

November 20, 2013

Report To: Mayor & Council

From: Doug Brown, Manager Operations & Facilities



SUBJECT: Execution of 2nd Amending Agreement for Municipal Hazardous or Special Waste Services (MHSW) with Stewardship Ontario

Background

Back in July of 2011, the Town entered into a new Municipal Hazardous or Special Waste Services Agreement with Stewardship Ontario in order to continue to receive funding for Phase 1 MHSW materials. A letter was received by email on February 15, 2012 from David Pearce of Stewardship Ontario explaining the reasons why the Town should execute the first amending agreement with Stewardship Ontario for MHSW services.

Please find attached an email dated November 20, 2013 from Kent Hollister of Stewardship Ontario explaining the reasons why the Town should execute the second amending agreement with Stewardship Ontario for MHSW services. Also please find attached a copy of the proposed 2nd amending agreement with Stewardship Ontario.

The Operations & Facilities Executive Committee recommends the following:

- 1) That the Town enter into a 2nd amending agreement for Municipal Hazardous or Special Waste Services with Stewardship Ontario.
- 2) That the Mayor and Clerk be authorized to execute the 2nd Municipal Hazardous or Special Waste Services amending Agreement with Stewardship Ontario prior to December 31, 2013.

Respectfully submitted,
Operations & Facilities Division

Doug Brown

Doug Brown, P. Eng.
Manager Operations & Facilities

Council approval of this report will ensure the following:

- 1) That the Town enter into a 2nd amending agreement for Municipal Hazardous or Special Waste Services with Stewardship of Ontario.
- 2) That the Mayor and Clerk be authorized to execute the 2nd Municipal Hazardous or Special Waste Services amending Agreement with Stewardship Ontario prior to December 31, 2013.

2013NovMSHWagreement.doc

RECOMMENDED
DEC 0 4 2013
DWM/2013
EXECUTIVE COMMITTEE
Doug Brown
R. Wickert



Kent Hollister
<khollister@stewardshipontario.ca>

11/20/2013 10:38 AM

To D Brown <dbrown@fort-frances.com>

cc

bcc

Subject Fort Frances, Town Of - 2014 MHSW Amending Agreement - ACTION REQUIRED

To all municipalities providing MHSW collection services,

Attached to this email you will find an amending agreement for the New Municipal or Hazardous Special Waste Services Agreement between Stewardship Ontario and your municipality. This amending agreement is necessary to incorporate the following changes negotiated by the Regional Public Works Commissioners of Ontario, the Association of Municipalities of Ontario, and the Municipal Waste Association (Member Associations) and Stewardship Ontario:

- Reflect changes to the reporting and payment processes that were implemented in 2013 to reduce administrative burdens and expedite payments to municipalities.
- Provide additional clarity about the methodology used to conduct Lab Pack Audits and to provide the Member Associations with the option of observing the Lab Pack Audits and reviewing the results.
- Remove penalties for the late submission of Depot hourly Claims Submissions.
- Insert language to demonstrate how the Depot hourly rate will be calculated if a materials exits Stewardship Ontario's program, such as through the awarding of an ISP. The percentages used to complete the table found in Schedule C, for those municipalities providing Depot collection services, are based on the provincial average share of tonnes collected by material through the Depot channel from Q4 2012 to Q3 2013.

Stewardship Ontario received endorsement of these changes in principle from the Member Associations on September 23rd.

The Amending Agreement has an effective date of January 1, 2014. While we recognize that this provides only six weeks to obtain the necessary signatures, we are asking that you make every effort to **return two signed original copies** of the amending agreement by **December 31, 2013** to the following address:

Stewardship Ontario
ATTN: Kent Hollister
1 St. Clair Ave. West, 7th Floor
Toronto, ON M4V 1K6

Thank you very much for your continued efforts to collect Phase 1 MHSW. We are on pace for another successful year.

Regards,

Kent Hollister

Operations Manager, MHSW
Stewardship Ontario
1 St. Clair Ave. West, 7th FL
Toronto, ON M4V 1K6
T: 416-323-0101 x187
F: 416-323-3185



Fort Frances, Town Of - MHSW Amending Agreement - January 1, 2014.pdf

**AMENDING AGREEMENT
NEW MUNICIPAL HAZARDOUS OR SPECIAL WASTES SERVICES AGREEMENT**

WHEREAS:

1. Stewardship Ontario and The Corporation Of The Town Of Fort Frances (collectively, the "**Parties**") entered into an agreement concerning municipal hazardous or special wastes dated July 1, 2011, including any previous amendment made by the parties (the "**Agreement**");
2. The parties wish to make certain amendments to the Agreement as set out herein.

THE PARTIES THEREFORE AGREE AS FOLLOWS:

- 1 The Agreement is hereby amended effective January 1, 2014 as set out in Schedule "A" hereto.
- 2 Any section marked as "Intentionally Deleted" in the Agreement remains "Intentionally Deleted" and is not replaced by or amended by anything in Schedule "A".
- 3 All other provisions of the Agreement remain unamended and in full force and affect.

IN WITNESS WHEREOF the Parties have signed this AMENDING AGREEMENT as of December 31, 2013.

STEWARDSHIP ONTARIO

by: _____

Name: Lyle Clarke

Title: Executive Vice President

THE CORPORATION OF THE TOWN OF FORT FRANCES

by: _____

Name:

Title:

**SCHEDULE "A" TO THE AMENDING AGREEMENT
NEW MUNICIPAL HAZARDOUS OR SPECIAL WASTES SERVICES AGREEMENT**

1. **Definitions and Interpretation.** The Parties agree that Section 1.2 of the Agreement is deleted in its entirety and replaced with the following:
 - 1.2 In this Agreement:
 - (a) **"Agreement"** means this Agreement and includes all schedules and amendments thereto;
 - (b) **"Business Day"** means Monday through Friday, excluding statutory holidays and any other day that the Government of Ontario has elected to be closed for business;
 - (c) **"Claims Submission"** means submission to SO of data required to validate claim for payment;
 - (d) **"Collection Services"** means all the activities, including those conducted at Events and Depots operated by or on behalf of the Municipality, for the purpose of receiving, classifying, packing, storing and transferring Obligated MHSW onto transportation vehicles, including the manifesting of the MHSW prior to transportation away from the Event or Depot;
 - (e) **"Commingled Materials"** means the materials listed in Schedule E that can be safely packed together for transportation as per the Packing Standards;
 - (f) **"Depot"** means a collection and transfer facility/location operated by or on behalf of the Municipality for receiving MHSW from the public and/or Exempt Small Quantity IC&I Generators and transferring same to transporters for processing or recycling;
 - (g) **"Diversion Report"** means invoices, MHSW material tonnage reports, or other such documents as may reasonably be required by SO from time to time for the validation of Claims Submissions;
 - (h) **"End Processor"** means a Service Provider that processes collected Obligated MHSW;
 - (i) **"Event"** means a one-day or other collection event, operated by or on behalf of a municipality to collect, pack, transport, weigh, and process MHSW from the public and/or Exempt Small Quantity IC&I Generators;
 - (j) **"Exempt Small Quantity IC&I Generator" or "Exempt SQG"** means a business that is not required to submit a Generator Registration Report with respect to MHSW under subsection 18 (1) of Regulation 347, made under the *Environmental Protection Act* (Ontario), as amended from time to time;

- (k) **“FOB”** means free on board;
- (l) **“Generator”** means the final user who generates waste which will be reused, recycled or disposed;
- (m) **“Lab Pack Audit”** means a lab pack study conducted by a third party, with optional observation by no more than two representatives of the Member Associations at their discretion, that follows a methodology designed by SO with input from Member Associations to achieve a high level of statistical confidence, the results of which, after providing an opportunity for representatives of the Member Associations to review them in confidence, are used to determine the proportionate share of each Commingled Material to be paid by SO as set out in this Agreement;
- (n) **“Manifesting”** means those activities associated with preparing a manifest for Post-Collection Services in accordance with Regulation 347 made under the *Environmental Protection Act* (Ontario);
- (o) **“Member Associations”** has the meaning set out in Section 4.3;
- (p) **“MHSW Program Plan”** means the current MHSW waste diversion program as it applies to Phase 1 materials approved by the Minister pursuant to section 26 of the *Waste Diversion Act, 2002* (Ontario), and any amendments thereto and replacements thereof;
- (q) **“MHSW Services”** means the Collection Services and/or Post-Collection Services provided by the Service Provider;
- (r) **“Minister”** means the Minister of the Environment for the Province of Ontario;
- (s) **“Non-Commingled Materials”** means the materials listed in Schedule E that must be packed separately for transportation as per the Packing Standards;
- (t) **“Obligated MHSW”** means MHSW designated as Phase 1 in the Minister’s program request letter to Waste Diversion Ontario received on October 25, 2010 requesting a revised waste diversion program for Phase 1 MHSW and as may be further defined by the Minister from time to time;
- (u) **“Packing Standards”** means the Waste Packing Protocols listed in Schedule “E” as amended by SO from time to time;
- (v) **“Post-Collection Services”** means the management of Obligated MHSW after delivery of such MHSW to a transportation Service Provider FOB the Event or Depot location, including but not limited to transportation of Obligated MHSW materials from Events and Depots, consolidation, sorting, weighing, processing, recycling, and safe disposal of residual waste and other post-collection waste management activities;

- (w) **“Service Provider”** means the Municipality and/or a commercial party that provides MHSW Services to SO or the Municipality as the case may be; and
- (x) **“SO Portal”** means SO’s online system for uploading Claims Submissions.

2. **Payment.** The Parties agree that Section 3.2 of the Agreement is deleted in its entirety and replaced with the following:

3.2 Payment

(a) MHSW Services – Depot.

- (i) For Depot Collection Services payable pursuant to Section 3.1(a)(i), SO will pay the Municipality pursuant to this Agreement within thirty (30) days of the end of each calendar month.
- (ii) To receive payment for Depot Post-Collection Services for the Commingled Materials, the Municipality must upload a Claims Submission via the SO Portal and send SO a copy of the shipping manifest(s) and Diversion Report(s) from the End Processor with respect to the Commingled Materials. The Claims Submission is to be submitted by Municipality to SO within thirty (30) days of Municipality receiving the related Diversion Report(s) but no later than the end of the following calendar quarter. SO will validate the Claims Submission with the manifest(s) and Diversion Report(s) received from Municipality within thirty (30) days of receipt and SO will pay the Municipality pursuant to this Agreement within thirty (30) days of the date on which SO determines the claim to be correct and accurate. If any errors or omissions are found, SO will issue a payment adjustment and SO may require a corrected Claims Submission from the Municipality.

(b) MHSW Services - Event.

- (i) To receive payment for Event Collection Services and Post-Collection Services, the Municipality must upload a Claims Submission via the SO Portal and send SO a copy of the shipping manifest(s) and Diversion Report(s) from the End Processor with respect to the Obligated MHSW. The Claims Submission is to be submitted by Municipality to SO within thirty (30) days of Municipality receiving the related Diversion Report(s) but no later than the end of the following calendar quarter. SO will validate the Claims Submission with the Diversion Report(s) received from Municipality within thirty (30) days of receipt and SO will pay the Municipality pursuant to this Agreement within thirty (30) days of the date on which SO determines the claim to be correct and accurate. If any errors or omissions are found, SO will issue a payment adjustment and SO may require a corrected Claims Submission from the Municipality.

(c) MHSW Services – Event (and transportation to Depot).

- (i) To receive payment for Event Collection Services and transportation of Obligated MHSW to a Depot, the Municipality must upload a Claims Submission via the SO Portal and send SO a copy of the shipping manifest(s) with respect to the Obligated MHSW. The Claims Submission is to be submitted by Municipality to SO within thirty (30) days of Municipality receiving the related manifest(s) but no later than the end of the following calendar quarter. SO will validate the Claims Submission with the manifest(s) received from Municipality within thirty (30) days of receipt and SO will pay the Municipality pursuant to this Agreement within thirty (30) days of the date on which SO determines the claim to be correct and accurate. If any errors or omissions are found, SO will issue a payment adjustment and SO may require a corrected Claims Submission from the Municipality.

3. **Late Submission.** The Parties agree that Section 3.5 of the Agreement is deleted in its entirety and replaced with the following:

3.5 Late Submission

- (a) SO may reduce amounts payable under Claims Submissions which are not submitted to SO within the time periods set out in section 3.2(a)(ii), (b) and (c) by five (5%) per cent per month.
- (b) SO will have no responsibility to pay and Municipality will forfeit the right to claim for, any Claim Submission in respect of a calendar year which is not received by SO within three (3) months of the end of that calendar year.

4. **Term.** The Parties agree that Section 4.3 of the Agreement is deleted in its entirety and replaced with the following:

- 4.3 At least one hundred and fifty (150) days prior to the expiration of the Initial Term or the then current Renewal Term (as applicable) SO will invite representatives from the Regional Public Works Commissioners of Ontario, the Association of Municipalities of Ontario, and the Municipal Waste Association (the "Member Associations") to meeting(s) hosted by SO with the purpose of sharing any changes to the Lab Pack Audit methodology and results, and to discuss possible changes to the Collection Accessibility Schedules and Payment for Collection Services as set out in Schedule "B" and Schedule "C" respectively. SO's position on changes to Schedule "B" and Schedule "C" following the foregoing meeting(s) will be communicated to the Municipality within one hundred and twenty (120) days of the expiration of the Initial Term or the then current Renewal Term (as applicable).

5. **Schedules.** The Parties agree that Section 28.1 of the Agreement is deleted in its entirety and replaced with the following:

- 28.1 Schedules "A" through "E" are attached hereto and incorporated in and form part of this Agreement.

6. **Schedule “C”.** The Parties agree that Schedule “C” – Payment for Collection Services of the Agreement is deleted in its entirety and replaced with the following new Schedule “C” – Payment for Collection Services:

SCHEDULE “C” – PAYMENT FOR COLLECTION SERVICES

SO will pay the Municipality for MHSW Collection Services as follows:

For MHSW Services – Depot, SO will pay the Municipality the Hourly Rate (defined below) per hour plus applicable taxes for the Total Reimbursable Hours set out in Schedule “B”, to be paid in twelve (12) equal monthly instalments. For greater clarity, the monthly instalment will be calculated as Total Reimbursable Hours divided by twelve (12) and multiplied by the Hourly Rate.

The “Hourly Rate” is **\$0.00**.

If any individual materials are removed from the scope of this Agreement as a change pursuant to section 2.3 of this Agreement, the component amounts below for the remaining in-scope materials will be used to calculate the new reduced Hourly Rate. In such an event, the Hourly Rate will then be the sum of the component amounts for each individual material that remains within the scope of the Agreement, as set out in the table below.

Individual Material (for Obligated MHSW)	Component Amount
Antifreeze, and the containers in which it is contained	\$0.00
Fertilizers, and the containers in which they are contained	\$0.00
Containers that have a capacity of 30 litres or less and that were manufactured and used for the purpose of containing lubricating oil	\$0.00
Oil filters – after they have been used for their intended purpose	\$0.00
Paints and Coatings, and containers in which they are contained	\$0.00
Pesticides, and the containers in which they are contained	\$0.00
Pressurized containers – non-refillable	\$0.00
Pressurized containers - refillable	\$0.00
Single-use dry cell batteries	\$0.00
Solvents, and the containers in which they are contained	\$0.00

For MHSW Services – Event, SO will pay the Municipality a rate of **\$1,100.00** per tonne of Obligated MHSW plus applicable taxes.

For MHSW Services – Event (and transportation to Depot), SO will pay the Municipality a rate of **\$0.00** per tonne of Obligated MHSW plus applicable taxes.

7. **Schedule “F”**. The Parties agree that Schedule “F” – Due Dates and Penalties of the Agreement is deleted in its entirety.