



REPORT FOR ACTION

Consent to Assignment of Terratec Environmental Ltd. Agreement dated March 14, 2017 For Professional Services for Biosolids Haulage and Beneficial Use

Date: March 22, 2018

To: Public Works and Infrastructure Committee

From: Lou Di Gironimo, General Manager of Toronto Water

Wards: All Wards

SUMMARY

This report recommends that City Council consent to the assignment of the agreement dated March 14, 2017 between the City of Toronto (the "City") and Terratec Environmental Ltd. ("Terratec") for the haulage and beneficial use of biosolids generated at the Ashbridges Bay Treatment Plant (the "ABTP") (the "Biosolids Agreement"), from Terratec to Revolution Environmental Solutions LP ("ES LP"), an Ontario limited partnership within the corporate structure of Terrapure Environmental ("Terrapure"). Terrapure has acquired ownership of Terratec and the proposed assignment of the Biosolids Agreement is part of a broader restructuring of Terrapure, a Canadian provider of environmental and recycling services. This Staff Report also recommends that authority be delegated to the General Manager of Toronto Water to negotiate, enter into and execute any agreements necessary to assign the Biosolids Agreement to ES LP.

RECOMMENDATIONS

The General Manager of Toronto Water recommends that:

1. City Council consent to the assignment of the agreement dated March 14, 2017 between the City of Toronto and Terratec Environmental Ltd. for the haulage and beneficial use of biosolids generated at the Ashbridges Bay Treatment Plant (the "Biosolids Agreement") from Terratec Environmental Ltd. to Revolution Environmental Solutions LP subject to satisfaction of the following conditions:

- (a) the Biosolids Agreement shall be assumed by Revolution Environmental Solutions LP;

(b) Terratec Environmental Ltd. and Revolution Environmental Solutions LP shall enter into an assignment and assumption agreement on such terms and conditions the General Manager, Toronto Water may consider appropriate to protect the City's interests, including, without limitation, any financial and/or performance security and any assumption of existing warranties and/or indemnity obligations, and in a form satisfactory to the City Solicitor.

2. City Council authorize the General Manager, Toronto Water on behalf of the City to negotiate, enter into and execute any agreements with Terratec Environmental Ltd. and Revolution Environmental Solutions LP that the City Solicitor may determine necessary to give effect to Recommendation 1, and as may be necessary to protect the City's interests to the satisfaction of the General Manager, Toronto Water, on such terms as may be required by the General Manager, Toronto Water and in a form satisfactory to the City Solicitor.

FINANCIAL IMPACT

No financial impact is anticipated. The assignment of the Biosolids Agreement from Terratec to ES LP will have no impact on the pricing terms and conditions in effect pursuant to the Biosolids Agreement. Funds to cover the cost of services provided in 2018 under the current Contract are included in the Toronto Water 2018 Operating Budget in Cost Centre TW4036, Cost Element 4416. No financial impact is anticipated from the adoption of the recommendations in this report. Funds to cover the cost of services to be provided beyond 2018 will be included in the corresponding annual Toronto Water Operating Budget.

DECISION HISTORY

On December 7, 2016, the Bid Committee adopted item BD113.4, without amendment, and awarded Request for Proposal No. 9117-16-7164 for "Professional Services for Biosolids Haulage and Beneficial Use" to multiple vendors including Terratec thereby authorizing the Biosolids Agreement. A copy of the Bid Committee decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.BD113.4>

COMMENTS

Terratec is one of four service providers that provide haulage and beneficial use services related to biosolids generated at the ABTP. A fifth service provider operates and maintains the City's biosolids pelletizer facility located at the ABTP site and markets the pellets produced as a fertilizer and soil amendment product.

Terratec currently hauls and provides services related to land application of biosolids on agricultural lands and use of biosolids for mine land reclamation through application of

biosolids on mine tailing sites. If required, and only if directed by the City, Terratec is also contracted to haul biosolids to the City's Green Lane Landfill Site and/or to Waste Management Twin Creeks Warwick Landfill in Watford Ontario.

Terratec has been a biosolids services provider to the City since the late 1990's and was the City's sole biosolids hauler before 2006. Since 2006, Terratec has been one of several service providers who support the City's Biosolids Beneficial Use Program at the ABTP. In 2017, Terratec managed 17,074 wet tonnes of ABTP biosolids accounting for 10.7% of the total volume produced.

Terratec has a 44 year history of providing biosolids services and has over 70 employees. It was most recently employee-owned and before that a subsidiary of American Water Enterprises, Inc. (and American Water Canada Ltd).

Under the terms and conditions of the Biosolids Agreement, Terratec cannot assign the Biosolids Agreement without the prior written consent of the City. Consequently, the City's consent to the proposed assignment of the Biosolids Agreement is sought by Terratec and ES LP in accordance with s.1.13 of the Biosolids Agreement. In seeking the City's consent, these parties have proposed the following in connection with the proposed assignment:

1. Terratec would not be relieved of its contractual rights and obligations and would remain liable to the City to the extent that any obligations or liabilities are not performed or satisfied by ES LP;
2. ES LP will provide identical performance security to the performance security currently in place under the Biosolids Agreement;
3. All required regulatory approvals and permits will be held by ES LP; and
4. No operational or personnel changes are contemplated to be undertaken in connection with the services to be provided to the City.

City staff has reviewed the suitability and capability of ES LP to assume the Biosolids Agreement from both an operational and financial perspective. Based on the information either provided to or obtained by City staff, and in consultation with Corporate Finance, Toronto Water is satisfied that ES LP has the operational and financial capability, the resources, and the expertise to perform and deliver the required biosolids services to the City.

Legal Services and Corporate Finance were consulted in the preparation of this report.

CONTACT

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SIGNATURE

Lou Di Gironimo, General Manager, Toronto Water