



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

# Result of Negotiations with Canada Fibers Limited and Amendments to Contracts No. 47017448 and No. 47018726 for Single Stream Recyclable Materials Processing Services and Request to enter into a Contract for Auditor Oversight Services

**Date:** March 29, 2017

**To:** Public Works & Infrastructure Committee

**From:** City Solicitor; General Manager, Solid Waste Management Services; Chief Purchasing Officer; Director of Purchasing and Materials Management and Deputy City Manager and Chief Financial Officer

**Wards:** All

### REASON FOR CONFIDENTIAL INFORMATION

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This report is about litigation or potential litigation that affects the City. This report contains advice or communications that are subject to solicitor-client privilege.

### SUMMARY

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The purpose of this report is to provide information and make recommendations about negotiations between Canada Fibers Limited and the City of Toronto with respect to litigation or potential litigation related to Contracts No. 47017448 and No. 47018726, which are set out in the Confidential Attachment 1.

### RECOMMENDATIONS

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The City Solicitor, General Manager, Solid Waste Management Services, Chief Purchasing Officer and Director of Purchasing and Materials Management and Deputy City Manager and Chief Financial Officer recommend that:

1. City Council adopt the confidential recommendations in Confidential Attachment 1 to this report.
2. City Council authorize the public release of the confidential recommendations, if adopted, in Confidential Attachment 1 to this report.

3. City Council direct that the balance of Confidential Attachment 1 to this report remain confidential as it relates to litigation or potential litigation and contains advice or communications that are subject to solicitor-client privilege.

4. City Council authorize the appropriate City staff to execute any documentation necessary to implement the recommendations set out in this report.

## **FINANCIAL IMPACT**

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The relevant financial information is addressed in Confidential Attachment 1.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

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At its meeting on June 10, 11 and 12, 2015, City Council adopted Item PW5.4 - Authority to Negotiate and Enter into Agreements for Waste Diversion Processing Capacity, Initiatives and Funding. City Council granted authority to the General Manager, Solid Waste Management Services to negotiate and enter into amending agreements for waste diversion processing capacity, initiatives and funding.

The City Council decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.PW5.4>

At its meeting on June 10, 11, 12, and 13, 2014, City Council adopted Item PW31.20 - Contract Award: Request for Proposal No. 9150-14-3007 for Single Stream Recyclable Materials Processing Contract. City Council granted authority to the Acting General Manager, Solid Waste Management Services to negotiate and enter into an agreement with Canada Fibers Ltd. for processing services of up to 120,000 tonnes per year of Single Stream Recyclable Materials, commencing on November 15, 2014 for seven (7) years plus two (2) option years at a cost not to exceed \$167.514 million (net of HST recoveries).

The City Council decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PW31.20>

At its meeting on July 12, 13 and 14, 2011, City Council adopted Item PW5.8 - Contract Award: Request for Proposal 9150-11-3066 for Single Stream Recyclable Materials Processing Contract. City Council granted authority to authorize the Acting General Manager, Solid Waste Management Services, to negotiate and enter into an agreement with Canada Fibers Ltd. for processing services of up to 140,000 tonnes per year of Single Stream Recyclable Materials for a period of seven (7) years plus two (2) option years at a cost not to exceed \$185.159 million (net of HST recoveries). It also granted authority to negotiate a price reduction in exchange for the City providing haulage services for the disposal of material residue from processing the SSRM.

The City Council decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.PW5.8>

## COMMENTS

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### Background

The City of Toronto operates one of the most sophisticated integrated waste management systems in North America. It manages materials from single family and multi-residential homes as well as non-residential customers. A component of this system includes the Blue Bin Recycling program. The program accepts an expansive list of printed-paper and packaging products to meet Provincial Regulations and support the City's efforts to drive waste diversion from landfill.

The City currently holds two (2) separate contracts for Single Stream Recyclable Materials (Blue Bin Recyclables) processing services with Canada Fibers Ltd. (CFL). Contracts No. 47017448 and No. 47018726 commenced April 29, 2013 and November 15, 2014 (each contract awarded for seven (7) years), with a cost of \$138.674 million and \$125.459 million (respectively, net of HST recoveries, and exclusive of the two (2) option years).

The combined contracts with CFL are for processing services of up to 260,000 tonnes per year at a single facility. These two (2) contracts account for all of the City's Blue Bin Recyclables processing capacity.

Fairness Monitors were used during the procurement and award of both contracts to provide oversight and ensure the Request for Proposal evaluations were fair and transparent.

In 2016, the City's Internal Audit Unit conducted a Contract Management Review of both contracts and concluded that the contracts are managed well.

### Current Situation

Disputes with respect to the operation of the two (2) contracts have arisen between CFL and the City, which are addressed in Confidential Attachment 1.

## CONTACT

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

Jim McKay  
General Manager  
Solid Waste Management Services

Michael Pacholok  
Chief Purchasing Officer  
and Director of Purchasing and Materials Management

Roberto Rossini  
Deputy City Manager and Chief Financial Officer

## **ATTACHMENTS**

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Confidential Attachment 1 - Recommended Amendments to Contracts No. 47017448  
And No. 47018726 for Blue Bin Recyclables Processing and Request to enter into a  
Contract for Auditor Oversight Services