offer termed the "Master Services Agreement" and "Statements of Work" dated August 30, 2013.

MMBC requires all local governments to provide responses by September 16, 2013.

City of Vancouver Recycling Collection Services

The City currently provides SF curbside recycling collection to about 105,000 houses with up to four units with City crews. Through a combination of City crews and contract services, the City provides recycling services to approximately 5,100 MURBs with five or more units (totaling 264,000 units) in the City.

In 2012, a total of 31,000 tonnes of recyclable material was collected from SF curbside houses and MURB dwellings at a gross cost of \$9.2 million. The City received approximately \$1.7 million in recycling revenue, resulting in a net program cost of \$7.5 million, which was then recovered from residents receiving service through a Recycling Utility Fee.

Sorting and marketing of all recyclables collected by City and contractor crews is performed by a City contracted processor. The processor is located outside the City limits so in order to control the City's costs for transportation of material, the City provides the processor with a transfer location at the City-owned Recycling Receiving Yard at 1198 East Kent Avenue South.

Depot Services

The City also operates two depots, one at the Vancouver Landfill (VLF) and the second at the Vancouver South Transfer Station (VSTS). These depots receive some types of packaging and printed paper (PPP) such as cardboard, newsprint, paper products, and metal, glass and plastic containers. They also receive large appliances and other metal goods, batteries, cell phones, electronics, and reusable goods. The depots are an important complementary service to the City's transfer station and landfill operations and provide a convenient option for materials banned from disposal to be recycled as well as reducing unauthorized dumping and abandoned waste in the city. In addition, the VLF depot receives gypsum, wood and hazardous waste. In 2012, a total of 2,400 tonnes of PPP was accepted at these two depots at a net cost of approximately \$200,000, which is offset by revenues from the sale of other non-PPP material such as scrap metal and gypsum, such that the total recycling depot operation is revenue positive.

Strategic Analysis

The City advocated for the development of an EPR program for PPP in BC and fully supports the rationale for these types of programs. As such, the goals of the Province's Recycling Regulation, which align closely with the City's Greenest City goals, became principles in staff's evaluation of the potential options.

The following analysis is based on the pricing, terms, and conditions in MMBC's offer as articulated in its June 17th letter to the City, and the sample Master Services Agreement and Statements of Work for SF Curbside, MURBs, and Depots.

Issues Identified with MMBC's Financial Offer and Contractual Requirements

Financial Offer

In 2012, the gross cost of the City's SF curbside and MURB recycling program was \$9.2 million and the City received approximately \$1.7 million in recycling revenue, resulting in a net program cost of \$7.5 million. By comparison, City staff estimate MMBC's financial incentive to be \$8.4 million for 2015, the first full year of operation - \$800,000 lower than the City's 2012 gross costs of \$9.2M.

However, comparing the City's current costs to MMBC's offer does not provide an accurate picture of the net costs that would be borne by Vancouver ratepayers under this option. To comply with MMBC's proposed contract, the City would have to implement changes to its collection service that would drive an incremental increase in annual costs for SF curbside and MURB collection in the first full year of operation (2015). These additional costs (not including any potential penalties) include: collecting additional materials, separate glass collection, longer travel distances to recycling facilities, additional communication related to changes under MMBC's program, other program costs such as inspections to enforce contamination rates, as well as future inflationary costs and fuel adjustments - none of which are addressed by MMBC in their offer.

As a result of these additional costs, City staff estimate gross collection costs to be \$13.7 million for the first full year of operation. Netting out MMBC's financial incentive of \$8.4 million leaves Vancouver ratepayers responsible for covering the projected shortfall of approximately \$5.3 million in the first full year of operation (2015) under the agreement. It is expected that these costs would increase in subsequent years since MMBC's financial incentive does not include adjustments for fuel costs or inflation. Over the five year term of the agreement, with the City providing SF curbside collection for five years and MURB collection for two years, the cost to ratepayers is estimated to be approximately \$27.5 million to continue with the City's manual source-separated system. Operating costs can be mitigated to some extent in the longer term by moving to biweekly single stream collection, if glass collection is not separated. In the short term, this would require a large capital investment which cannot be supported by the onerous terms of the proposed contract and the uncertainty around the initial 5-year term and termination clauses.

Contract Requirements

MMBC's contract transfers significant costs, financial and operational risk from producers to ratepayers without commensurate compensation. Despite multiple meetings with MMBC to address municipal concerns, MMBC has shown a reluctance to negotiate on key items of concern. While there are many areas of concern identified in the contractual requirements, some of the key items include:

- **Price and Penalties**
- **Financial Risk**
- **Service Requirements (including separate collection of glass requirement)**
- **Termination and Change Clauses**
- **Contamination**
- **Labour Issues and Requirements**
- **Collection Service Operations**
- **Confidentiality and Intellectual Property**
- **Lack of Financial Transparency and Accountability for MMBC**

Regional Developments

The concerns identified above are shared by other metro municipalities. Staff from Metro Vancouver and member municipalities, including the City, have worked together to review MMBC's offer and to discuss the shared municipal concerns with the current contractual requirements and financial incentives with MMBC.

The Regional Engineers Advisory Committee (REAC) met with and sent correspondence to the Ministry of Environment staff and MMBC, highlighting several issues with the pricing and terms and conditions of the offer. Members of Regional Administrative Advisory Committee (RAAC), REAC, and the REAC Solid Waste Sub-Committee have also held several discussions with MMBC. City staff participated in this process. The meetings with MMBC have included provincial representatives and to date they have not been willing to intervene with MMBC on contractual issues.

City staff continues to work with staff from Metro Vancouver's member municipalities to address our shared concerns.

Options for the City

MMBC's proposal gives the City three options:

Option A: Accept the financial offer and MMBC contract and continue recycling collection under contract to MMBC.

The City would continue an expanded source separation recycling service for SF curbside houses, and to continue with City crew and City contracted services for MURBs. The City would receive the financial incentive package and also be obligated to accept the current terms and conditions imposed through the MMBC contract.

Option B: Decline the financial offer and transition provision of recycling collection services to MMBC

The City would wind down its existing recycling operations on May 19, 2014. Under this option the City would continue to provide depot services for recycling at the VLF and VSTS, but

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Option B: Decline the financial offer and transition provision of recycling collection services to MMBC

The City would wind down its existing recycling operations on May 19, 2014. Under this option the City would continue to provide depot services for recycling at the VLF and VSTS, but

would not provide collection to residents. MMBC would hire a private hauler for SF curbside recycling collection through a competitive process. Individual MURB buildings would select their own haulers from MMBC's prequalified list. MMBC would offer incentives to private depots to collect PPP. MMBC would be responsible for educating residents and handling customer inquiries.

Option C: Decline the financial offer and continue collection without payment from MMBC.

The City would continue with the status quo, providing SF curbside and MURB recycling collection funded by Solid Waste Utility ratepayers, and accepting PPP at the City's recycling depots at the VSTS and VLF, with no financial support from MMBC. This option goes against the principles of the EPR program approach where producers pay for the cost of programs and instead leaves residents responsible for all costs.

RECOMMENDED APPROACH:

City staff recommends that the City accept a Modified Option A. Given that the outstanding issues associated with MMBC's contractual approach are yet to be resolved, City staff recommends continued negotiations with MMBC to develop a mutually agreeable contract and financial structure that covers the City's recycling program costs. In the event that an acceptable contract is not achieved, staff will report back to Council.

Progress to Date

The approach to continue negotiations is consistent with a number of other Metro Vancouver municipalities. However, given MMBC's current rigid approach towards not negotiating on the City's key areas of concern, the City staff is not optimistic that a suitable arrangement can be negotiated. A group of Metro Vancouver municipalities will also continue to engage the Ministry of Environment to provide some direction on an appropriate contract with MMBC.

To date, City staff have worked jointly with Metro Vancouver municipal staff in an attempt to resolve the more significant municipal issues with the financial and contractual structure proposed by MMBC. Metro Vancouver municipalities have also appealed to the Ministry of Environment for its support in requiring MMBC to develop a fair and balanced contract.

MMBC did agree to some changes, such as introducing language describing the process for determining contamination rates and assessing penalties, but did not agree to make changes that would address staff's key areas of concerns. Thus far, MMBC has maintained the contract wording must stay intact to protect producers' interests.

On August 14, 2013, MMBC confirmed that responses to their offer must be unconditional. At this time, staff from the majority of Metro Vancouver municipalities has indicated they will be recommending to their Councils to advise MMBC that they are interested in continuing to deliver recycling services to their residents under Option A, if key municipal concerns with the contractual details are addressed.

The City's collection of recyclable materials with contracted MURB service agreement expires April 30, 2014. The agreement permits the extension of the term (for up to 24 months) by mutual agreement of the parties in writing no later than 120 days prior to the contract expiration date.

The City has a Processing and Marketing Agreement with Urban Impact Recycling Ltd., and a related License Agreement providing Urban Impact with access to City property for the purpose of receiving the recyclable materials. Each of these agreements has terms expiring on May 18, 2014.

CONCLUSION

Accepting MMBC's offer as it currently stands is not recommended. There are significant operational, financial and contractual risks to the City if the current market clearing price and contract structure were to be accepted as currently offered.

City staff recommend continuing negotiations with MMBC to reach mutually acceptable contractual and financial arrangements. While MMBC has indicated their offer is firm, they have modified some contract terms and our intention is to continue to press for further changes to meet our needs and ensure that the intent of the legislation - producer pay - is the actual result. If we are not successful, staff will report back to Council.

* * * * *



June 17, 2013

City of Vancouver
Suite 320 - 507 West Broadway
Vancouver
British Columbia V5Z 0B4

Attention: Mr. Chris Underwood
Manager, Solid Waste Management

Dear Mr. Underwood:

RE: Collection of Packaging and Printed Paper from Residents

Multi-Material British Columbia (MMBC) is preparing to implement the Packaging and Printed Paper (PPP) Stewardship Plan in May 2014. As set out in the approved Plan, MMBC is offering incentives for the collection of PPP from residents. This letter sets out the offer from MMBC to the City of Vancouver to provide collection of PPP from residents.

Notwithstanding the use of the word “offer” in this letter, this letter is only intended to describe the general terms of a contemplated transaction and to allow you to indicate your interest and to provide MMBC with the requested information. Neither this letter, nor your response to this letter, creates or is intended to create any legally binding or enforceable obligation or relationship. This letter is not an offer to enter into either a bidding contract or a contract to carry out the contemplated transaction.

The consummation of any transaction remains subject to the successful execution by you and MMBC of a definitive written agreement covering the engagement. MMBC will not be obligated in any manner to you until such a definitive written agreement has been signed by you and MMBC, and MMBC will have no obligation to enter into such a definitive written agreement; to otherwise consummate a transaction; or to conduct or continue discussions or negotiations.

MMBC provides no representations or warranties of any kind in connection with this letter, whether express or implied, including as to the completeness or accuracy of any material included or referenced herein. MMBC assumes no liability in respect of the transaction being discussed or for any errors or omissions. MMBC reserves the right, in its sole discretion, at any time and for any reason, to modify or supplement materials referenced in this letter (including the proposed form of agreement).

MMBC has developed a list of PPP to be collected from residents at curbside and multi-family buildings and at depots. Of particular note:

- All types of printed papers are included except hard and soft cover books;
- All types of paper packaging are included except waxed corrugated cardboard;

- All types of steel and aluminum packaging (including aerosol containers) except paint containers and gas cylinders;
- Glass containers are to be separated from all other PPP;
- PET # 1, HDPE # 2, PVC # 3 and most types of LDPE # 4, PP # 5 and PS # 6 containers are included;
- HDPE # 2 and LDPE # 4 film packaging is to be accepted at depots only; and
- PS # 6 foam packaging is to be accepted at depots only.

Please review the [Packaging and Printed Paper to be Collected from Households and at Depots](#) available on the MMBC website.

Curbside Collection

According to our records, the City of Vancouver was providing curbside collection of PPP as of November 19, 2012. If you were providing these services, MMBC is offering you a collection incentive, subject to certain terms and conditions, to continue to provide curbside collection of PPP to your residents.

The curbside collection incentive is comprised of:

- An amount per year for each household¹ served based on the household density of your service area and the number of streams collected² to collect a specified list of PPP³;
- An amount per tonne for collection of glass segregated from all other PPP; and
- A performance bonus if the quantity of PPP collected per household per year reaches certain thresholds.

According to our records, the household density of the City of Vancouver is 9.30 households per hectare⁴ and the curbside service is based on multi-stream collection. Therefore the curbside collection incentive being offered to the City of Vancouver is:

- \$35 per household per year served by curbside collection;
- \$80 per tonne for glass collected at curbside segregated from all other PPP; and
- A performance bonus set out in the following table reflecting the actual quantity of PPP collected per curbside household (HH) calculated on an annual basis.

¹ A household is a self-contained dwelling unit providing living accommodation to one or more people where the resident delivers PPP to the curb for collection.

² Single-stream or multi-stream.

³ Refer to [PPP to be Collected from Households and Depots](#) posted on the MMBC website. Note that glass may not be commingled in single-stream collection or with containers in multi-stream collection.

⁴ Calculated using StatsCan 2011 census data. Where the curbside collection service area is a subset of the municipality's geographic area, the household density will be recalculated by MMBC after receiving the municipality's completed Curbside Collection Service Form. The corrected household density and applicable corresponding collection incentive rate will be used in the contract with MMBC.

Curbside Collection Performance Bonus				
PPP Collected per Curbside Household Per Year	180 - 199 Kilograms	200 - 219 Kilograms	220 - 239 Kilograms	> 240 Kilograms
Performance Bonus	\$ per Curbside Household per year			
	\$1.00	\$2.00	\$3.00	\$4.00

Should the City of Vancouver wish to accept the collection incentive for providing curbside collection services to residents under contract to MMBC, please complete Sections 1, 2 and 3 of the [MMBC Collection Financial Incentives – Collector Response](#) posted on the MMBC website and submit this form electronically to forms@multimaterialbc.ca prior to **September 16, 2013**.

Should the City of Vancouver wish to decline the curbside collection incentive, please complete Section 1 and questions 1 and 2 of Section 2 of the [MMBC Collection Financial Incentives – Collector Response](#) posted on the MMBC website and submit this form electronically to forms@multimaterialbc.ca prior to **September 16, 2013**.

Multi-Family Building Collection

According to our records, the City of Vancouver provides multi-family building collection service. The multi-family building collection incentive is comprised of:

- An amount per year for each household⁵ served based on the number of streams collected⁶ to collect a specified list of PPP⁷;
- An amount per tonne for collection of glass segregated from all other PPP; and
- A performance bonus if the quantity of PPP collected per household per year reaches certain thresholds.

According to our records, the multi-family building service is based on multi-stream collection. Therefore the multi-family building collection incentive being offered to the City of Vancouver is:

- \$20 per household per year served by multi-family building collection;
- \$80 per tonne for glass collected from multi-family buildings segregated from all other PPP; and
- A performance bonus set out in the following table reflecting the actual quantity of PPP collected per multi-family household (HH) calculated on an annual basis.

⁵ A household is a self-contained dwelling unit housing one or more people where the resident delivers PPP to a central location within the multi-family complex from which the PPP is collected.

⁶ Single-stream or multi-stream.

⁷ Refer to [PPP to be Collected from Households and Depots](#) posted on the MMBC website. Note that glass may not be commingled in single-stream collection or with containers in multi-stream collection.

Multi-Family Building Collection Performance Bonus						
PPP Collected per Multi-Family Household Per Year	100 – 109 Kilograms	110 – 119 Kilograms	120 – 129 Kilograms	130 – 139 Kilograms	140 - 149 Kilograms	> 150 Kilograms
Performance Bonus	\$ per Multi-Family Household per year					
	\$0.50	\$1.00	\$1.50	\$2.00	\$2.50	\$3.00

Should the City of Vancouver wish to accept the collection incentive for multi-family building collection services, please complete Section 4 of the [MMBC Collection Financial Incentives – Collector Response](#) posted on the MMBC website and submit this form electronically to forms@multimaterialbc.ca prior to **September 16, 2013**.

Depot Collection

According to our records, the City of Vancouver provides depot collection service. The depot collection incentive is comprised of an amount per tonne for specific categories of PPP as set out in the following table.

Depot Collection Financial Incentive			
Materials ⁸	Depot In Municipality Without PPP Curbside Collection	Depot in Municipality with PPP Curbside Collection	Additional Incentive If Baled ⁹
	(\$/tonne)	(\$/tonne)	(\$/tonne)
Printed papers	\$80	\$60	+ \$100
Paper packaging (did not contain liquid)	\$80	\$60	+ \$100
Corrugated cardboard packaging	\$80	\$60	+ \$100
# 2 and # 4 Polyethylene film packaging	\$175	\$175	+ \$330
Polystyrene foam packaging - white	\$175	\$175	+ \$330
Polystyrene foam packaging - coloured	\$175	\$175	+ \$330
Paper packaging (did contain liquid), metal packaging and other plastic packaging	\$120	\$90	
Glass packaging	\$80	\$80	

⁸ Refer to [PPP to be Collected from Households and Depots](#) posted on the MMBC website.

⁹ Polystyrene foam can be densified rather than baled.

As depots commonly receive PPP from residents and businesses, MMBC will automatically deduct 25% of the PPP reported as collected from depots to reflect non-residential PPP. The City of Vancouver may apply, with the necessary supporting data, to reduce the percentage deducted for your specific depot.

Should the City of Vancouver wish to accept the collection incentive for depot collection services, please complete Section 5 of the [MMBC Collection Financial Incentives – Collector Response](#) posted on the MMBC website and submit this form electronically to forms@multimaterialbc.ca prior to **September 16, 2013**.

Terms and Conditions

MMBC’s terms and conditions are set out in a sample Master Services Agreement with schedules that include a Statement of Work for each type of collection service available. A sample of the form of agreement that MMBC expects the City of Vancouver to sign in order to receive one or more of the collection incentives described above is available for your review on the [MMBC website](#) (see Service Providers). As noted above, MMBC reserves the right to modify or supplement this form of agreement, and the relevant schedules will need to be populated with the information provided in the MMBC Collection Financial Incentives – Collector Response submitted by the City of Vancouver, and as agreed upon by MMBC, before MMBC may present a finalized copy of the agreement to the City of Vancouver for its execution. By indicating your interest in accepting the offer described in this letter, the City of Vancouver acknowledges that it has reviewed, and agrees to, the form of agreement.

Resident Education and Service Administration

Should the City of Vancouver accept one or more of the collection incentives described above, it would also be eligible for the associated top up payment set out in the following tables.

Resident Education Top Up	Households Used to Calculate Top Up	By Service	If also Contracted to Operate Depot
		\$/HH/year	\$/HH/year
Curbside collection	Curbside households	\$0.75	\$0.25
Multi-family building collection	Multi-family building households	\$1.00	\$0.25
Depot collection in an area without curbside collection	Depot only households	\$0.75	

Service Administration Top Up	Households Used to Calculate Top Up	\$/HH/year
Curbside collection	Curbside households	\$2.50
Multi-family building collection	Multi-family building households	\$2.50
Depot collection in an area without curbside collection	Depot only households	\$2.50

We look forward to receiving your response prior to September 16, 2013.

If you have questions or if we can be of any assistance as you consider the collection financial incentives, please contact MMBC by:

- Emailing info@multimaterialbc.ca;
- Calling MMBC at (604) 620-7540; or
- Calling Maura Walker, a member of the consulting team providing support to MMBC during implementation of the PPP Stewardship Plan, at (250) 597-7997.

Sincerely,
Multi-Material British Columbia

A handwritten signature in black ink, appearing to read 'Allen Langdon', written in a cursive style.

Allen Langdon
Chair