
Subject: Extension to Material Recycling Facility Operations and Processing Contracts

Report to: Public Works Committee

Report date: Tuesday, October 8, 2019

Recommendations

1. That the end date for the Agreement for the Processing and Marketing of Recyclable Materials with Niagara Employment Agency Inc., doing business as Niagara Recycling, be amended from March 5, 2021 until the Region fully transitions to producer responsibility or proceeds with a direction based on the outcome of the Material Recycling Facility (MRF) Opportunity Review **BE APPROVED**;
2. That an extension of the Fibre Processing Contract (P2013-41) with the Region of Waterloo to such date that Waterloo transitions to full producer responsibility or until the end of Waterloo's existing curbside collection contract (March 2024), whichever comes first, **BE APPROVED**;
3. That staff **BE AUTHORIZED** to negotiate terms of the extension with the Region of Waterloo in a matter mutually beneficial to both parties in the opinion of the Commissioner of Public Works and in a form acceptable to the Director of Legal & Court Services;
4. That the Director of Legal & Court Services **BE DIRECTED** to prepare the agreements; and,
5. That the Regional Chair and CAO **BE AUTHORIZED** to execute an amending agreement with the Region of Waterloo for the processing of fibre material and Niagara Recycling for the processing and marketing of recyclable material, as approved by the Commissioner of Public Works.

Key Facts

- The purpose of this report is to seek approval from Committee regarding contract extensions with the Region of Waterloo (Waterloo) and Niagara Recycling.
- On August 6, 2019 the Minister of the Environment, Conservation and Parks released its next steps for improving the Blue Box Program, including a transition of responsibility from municipalities to producers over a three-year period from 2023 to 2025.

- Niagara Recycling has operated and processed recyclable materials at Niagara Region's Material Recycling Facility (MRF) since 2004.
- Niagara Recycling's current Contract with Niagara Region expires on March 5, 2021. In light of the pending changes by the Province, staff are recommending a contract extension, with Niagara Recycling, to align with the transition of the Blue Box Program to the producers. Niagara Recycling has agreed to an extension under the same terms and conditions, with the exception of a marginal increase to their Management Fee.
- Since April 6, 2009, Niagara Region has processed approximately 273,939 tonnes (25,698 tonnes annually) of curbside fibre material from Waterloo under successive Contracts P2008-53 and P2013-41 for the transportation, processing and marketing of mixed fibres.
- On November 5, 2019, Waterloo will be seeking approval from its Council for an extension of the current contract with Niagara Region until the end of Waterloo's existing curbside collection contract (March 2024) or until Waterloo transitions to full producer responsibility, whichever comes first.
- On average, the Contract with Waterloo has provided an annual net revenue to Niagara Region of \$583,662 between 2014 and 2018.

Financial Considerations

The average annual net revenue for the transportation, processing and marketing of Waterloo's mixed fibre material between 2014 and 2018 has been \$583,662. Though revenue fluctuates depending on market conditions, staff anticipates a net revenue throughout 2020, with improvements in 2021 to 2024. The revenue generated from this Contract helps to offset the costs of delivering waste management programs to Niagara taxpayers.

As part of the amending agreement with Niagara Recycling, the Management Fee paid to them by the Niagara Region will be increased by \$25,000 to \$125,000, effective March 2021. Since 2014, Niagara Recycling has been subject to a Management Fee of \$100,000 annually or 12% of net revenue, whichever is greater. On average, this value has equated to 1.6% of total expenditure.

The annual cost for labour for the operation of the MRF will be subject to CPI increases, and does not include any fluctuations of the market or labour requirements.

The 2020 Waste Management draft operating budget includes expenses and revenue associated with both the Waterloo and Niagara Recycling contracts.

Analysis

Background

On August 6, 2019, the Ministry of Environment, Conservation and Parks (MECP) released its next steps report for improving the Blue Box Program to reduce costs, increase diversion rates and reduce plastic waste and litter. The report detailed the MECP's recommendations, including a six-year transition period from 2019 through 2025 that includes a one to one-and-a-half-year period for consultation and regulation development and a two-year period for producer preparation, followed by a phased three-year period from 2023 to 2025 for transfer of responsibility from municipalities to producers.

It also outlined that as producers assume responsibility, collection must be provided to every low-density residential property and similar location that had previously received municipal Blue Box service. There will be no expansion of services during the transition period and afterward, collection should expand in multi-residential properties, parks and public spaces, but would not include Industrial, Commercial and Institutional (ICI) properties.

Regulations, not yet developed, will provide the details needed by all stakeholders and the report highlights the complexity of this requirement. The MECP's special advisor suggested that the regulation-making process begin with collection and analysis of information on the existing Blue Box Program and recycling system in Ontario, with finalization of the regulations complete by early 2021.

As such, it is expected that the first group of municipalities or First Nations will transfer responsibility of programs to producers starting in January 2023, with producers fully responsible for Blue Box service province-wide by 2025. The MRF Opportunity Review (Confidential WMPSC-C 27-2019) will help position Niagara Region for transition to full producer responsibility.

Niagara Recycling

Niagara Region owns a MRF for the purpose of processing Blue and Grey Box material collected within the Niagara region, as well as the material received through enterprising initiatives such as the processing of material from Waterloo Region and Haldimand County. Niagara Region currently has an agreement with Niagara Employment Agency Inc. (Niagara Recycling), an independent contractor, for the operation and maintenance of the MRF. Niagara Recycling's responsibilities include, but are not limited to, the supply of labour and the marketing of recyclables to end markets, as well as special collection services. The agreement with Niagara Recycling expires March 5, 2021; however, the Region may terminate the agreement with the provision of six (6) months written notice.

With the recommendations set forth in this report, Niagara Recycling has asked that the amending agreement include a one-time change to the Management Fee, effective March 2021, from \$100,000 to \$125,000 for the remaining year(s) of the contract term. At their May 24, 2018 meeting, Regional Council authorized staff to proceed with Phase 4 of the MRF Opportunities Review, which is currently underway. This review may result in the early termination of the MRF agreement between Niagara Recycling and Niagara Region.

The annual cost of operational services will be subject to CPI increases, and does not include any fluctuations of the market or labour requirements. The extension will be executed under the same terms and conditions of the Agreement for the Processing and Marketing of Recyclable Materials.

Waterloo

In August 2019, staff received a request from the Region of Waterloo for a Contract extension for the transportation, processing and marketing of mixed fibres. The proposed extension will be from March 5, 2020 until such time that Waterloo transitions to full producer responsibility or their collection contract ends (March 2024). Waterloo Council will be receiving the recommendations at their November 5, 2019 meeting. Waterloo has been satisfied with Niagara Region's ability to provide effective services under the Contract.

Niagara Region, along with Niagara Recycling, the Region's MRF contractor, and their hauling partner Source Warehousing Inc., have been providing transportation, processing and marketing of mixed fibres for Waterloo since April 6, 2009. The original contract (P2008-53) was a five-year term from April 6, 2009 to April 7, 2014. Niagara Region was successful in a second bid and was awarded a thirty-five (35) month contract from April 7, 2014 to February 27, 2017, and an additional extension to March 5, 2020. Since 2009, Niagara Region has received and processed a total of 273,939 metric tonnes of mixed fibres from Waterloo, which is an average of 25,698 MT annually.

The average annual net revenue for the contract between 2014 and 2018 has been approximately \$583,662, which considers the revenue received from the sale of processed materials to the market less the cost to purchase the material from Waterloo, freight and direct processing costs. The revenue generated from this Contract helps offset the costs of Niagara Region's waste management programs.

It should be noted that the revenue received per tonne fluctuates based on market conditions and operational factors. Overall, staff is satisfied that the extension of this Contract will provide sustainable revenue for Niagara Region until March 2024. The

2020 Waste Management draft operating budget includes both expenditures and revenues associated with this Contract.

Waterloo is looking to approve the extension under the existing terms and conditions; however, they would like the Niagara Region to be responsible for maintaining receipt and ownership of the mixed fibres and plastic film in accordance with the terms and conditions under Contract P2013-41, regardless if Niagara transitions to full producer responsibility sooner than Waterloo, assigns or succeeds ownership of the MRF or assigns its processing agreement to a different vendor. There are ongoing negotiations to the aforementioned, and staff believe there are many details to be decided upon that will determine our position for processing Waterloo material until they transition to full producer responsibility or until the end of their existing curbside collection contract (March 2024), whichever comes first. As such, staff have provided options for consideration to ensure continuity of contracted services of the mixed fibres for Waterloo to consider, and both Waterloo and Niagara Region will continue to work towards terms and conditions that will ensure the contract is beneficial to both parties. As a result of the extension, Niagara Recycling will also extend the agreement with their hauling partner, Source Warehousing, for the same term.

Alternatives Reviewed

The alternative considered was not to pursue contract extensions with Waterloo or Niagara Recycling. Given that on average, the Waterloo contract has provided sustainable net revenue for Niagara Region and the MRF has capacity to continue to process and market the fibre for Waterloo, this alternative was not pursued. Also, given that the Niagara Region has a long-standing, mutually beneficial relationship with Niagara Recycling, the Region is currently undergoing a MRF Opportunity Review, and the MECP has provided an approximate transition timeline to full producer responsibility between 2023 and 2025, the alternative was not pursued.

Relationship to Council Strategic Priorities

This recommendation aligns with Council's strategic priority of Responsible Growth and Infrastructure Planning, specifically around Environmental Sustainability and Stewardship. By extending contracts with the Region of Waterloo and Niagara Recycling, the Region will sustain strong community partnerships, and optimize its recycling operations, allowing us to increase the quantity of recyclable material processed, resulting in increased net revenue to offset waste management program costs for taxpayers.

Other Pertinent Reports

- PW 35-2016

- PW 54-2017
- WMPSC-C 32-2019

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