



THE REGIONAL MUNICIPALITY OF NIAGARA SPECIAL COUNCIL AGENDA

CL 18-2020

Thursday, September 24, 2020

4:00 p.m.

Meeting will be held by electronic participation only

All electronic meetings can be viewed on Niagara Region's Website at:

<https://www.niagararegion.ca/government/council/>

Due to the efforts to contain the spread of COVID-19 the Council Chamber will not be open to the public to attend Council meetings until further notice. To view live stream meeting proceedings, please visit: [niagararegion.ca/government/council](https://www.niagararegion.ca/government/council/)

Pages

1. CALL TO ORDER

2. ADOPTION OF AGENDA

3. DISCLOSURES OF PECUNIARY INTEREST

4. REPORTS FOR CONSIDERATION

4.1 PW 33-2020

Award of Request For Proposal 2020-RFP-60 Liquid Biosolids and
Residuals Management Program

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5. CLOSED SESSION

5.1 Diversity and Inclusion

An Education or Training Session held under s. 239 (3.1) of the Municipal
Act, 2001 – Diversity and Inclusion

6. BUSINESS ARISING FROM CLOSED SESSION

7. BY-LAWS

7.1 Bill 2020-70

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A by-law to adopt, ratify and confirm the actions of Regional Council at its special meeting held on September 24, 2020.

8. ADJOURNMENT

If you require any accommodations for a disability in order to attend or participate in meetings or events, please contact the Accessibility Advisor at 905-980-6000 ext. 3252 (office), 289-929-8376 (cellphone) or accessibility@niagararegion.ca (email).

Subject: Award of Request for Proposal 2020-RFP-60 Liquid Biosolids and Residuals Management Program

Report to: Regional Council

Report date: Thursday, September 24, 2020

Recommendations

1. That Contract 2020-RFP-60 Liquid Biosolids and Residuals Management Program **BE AWARDED** to 2386246 Ontario Inc. (Thomas Nutrient Solutions), based on year one pricing of \$5,043,651.22 (including 13% HST) for a four (4) year (plus 3 month period remaining 2020) initial term, with two (2) optional, one (1) year extension terms, and;

1.1 The term of the contract is summarized as follows:

Initial Term:

Year 1: Oct 1, 2020 – Dec 31 2021 (15 month period)
Year 2: Jan 1, 2022 – Dec 31, 2022
Year 3: Jan 1, 2023 – Dec 31, 2023
Year 4: Jan 1, 2024 – Dec 31, 2024

Optional Extensions:

Year 1: Jan 1, 2025 – Dec 31, 2025
Year 2: Jan 1, 2026 – Dec 31, 2026

2. That the Regional Chair and Regional Clerk **BE AUTHORIZED** to execute the Contract and any required documents related thereto in a form satisfactory to the Director of Legal and Court Services.

Key Facts

- The purpose of this report is to seek Council's approval for award of Contract 2020-RFP-60, Liquid Biosolids and Residuals Management Program to 2386246 Ontario Inc. (Thomas Nutrient Solutions) for a four (4) year (plus 3 month period remaining 2020) initial term, with two (2) optional, one (1) year extension terms.

- The estimated cumulative value of this contract over the initial four (4) year term (plus 3 month period remaining 2020) is \$18,969,484.70 (excluding 13% HST).
- The Procurement By-law 02-2016 as amended on February 28, 2018 requires Council approval for all tender awards in excess of \$5,000,000.

Financial Considerations

The scope of services included in the liquid biosolids and residuals management program contract include biosolids loading, haulage/transportation, lagoon management and land application of liquid biosolids and residuals generated from Water and Wastewater Treatment Facilities owned and operated by Niagara Region.

The rate structure from the previous contract is maintained within Contract 2020-RFP-60 Liquid Biosolids and Residuals Management Program. Biosolids loading, haulage/transportation and land application service rates are based on a cost per cubic meter of liquid material (\$/m³) managed by the service provider. Service rates are financially all-inclusive (excluding 13% HST) having all aspects of the service such as labour, materials, equipment, travel, carriage, insurance, financial securities, inspection, set-up and any other costs or charges required by law built-in. These service rates are variable and fluctuate annually based on year-over-year changes in the Consumer Price Index (CPI) and diesel fuel pricing. Lagoon management rates are based on a flat fee with the same annual fluctuations based on the year-over-year changes in CPI and diesel fuel pricing.

As noted, service rates for each subsequent contract year will be variable, based on changes to the CPI and diesel fuel pricing. Historically, this structure has resulted in both year-over-year rate increases and decreases. As with any variable rate formula, rates could experience year-over-year changes depending on movements in the above noted factors. To mitigate the impact of potential rate increases, the agreement initial term has been limited to four (4) years after which, Niagara Region may choose to exercise up to two (2) optional, one (1) year extension terms, or initiate a competitive bid process.

In addition to the potential variation in service rates, the total annual cost of the liquid biosolids and residuals management contract agreement is influenced by the annual liquid volume of biosolids material managed by the service provider. Total water and wastewater influent flows and treatment volumes at Niagara Region facilities will impact the total cost of the liquid biosolids and residuals management service contract.

Increased influent flows and treatment volumes result in higher liquid biosolids generation and haulage requirements. Further, persistent wet weather during warmer months leads to unfavorable conditions for biosolids land application services. Decreased land application volumes ultimately lower the annual value of the service contract for the year(s) during which wet weather may be experienced.

Projected Financial Impact

In response to 2020-RFP-60, Thomas Nutrient Solutions has submitted their bid of \$4,541,964.14 (including 1.76% non-recoverable HST) representing an estimated overall year one contract value increase of 7.5% over the 2019 actual cost under the previous contract agreement.

Based on volumes for liquid biosolids and residuals management over the past three (3) year period (Jan 1, 2017 – Dec 31, 2019), it is anticipated that an increase in the operating budget of \$241,791 will be required; from \$4,207,249 in 2020 to \$4,449,040 in 2021. As stated, these projections are subject to the variability of factors such as weather, and the volume of liquid biosolids and residuals generated from operations at Regional water and wastewater treatment facilities.

The following table summarizes the estimated annual costs for the Liquid Biosolids Management Services:

TABLE No. 1: Existing Contract Costs for Biosolids Management Services With Thomas Nutrient Solutions

Year	Biosolids Loading & Haulage /Transportation	Biosolids Land Application	Lagoon Management	Total Cost
2017	\$2,549,462.91	\$1,083,629.28	\$49,862.50	\$3,682,954.69
2018	\$3,100,391.80	\$1,055,510.55	\$52,222.56	\$4,208,124.91
2019	\$3,256,230.43	\$917,348.47	\$52,976.42	\$4,226,555.32
2020	<i>Excluded from analysis due to interim agreements pricing</i>			
2021F*	\$3,301,330.48	\$1,096,667.52	\$51,041.80	\$4,449,039.80

*2021F denotes forecasted volume projections at the new bid prices – excludes provisional / emergency haulage amounts awarded in the contract

Analysis

Niagara Region's liquid biosolids and residuals management program and diversified management strategy focus on two (2) keynote processes for beneficial reuse of biosolids material generated from Water and Wastewater Treatment Facilities owned and operated by the Region. Both processes are elaborated upon below:

- Process No. 1 - Land application of liquid biosolids on lands approved for receipt in accordance with the Nutrient Management Act, and
- Process No. 2 - Region de-watering of liquid biosolids and residuals, with haulage/transportation and further processing into a soil amendment product under separate contract (Process No. 2)

Land application of liquid biosolids in accordance with the Nutrient Management Act (Process No. 1) for agricultural purposes continues to be the most cost effective option per unit volume for management of the Niagara Region's liquid biosolids. However, current regulations limit land application to the period April 1 to November 30 annually. Land application of liquid biosolids outside of this prescribed spreading season is prohibited. Land application is also subject to the availability of agricultural lands within the Region of Niagara and the willing participation of the agricultural community and landowners. Precipitation and soil moisture content are additional limiting factors to land application of liquid biosolids.

Region de-watering of liquid biosolids, with haulage/transportation and further processing under separate contract carries a higher cost per unit volume of liquid biosolids managed. It should be noted that Niagara Region bears the cost of de-watering the liquid biosolids in addition to the cost of the contracted service. The benefit of this management process is year round availability and not weather dependent. This provides a level of insurance and contingency that capacity will always be available to manage liquid biosolids generated by Niagara Region's water and wastewater treatment facilities when land application of liquid biosolids is not possible.

The most desirable path for the Liquid Biosolids and Residuals Management Program transitioning into 2021 and extending through 2024 is to focus on further intensification of land application of liquid biosolids and residual solids. Therefore, on May 22, 2020, Procurement Staff, in consultation with Water Wastewater Staff and with the support of the Fairness Commissioner and Subject Matter Expert retained by Niagara Region for this project, posted the Request for Proposal 2020-RFP-60: Liquid Biosolids and

Residuals Management Program to bids&tenders. During the open period, three (3) addenda provided Proponents with responses to questions received via bids&tenders. Niagara Region received four (4) submissions at the scheduled closing of 2:00 PM on June 23, 2020, and all were compliant with mandatory submission requirements. Following the evaluation process, three (3) submissions met the established minimum technical threshold based on the stated evaluation criteria.

Niagara Region retained the Services of Optimus SBR Inc. to act as an independent third party Fairness Commissioner to oversee, guide and govern the entire procurement process from bid development culminating in providing support to Staff as they present a recommendation to award to the highest scoring proposal to both Committee and Council. Their final report which attests to their observations of the entire procurement process is appended to this report in Appendix 1 - "Final Fairness Report – Request for Proposal Stage for the Liquid Biosolids and Residuals Management Program 2020-RFP-60". Procurement affirms that fair, transparent and competitive processes were undertaken for all three procurements for Liquid Biosolids and Residuals Management Program and are supportive of the recommendation contained herein. A summary of the procurement process is appended to this report as Appendix 2.

The response to 2020-RFP-60 provided by Thomas Nutrient Solutions provides a detailed plan and comprehensive strategy for the transition of the liquid biosolids and residuals management program and continued relationship building with Niagara's agricultural community and landowners. This is essential to ensuring ongoing participation in the Region's liquid biosolids and residuals management program and efficient management Niagara's biosolids.

Alternatives Reviewed

This procurement (and the innovations identified herein) was facilitated in accordance with direction provided by Public Works Committee and as such alternatives were not further considered.

Relationship to Council Strategic Priorities

Supporting Businesses and Economic Growth:

Much of the labour, equipment, and materials required for the purposes of servicing the Niagara Region liquid biosolids and residuals management program are connected to Niagara and Niagara businesses.

Healthy and Vibrant Community:

The liquid biosolids and residuals management program is essential in appropriately managing liquid biosolids and residual solids generated from Niagara Region water and wastewater treatment facilities. The program is critical to ensuring the Health and wellbeing of Niagara Region residents, agricultural community and the natural environment.

Responsible Growth and Infrastructure Planning:

Niagara Region staff and the contract service provider work continually to develop strategic alliances with local Municipal partners and representatives from various regulatory agencies to ensure the liquid Biosolids and residuals management program operates in manner which supports the natural environment and has zero impact on area residents and locally owned infrastructure.

Sustainable and Engaging Government:

Niagara Region's liquid biosolids and residuals management program continues to effectively engage with Niagara's agricultural community, local area Municipalities and the residents of Niagara to increase public knowledge through education and promotion of liquid biosolids and residual solids management within Niagara Region.

Other Pertinent Reports

- PWA 05-2012 Niagara Region Biosolids Master Plan, Water & Wastewater Services (January 10, 2012)
- PW 12-2017, Niagara Region Liquid Biosolids Management Program Contract Renewals (February 21, 2017)
- PW 3-2020 Niagara Region Liquid Biosolids Management Program Renewal of Contract Agreement with Thomas Nutrient Solutions (January 14, 2020)

- PWC-C 10-2020 Procurement Progress Report Liquid Biosolids and Residual Management (March 10, 2020)
- PWC-C 12-2020 Procurement Progress Report Liquid Biosolids & Residual Management (May 12, 2020)

Prepared by:

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Public Works Department

Prepared by:

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Recommended by:

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Commissioner of Public Works (Interim)
Public Works Department

Recommended by:

Todd Harrison, CPA, CMA
Commissioner/Treasurer
Corporate Services

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

Appendices

Appendix 1	Final Fairness Report – Request for Proposal Stage for the Liquid Biosolids and Residuals Management Program 2020-RFP-60
Appendix 2	Procurement Process



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July 21, 2020

Regional Municipality of Niagara

Attention: Kristine Richardson
 Purchasing Agent– Niagara Region

Reference: Contract for Fairness Commissioner Services 2020-RFP-60

Subject: **Final Fairness Report – Request for Proposal (“RFP”) Stage for the Liquid Biosolids and Residuals Management Program 2020-RFP-60**

Dear Kristine:

The Regional Municipality of Niagara (“Niagara Region”) engaged OPTIMUS | SBR, as Fairness Commissioner to act as an independent and impartial third party to review, observe and confirm the processes of communication, evaluation and decision-making, including to provide oversight and report on all aspects of the procurement process related to the Liquid Biosolids and Residuals Management Program. Our role related to ensuring openness, fairness, consistency and transparency from the RFP development phase through to the conclusion of the Project RFP process.

OPTIMUS | SBR hereby presents its final procurement fairness attest report to Niagara Region at the conclusion of the RFP evaluation stage in the procurement process, describing how the procurement process has complied with RFP requirements. The following chart included below summarizes our involvement and findings:

Stage	Task	Fair (Yes / No)
Pre- RFP		
1.	The procurement documents, including the evaluation tools, were reviewed and were deemed to be consistent with the guidelines established by Niagara Region	Yes
2.	The time and place of the closing were clearly identified in the procurement documents	Yes
3.	The evaluation criteria and process were included in the RFP	Yes
RFP Open Period		
4.	Procurement documents were made available in an open and equitable manner	Yes
5.	The RFP open period was consistent with the Procurement documents	Yes
6.	All Proponent questions were submitted in accordance with the Inquiries process in the RFP and answers made available to all Proponents	Yes

Stage	Task	Fair (Yes / No)
7.	Niagara Region confirmed that the requisite information would be made available regarding the results of the procurement	Yes
8.	All participants confirmed their adherence to the conflict of interest and confidentiality requirements throughout the RFP Open period	Yes
9.	Proponents confirmed their adherence to the conflict of interest and confidentiality requirements in their submissions	Yes
Post-RFP Close		
10.	The evaluation and scoring guideline were finalized before the Closing	Yes
11.	Evaluators were trained on the evaluation tools	Yes
12.	There was a protocol in place to ensure that document confidentiality was maintained	Yes
13.	The submissions were logged and recorded upon receipt, clearly confirming Proponent submissions were received on time	Yes
14.	The pricing was contained in a separate envelope and any Mandatory requirements were adhered to for the proposals that were evaluated	Yes
15.	Evaluation review and discussion sessions were monitored by the Fairness Commissioner and were done in an unbiased manner and in accordance with the RFP evaluation criteria	Yes
16.	The pricing envelopes were opened only for Proponents who met the requirements of the procurement process according to the RFP and Evaluation Guide	Yes
17.	The selection of the "Top-Ranked Proponent" was according to the RFP documents and Evaluation Guide	Yes
Post-RFP Evaluation		
18.	Upon request, debriefings are to be provided for all unsuccessful Proponents and offered for the successful Proponent.	Yes

Observations and Findings

The procurement process was established clearly in Niagara Region's Project RFP and Evaluation Guide. The evaluation process and criteria described in the documents were applied consistently and equitably. In the final evaluation discussions, the evaluators demonstrated that they had been diligent in their responsibilities, that they were able to support their individual evaluation assessments and that they held no bias for or against any Respondent. There were no unresolved issues at the RFP stage of the procurement. Averaging was calculated for evaluator scores within two (2) points; for all scores where a deviation beyond two (2) points was identified,

consensus was reached and confirmed by all evaluators. An official record was produced to document the evaluation and scoring consensus decisions, including the supporting rationale.

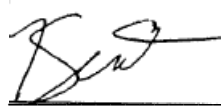
Conclusion

As the Fairness Commissioner for the Project, we certify that the principles of openness, fairness, consistency and transparency have been, in our opinion, properly established and maintained throughout the procurement process.

As Fairness Commissioner, we attest that:

- a) the Project RFP process was conducted in accordance with the provisions of the RFP and met the fairness and transparency requirements established in the RFP and other related policies of Niagara Region and the Government of Ontario.
- b) the Sponsors' personnel and external advisors adhered to Niagara Region's conflict of interest and confidentiality requirements, and
- c) all Proponents were treated consistently in the evaluation process and in accordance with the Project RFP and the established principles of fairness, openness and transparency.

OPTIMUS|SBR Inc.



Katelyn Scott
Fairness Commissioner
Senior Associate, Procurement and Fairness Advisory Services

CC: Greg Dadd, Principal, Procurement and Fairness Advisory Services

Overview of Procurement Process for Liquid Biosolids and Residuals Management Program 2020-RFP-60(Appendix 2 PW 33-2020)

Pursuant to the January 14 and February 11 Public Works Committee meetings and the direction provided therein, Procurement in consultation with Staff in Water and Wastewater initiated a progressive procurement strategy for the Liquid Biosolids and Residuals Management Program, which included:

1. Retaining the Services of Optimus SBR Inc. to act as an independent third party Fairness Commissioner to oversee, guide and govern the entire procurement process from bid development culminating in providing support to Staff as they present a recommendation to award to the highest scoring proposal to Council.
2. Retaining the services of CH2M Hill Canada Limited (Jacobs) as an external Third Party Biosolids and Residual Solids Subject Matter Expert to provide industry expertise and technical guidance throughout all aspects of this process.

Regional Staff in consultation with the Fairness Commissioner and Subject Matter Expert developed the RFP.

Staff utilized the standard procurement agreement template provided by the Procurement Office. Legal worked with the Subject Matter Expert and procurement staff (who in turn communicated with WWW staff) to ensure the RFP documents reflected the advice of the Subject Matter Expert by adding provisions to either the contract and/or the scope of work as deemed appropriate (for example updating definitions related to diesel price adjustment, CPI adjustments and payment terms to ensure clarity and consistency).

On May 22, 2020, Procurement Staff, in consultation with Water and Wastewater Staff and with the support of the Fairness Commissioner and Subject Matter Expert retained by the Region for this project, posted the Request for Proposal 2020-RFP-60: Liquid Biosolids and Residuals Management Program to bids&tenders. During the open period, Niagara Region issued three (3) addenda (in consultation with the Subject Matter Expert and Fairness Commissioner) that provided Proponents with responses to questions received via bids&tenders.

Niagara Region received four (4) submissions at the scheduled closing of 2:00 PM on June 23, 2020, and all were compliant with mandatory submission requirements. Prior to providing the evaluation package, Procurement provided all evaluators with an evaluation guide (developed by Procurement) and with assistance from the Subject Matter Expert, a detailed scoring guide tool.

The evaluation panel comprised of four (4) evaluators submitted their individual scores to Procurement; following which Procurement facilitated the Deviation/consensus meeting under the oversight of the Fairness Commissioner.

The evaluation methodology for the RFP was as follows:

- Technical Proposal 70% (minimum threshold required to proceed to next stage of evaluation)
- Fee Proposal 30%

The overall ranking of proponents was determined by adding the scores from the technical and financial review stages calculated as set out in the RFP.

The RFP further provided that in the event of a tie, the selected proponent would be the proponent with the highest score on the technical criteria.

Following the evaluation process, three (3) submissions met the established minimum technical threshold based on the stated evaluation criteria.

At the conclusion of the evaluation process, the top ranked proponent based on the evaluation methodology prescribed by the RFP was 2386246 Ontario Inc. (Thomas Nutrients Solutions).

Procurement attests to the fact that a fair, transparent and competitive procurement process was undertaken as confirmed in the report of the Fairness Commissioner, and as such are supportive of this recommendation to Council.

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. < >

A BY-LAW TO ADOPT, RATIFY AND CONFIRM THE ACTIONS OF
REGIONAL COUNCIL AT ITS SPECIAL MEETING
HELD SEPTEMBER 24, 2020

WHEREAS subsection 5 (3) of the Municipal Act, S.O. 2001, Ch. 25, as amended, provides that, except if otherwise authorized, the powers of Regional Council shall be exercised by by-law; and,

WHEREAS it is deemed desirable and expedient that the actions of Regional Council as herein set forth be adopted, ratified and confirmed by by-law.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That the actions of the Regional Council at its special meeting held September 24, 2020, including all resolutions or motions approved, are hereby adopted, ratified and confirmed as if they were expressly embodied in this by-law.
2. That the above-mentioned actions shall not include:
 - a) Any actions required by law to be taken by resolution; or
 - b) Any actions for which prior Local Planning Appeal Tribunal approval is required, until such approval is obtained.
3. That the Chair and proper officials of The Regional Municipality of Niagara are hereby authorized and directed to do all things necessary to give effect to the above-mentioned actions and to obtain approvals where required.
4. That unless otherwise provided, the Chair and Clerk are hereby authorized and directed to execute and the Clerk to affix the seal of The Regional Municipality of Niagara to all documents necessary to give effect to the above-mentioned actions.
5. That this by-law shall come into force and effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: < >