

## Request for Decision

### Amendment to Surplus Fill By-Law 2003-282

Presented To: Operations Committee  
Presented: Monday, Jul 06, 2015  
Report Date Thursday, Jun 18, 2015  
Type: Managers' Reports

### Recommendation

THAT the City of Greater Sudbury directs staff to prepare revisions to the Surplus Fill By-Law 2003-282 all in accordance with Scenario 2 from the report dated June 18, 2015 from the General Manager of Infrastructure Services.

### Summary of Recommended Changes

The purpose of this report is to obtain approval of Council to change the standard process for disposal of surplus fill summarized as follows.

1. City of Greater Sudbury (CGS) staff will continue to make best use of surplus fill on planned CGS future projects when possible.
2. When no CGS future projects have been identified, surplus fill will be turned over to the Contractor for disposal or re-use at their discretion.
3. Contractors will be obligated to obtain a release from private owners who receive surplus fill, removing the City from any liabilities or costs associated with receipt of the surplus fill.
4. The practice of identifying and approving private sites for disposal of surplus fill will be discontinued, although private owners may be required to obtain permits from other government agencies such as the Conservation Sudbury (formerly Nickel District Conservation Authority) and, owners may have to comply with other City by-laws such as zoning.
5. The current Surplus Fill By-law 2003-282 will be amended or rescinded as necessary.
6. Standard contract documents will be amended in accordance with this report and any amended by-laws.

### Finance Implications

As the cost to dispose of surplus fill is not explicitly defined in our contracts, it is difficult to ascertain the financial impact. With the adoption of shifting disposal responsibility to the Contractor (Scenario 2), it is expected that disposal costs would not increase from the current method of disposal and the CGS may benefit from Contractor efficiencies and re-use.

#### Signed By

##### Report Prepared By

Kevin Shaw  
Director of Engineering Services  
*Digitally Signed Jun 18, 15*

##### Division Review

Kevin Shaw  
Director of Engineering Services  
*Digitally Signed Jun 18, 15*

##### Recommended by the Department

Tony Cecutti  
General Manager of Infrastructure  
Services  
*Digitally Signed Jun 18, 15*

##### Recommended by the C.A.O.

Bob Johnston  
Interim Chief Administrative Officer  
*Digitally Signed Jun 23, 15*

## **Background**

### **Current Method of Disposal (Scenario 1)**

The current method of disposing of surplus fill tasks CGS Staff with reviewing and authorizing private site locations for our Contractor's use for the disposal of the surplus fill.

CGS Staff in conjunction with Conservation Sudbury jointly approve surplus fill sites, having the landowner sign a release form and provide a sketch or survey of the exact location where the surplus fill will be deposited on the property.

Our Contractor normally delivers surplus fill to an authorized private site and in many cases has to level the surplus fill because the receiving property owner has no means to do so. Leveling of the surplus fill is a necessity to the continuation of the disposal process. The cost associated with this method of disposal is normally carried in the contract pricing under the various items associated with the activities that generate the surplus fill, such as road excavation. In cases where work is performed by time and material such as emergency repairs, then excavation, disposal and leveling are all completed by time and material pricing.

The City's existing By-law 2003-282 does not allow City forces to level surplus fill on private property. It has not been practical to wait for private property owners to make arrangements to level the fill which is necessary for disposal to continue. Since the City is currently contractually obligated to delineate disposal locations, the additional cost of leveling surplus fill is deemed more practical than finding new disposal locations or paying for delays in contracts if sites are not available for disposal.

In addition to the practical challenges associated with disposal of surplus fill, the existing process is very restrictive to potential re-use. Should a Contractor have a potential re-use of the material, the City may benefit financially in the form of more favourable tender prices. The existing disposal method provides long term value to the property owner, but not to the Contractor or the City.

If the existing method of disposal of surplus fill were to be maintained then the surplus fill by-law should be amended. Alternatively, CGS staff considered two alternative methods of disposal of surplus fill, summarized in the following analysis.

## **Analysis**

### **Scenario 1 – Existing Methodology**

This Scenario is our current method of disposal as described above. The annual cost of disposal of surplus fill, under Scenario 1, based on an average of fill generated at construction projects over the past three years, amounts to approximately \$750,000. In addition to this disposal cost, is the cost to dispose of surplus fill generated through the Operations and Maintenance activities (CGS and contracted forces) for the repair of CGS underground infrastructure or culverts and ditching. This cost amounts to approximately \$300,000 annually.

For this scenario to continue, a modification to Surplus Fill By-law 2003-282 would be required to allow City crews and/or City Contractors to level fill on private property. This flexibility is deemed necessary under this scenario to allow City operating departments and Contractors the means to execute their work on schedule.

### **Scenario 2 – Transfer Responsibility for Disposal**

This Scenario would shift the responsibility for the locating of private surplus fill sites and the ownership of the surplus fill to the Contractor.

In preparing the cost analysis for this scenario, it was assumed that the quantity of surplus fill and the haul distances would remain the same as those used in Scenario 1. The Contractor would merely take over the work currently done by CGS staff to secure private disposal sites and assume ownership of the surplus fill. The Contractor would be responsible for convening meetings with private fill site property owners, in conjunction with Conservation Sudbury, to physically review the site to ascertain suitability to receive surplus fill. A Property Owner Release Form including various stipulations attached to the placement of the fill would be obtained from the Contractors after conclusion of the work. The cost associated with Scenario 2 is approximately \$750,000 annually. Under Scenario 2, the Contractor could elect to fill personal property or haul to smaller fill sites than the current 0.5 hectare CGS stipulated size requirement, thus potentially finding efficiencies that could be reflected in contract pricing.

Where possible, CGS contracts involving emergency repairs would either be provided suitable City-owned property for disposal, or be transferred responsibility for disposal. These alternative arrangements would be a component of the competitive procurement process.

### **Scenario 3 – Purchase Disposal Sites**

Under Scenario 3, the CGS would potentially purchase a number of large sites, in strategic locations across the geographic area of the CGS. This scenario would considerably increase the cost of the disposal of surplus fill as a result of land purchase; security requirements such as, fencing and gates to control access; substantially longer haul distances; and, the need to locate equipment for the purpose of fill leveling. The capital cost for Scenario 3 is estimated to be \$800,000. The annual operating cost could exceed \$1,000,000 with longer haul distances and the increased operating costs.

### **Other Considerations**

It is recognized that the best use of surplus fill is for re-use on other CGS projects. For all scenarios, CGS staff will continue to endeavour to find suitable uses for the fill. When contracts are issued for tender, the specifications will direct Contractors where to dispose surplus fill at CGS property, if opportunities exist.

Contractors and private land owners may continue to require permits from other various government agencies. For example, Conservation Sudbury may restrict placement of fill in flood plains. The Ministry of Natural Resources may also have restrictions with fill placement adjacent to waterways. The City will only manage the acquisition of supplemental permits in Scenarios 1 and 3.

In reviewing alternatives for disposal of surplus fill, CGS staff reviewed the possibility of using this material at CGS landfill sites. It was determined that most excavation sites have minimal volumes of material of a suitable nature for use at the landfill. The material must be relatively clean sands and fine gravels with low moisture content. CGS staff will continue to look for opportunities to take surplus fill to CGS landfill sites.

Conservation Sudbury would continue to provide a prime role in the examination of potential surplus fill sites for the purpose of authorizing the sites to receive fill.

In 2009, the City of Greater Sudbury passed the Site Alteration By-law 2009-170 which regulates the alteration of grades and the placing and dumping of fill. Staff will be meeting to ensure that the approach

moving forward ensures compliance with this By-law.

Ontario Provincial Standard Specification (OPSS) 180 – General Specification for the Management of Excess Material that has been developed for use in provincial and municipal oriented Contracts will be included in future CGS Contracts.

Various municipalities were contacted to understand their methods of dealing with the disposal of surplus fill. The findings of these discussions are summarized in Table 1 below:

**Table 1 – Discussions with Similar Sized Municipalities**

Municipality	Disposal Responsibility	Time in Effect	Private Property Release Form	Fill Site Size	Public Sale	Landfill Cover
Barrie	Contractor	Many years	yes	any size	no	never
Kingston	Contractor	15 years	yes	large	no	periodically
North Bay	Contractor	2 Years	yes	any size	n/c	periodically
Peterborough	Contractor	Many years	yes	any size	no	periodically
Sault Ste. Marie	Contractor	Many years	yes	large	n/c	periodically
Timmins	Contractor	n/c	yes	n/c	no	often

n/c = No Comment

### **Recommendation**

Staff recommends that the CGS adopt Scenario 2, which will shift the responsibility for surplus fill disposal to the Contractor. Under this Scenario, Conservation Sudbury would continue to be involved in the site approval process. Shifting of responsibilities would remove the burden from CGS staff to locate, review, and authorize surplus fill sites and it would provide the Contractor with the opportunity to sell surplus fill, potentially reflecting a reduction in contract pricing.

Staff will continue to make best use of surplus fill on planned CGS future projects when possible. Future contracts would be modified to stipulate methods of disposal, and conditions for release of obligations where material is disposed at private property.

Subject to approval of this report, Surplus Fill By-law 2003-282 will be modified to reflect changes in surplus fill disposal methodology as well as to reflect an appropriate phase-out period.

**RECOMMENDATION TO COUNCIL**

Moved By Emelyn Dufusac No. OP2015-20  
Seconded By Ken Cormier Date 2015-07-06

THAT the City of Greater Sudbury directs staff to prepare revisions to the Surplus Fill By-Law 2003-282 all in accordance with Scenario 2 from the report dated June 18, 2015 from the General Manager of Infrastructure Services.

*deferred*

**CARRIED**  
2015-07-06

  
**Councillor Kirwan, Chair**

Recommendations are not ratified until  
approved by City Council.