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**Subject:** Lobbyist Registrar Services

**Report to:** Corporate Services Committee

**Report date:** Wednesday, August 9, 2023

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## Recommendations

1. That Regional Council **APPROVE** the single sourcing of Lobbyist Registrar Services to Boghosian+Allen LLP, to provide Lobbyist Registrar Services for The Regional Municipality of Niagara for a term concluding on October 31, 2024 with an option to extend from November 1, 2024 to October 31, 2027;
2. That David Boghosian of Boghosian+Allen LLP, **BE APPOINTED** as the Lobbyist Registrar for The Regional Municipality of Niagara;
3. That the Regional Chair and Regional Clerk **BE AUTHORIZED** to execute the necessary agreement with Boghosian+Allen LLP, in a form satisfactory to the Director of Legal and Court Services; and
4. That the necessary by-law to appoint David Boghosian **BE PREPARED** and **PRESENTED** to Council for passage upon execution of the agreement.

## Key Facts

- The purpose of this report is to seek Council's approval to single source service for a Lobbyist Registrar.
- At its meeting held on April 14, 2022, Regional Council approved By-law 2022-24, being a By-law to Establish and Maintain a Lobbyist Registry for The Regional Municipality of Niagara.
- The by-law included a provision of an educational period of six (6) months before the enforcement of any penalties and sanctions in order to provide an opportunity for communication and education to the public regarding this initiative and to allow staff the necessary time to undertake a competitive RFP process for Lobbyist Registrar services.
- Staff have undertaken two competitive procurement processes to seek a Lobbyist Registrar that have both proven unsuccessful. The most recent Request for Proposal (RFP) closed on March 21, 2023, without any proposals being submitted.

- Staff are recommending using a single source option to secure Lobbyist Registrar Services in order to be able to move forward with enforcement of the Lobbyist Registry By-law.

## **Financial Considerations**

Lobbyist Registrar services would be billed to the Region on a fixed hourly rate when utilized and vary depending on how often the services are used and this arrangement would remain in place during the term of the agreement.

Expenditures incurred for investigations, advice and/or reports by the Lobbyist Registrar would be expensed through the Clerk's Office yearly operating budget in which funding for Lobbyist Registrar services was included.

## **Analysis**

At its meeting held on November 18, 2021, Regional Council approved the recommendation of its Corporate Services Committee to implement a Lobbyist Registry Program for Niagara Region subject to the approval of funding in the 2022 budget. The funding for the Lobbyist Registry Program was approved as part of the 2022 budget process.

The recommendation to approve implementation of the Registry included a provision that the first six months following passage of the By-law would be an education period where penalties and sanctions would not be applied. The Lobbyist Registry By-law includes that the Enforcement and Penalties section will come into force and effect six (6) months after the effective date of the By-law which was April 14, 2022. The By-law has since been amended twice to extend the education period with the current extension set to expire on April 14, 2024. Should the provision of Lobbyist Registrar services be approved as a single source, staff would bring forward a by-law to amend the expiration date of the education period.

This education period was to provide an opportunity to educate potential lobbyists on the duties and responsibilities when lobbying public office holders. In addition, it permitted the undertaking of a competitive procurement process for Lobbyist Registrar Services in conjunction with an RFP for Integrity Commissioner Services.

Request for Proposal Contract 2022-RFP-43 was issued to the market on July 26, 2022, via Niagara Region's Electronic Bidding Platform and closed on August 10, 2022.

Unfortunately the RFP process was cancelled as a result of no proponents passing the technical benchmark. Boghosian+Allen LLP, provided the only bid submission; however, as noted above, did not achieve the required technical benchmark which was due to a lack of points being allocated for specific experience as a Lobbyist Registrar. Although Mr. Boghosian does not have specific experience as a Lobbyist Registrar, his extensive litigation and investigative expertise as well as his work as an Integrity Commissioner provide him with the necessary foundational skills to undertake this work.

On February 17, 2023, Request for Proposal Contract 2023-RFP-7, was issued to the market via Niagara Region's Electronic Bidding Platform. The RFP was refined to further clarify expectations for the role and was initially scheduled to close on March 9. As a result of no plan takers at that time, staff issued an addenda which extended the deadline until March 21, 2023, and requested that Procurement staff undertake additional advertising to promote the opportunity. The RFP closed on March 21, 2023 and did not receive any submissions.

The Municipal Act, 2001, authorizes municipalities to establish lobbyist registries. Although it is compulsory in Toronto, only a handful of other municipalities have created lobbyist registries, including the cities of Brampton, Hamilton, Ottawa, and Vaughan, the Town of Collingwood, the Region of Peel and most recently Pickering. In addition, the City of Burlington has recently initiated a voluntary registry. Many of these municipalities either retain a full time Lobbyist Registrar, have someone acting as both their Integrity Commissioner and Lobbyist Registrar or have their Integrity Commissioner undertake this work. Given that many municipalities are just embarking on establishing registries, the market for lobbyist registrar services is small and many Integrity Commissioners do not perform lobbyist work.

David Boghosian has acted for Ontario municipalities, their elected officials and staff in a wide variety of matters over the past 30 years and is widely regarded as an expert practitioner in the field of municipal law in the province. Mr. Boghosian is the managing partner of Boghosian+Allen LLP, and a leader in the provision of legal services to a large number of municipalities in the areas of general municipal law and general civil litigation among other areas. He also serves as the Integrity Commissioner for the Town of Pelham, the Town of Fort Frances and the City of Greater Sudbury. With over 30 years of investigation, trial and appeal experience in the context of municipal government, Mr. Boghosian's combined experience and skills make him ideally suited for the role of Lobbyist Registrar and staff are recommending his appointment.

As the Lobbyist Registry By-law contains explicit language with respect to the role and responsibilities of the Lobbyist Registrar to conduct inquiries regarding compliance with the By-law and to impose sanctions for by-law contraventions, staff are recommending utilizing the option of single sourcing to obtain Lobbyist Registrar Services from Boghosian+Allen LLP, in accordance with Procurement By-law 02-2016, as amended, specifically Section 18 (a) (vii) “there are no bids in response to a Bid Solicitation; and consideration could be given to add (ii) a Good or Service is Purchased for testing or trial use”.

The recommended term of the contract is for one year with an option to extend for an additional three years. This term was selected given that it would not tie an entire term of Council to this service provider.

### **Alternatives Reviewed**

As Council’s direction was to implement a mandatory Lobbyist Registry, a Lobbyist Registrar is required to fulfill specific roles and responsibilities to ensure adherence to the By-law. Given that staff have undertaken two competitive procurement processes to seek a Lobbyist Registrar that have been unsuccessful, staff are proposing that Lobbyist Registrar Services be single sourced in order to secure these services. Council could decide not to proceed with the Lobbyist Registry and repeal the by-law negating the requirement for a Lobbyist Registrar or could make the Registry voluntary in which no penalties would be applicable and the onus would be on Lobbyists to voluntarily register their lobbying activities.

### **Relationship to Council Strategic Priorities**

The recommendations in this report align with Council’s Strategic Priority of an Effective Region through demonstration of continuous improvement and modernized processes.

## **Other Pertinent Reports**

CLK 2-2021 Considerations for a Lobbyist Registry

CLK 4-2021 Considerations for a Mandatory Lobbyist Registry

CLK 12-2021 Implementation of a Mandatory Lobbyist Registry

CLK 7-2022 Extension of Education Period for Implementation of Lobbyist Registry

CLK 3-2023 Lobbyist Registry

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### **Prepared and Recommended by:**

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### **Submitted by:**

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Chief Administrative Officer

*This report was prepared in consultation with Jeff Mulligan, Procurement Manager.*

## **Appendices**

None.