

Third Reading

Council of the Township of Wollaston Session Jan 25 No. 61-09
2009
Moved by [Signature] Seconded by Graham Blair

That a by-law to sign agreement with Junte
Wash Solutions for 2 year contract

As reported by the committee of the Whole be read a third time, passed and numbered _____ and that the said by law be signed by the Reeve and clerk, sealed with the seal of the Corporation, and be engrossed in the by-law book.
Carried _____

Second Reading

Council of the Township of Wollaston Session _____ No. _____
200
Moved by [Signature] Seconded by [Signature]
That a by-law to _____

Be read a second time and be referred to a committee of the whole council.
Carried _____

First Reading

Council of the Township of Wollaston Session _____ 200
Moved by Graham Blair Seconded by [Signature]
That a by-law to _____

be received and read a first time. Carried [Signature]

THIS AGREEMENT made this 1st day of July, 2009

BETWEEN: The Centre and South Hastings Waste Services Board
(hereinafter called "the Board") (Party of the First Part)

AND: The Corporation of the Township of Wollaston
(hereinafter called "the Township") (Party of the Second Part)

WHEREAS the Centre and South Hastings Waste Services Board (hereinafter called "the Board") is a joint municipal service board under the provisions of The Municipal Act, 2001, as amended from time to time;

AND WHEREAS the Board has constructed a recycling processing facility for the purpose of receiving, sorting and processing recyclable materials;

AND WHEREAS the Council of the Township of Wollaston (hereinafter referred to as "the Township") has previously entered into an agreement with the Board for the sorting, processing and marketing of recyclable materials collected from within the Township's municipal boundaries;

AND WHEREAS the parties wish to enter into a further Agreement on the terms and conditions set out below;

NOW THEREFORE in consideration of the premises and the mutual covenants herein contained and other good and valuable consideration (the receipt and sufficiency of which is acknowledged by the parties hereto) the parties hereto agree as follows:

1. DEFINITIONS

For purposes of this Agreement:

- a) "Processing Facility" shall mean the facility operated by the Board for the sorting and processing of Recyclable Materials located in the City of Quinte West, Trenton Ward, County of Hastings on certain lands legally described as Part 2 on Plan 21R-13238 or such other location or locations as determined by the Board, in its sole discretion, from time to time;
- b) "Recyclable Materials" shall mean those materials as identified from time to time by the Board in its sole discretion to be suitable or desirable for acceptance at the Processing Facility for recycling purposes.

2. PROCESSING OF RECYCLABLE MATERIALS

- a) The Board agrees to process Recyclable Materials coming from within the municipal boundaries of the Township, subject to and in accordance with the terms and conditions of this Agreement.
- b) In consideration of the Board agreeing to process Recyclable Materials from the Township (subject to and in accordance with the terms and conditions of this Agreement), the Township hereby agrees to pay to the Board a tipping fee per tonne of material delivered to the Processing Facility as set out and described in Paragraphs 5 and 8 of this Agreement.

3. COLLECTION OF RECYCLABLE MATERIALS

- a) The Township hereby covenants and agrees that it shall contract with the Board for the collection of recyclable materials from within its municipal boundaries and for the delivery of same to the Processing Facility and all costs associated therewith.
- b) The Township shall be solely responsible for obtaining, providing and distributing blue boxes within its municipal boundaries.
- c) The Township shall be solely responsible for all inquiries and/or problems that may arise with respect to collection of Recyclable Materials within its municipal boundaries.

- d) The Township shall be solely responsible for promotion of the blue box collection program within its municipal boundaries.
- e) All Recyclable Material delivered or to be delivered to the Processing Facility shall be separated and in a contaminant-free condition to meet the requirements of the Board as established from time to time.
- f) The Board maintains the right to refuse to process any load of materials or any part thereof from the Township that does not meet the requirements of the Board as established from time to time. In the case of such rejection, the Township shall be solely responsible for disposing of the rejected materials and all costs associated therewith.

4. PROCESSING FACILITY

- a) The Township acknowledges and agrees that it shall have no proprietary rights or similar claim to the Processing Facility or the collection/operation system or any part thereof or any equipment, plant and/or machinery owned or acquired by the Board.

5. FEES

- a) The Township hereby covenants and agrees to pay to the Board a Tipping Fee for all material brought to the Processing Facility from the Township.
- b) The Tipping Fee shall be set from time to time by the Board. The Tipping Fee will be determined by the Board based on the monthly cost of processing the tonnage of "household" Recyclable Materials.
- c) The Township shall be entitled to a materials Rebate based on the amount of tonnage of Recyclable Materials from the Township processed by the Processing Facility and on the net market value received by the Board for "household" Recyclable Materials of the type and kind collected from within the Township. The Rebate shall be determined by the Board from time to time in its sole and absolute discretion.
- d) The Board shall invoice the Township quarterly for its Tipping Fee. However, the Board, at its discretion, may choose to invoice monthly or any other interval of time. Rebates shall be paid quarterly.

6. TERM OF AGREEMENT

- a) The Parties hereto agree that this Agreement shall commence on the 1st day of July, 2009 and shall continue in force and effect until terminated in accordance with the terms of this Agreement. Neither party shall be entitled to terminate this Agreement except as set out in Paragraphs 6 b), c) and d) below.
- b) Both Parties will terminate this Agreement on the 30th day of June, 2011.
- c) Notwithstanding anything in this Agreement to the contrary, if the Board determines, in its sole and absolute discretion, that there has been or is to be a "substantial change" in the Board's collection, sorting and/or processing of Recyclable Materials or in the nature or type of Recyclable Materials to be collected, sorted and/or processed by the Board, then in such case the Board shall notify the Township of such changes and the Township shall have thirty (30) days from the date of such notice to notify the Board whether or not it wishes to continue to participate in the Board's collection, sorting and/or processing program as revised. The determination by the Board as to what constitutes a "substantial change" shall be final and binding on the parties hereto. In the event that the Township does not wish to continue to participate in the program, as revised, the Township shall be entitled to terminate this Agreement provided that it delivers to the Board a notice in writing to that effect within the above-noted thirty (30) day period providing for a minimum of six (6) months' notice of the effective date of termination. In the event of such termination, the provisions of subparagraph e) of the Clause 6 shall apply.
- d) In the event that the Board at any time determines it will no longer, for any reason, be able to continue to process Recyclable materials or otherwise carry out its obligations pursuant to this Agreement, the Board may terminate this Agreement upon giving not less than six (6) months prior written notice to that effect.

- e) Notwithstanding anything in this Agreement to the contrary, the Township shall not be entitled to reimbursement of any monies paid to the Board whether for initial fee, operating costs or otherwise upon termination of this Agreement including any renewal of this Agreement.
- f) Where a prior agreement between the Parties hereto in respect of collection and/or processing of Recyclable Materials has expired and, the Board has, notwithstanding such expiry, continued to provide such services, all provisions of the agreement shall apply *mutatis mutandis* to the period between expiry of the previous agreement and commencement of this Agreement.

7. NON-COMPETITION

The Township acknowledges and agrees that

- a) The Board has or will from time to time, be required to enter into Agreement(s) with a private contractor(s) for the purposes of providing processing and/or collection services pursuant to this Agreement;
- b) The Board, the Township and other municipalities contracting with the Board or being parties to the Board of Management Agreement benefit substantially from having the Board contract directly with the private contractors and the increased bargaining power including economies of scale made possible by having the Board do so on behalf of as large a number of municipalities as possible;
- c) The Township should not reap the benefits of same without contracting with the Board. Therefore the Township covenants and agrees that it will not nor will any Board or Commission created by it, or to which it is a party, either during the term of this Agreement or within a period of six months after expiry of this Agreement, contract, directly or indirectly, in any manner whatsoever with the private contractor(s) which is/are, at the date of termination of this Agreement, contracting with the Board.

8. GENERAL

- a) The Township acknowledges having received a copy of the Board of Management Agreement for information purposes.
- b) The Township acknowledges that it has no membership in nor voting right on the Board.
- c) The Township agrees to pay to the Board all monies owing by the Township to the Board within 30 days of the date of the invoice or demand for payment. Interest at the rate of 2% per month shall be payable to the Board on all sums of money payable to the Board by the Township which sums are not paid within 30 days of the date of the invoice or demand for payment calculated from the date of such invoice or demand for payment.
- d) The Township hereby agrees to indemnify and save harmless the Board and its members as constituted from time to time and against all actions, causes of action, losses, including without limiting the foregoing lost or future income, fees or revenues, damages, suits, judgments, awards, orders, claims and demands whatsoever, and from all costs including legal costs on a solicitor and client basis to which the Board and/or its members may be put in defending or settling any such action, causes of action, suits, claims or demands, which may arise either directly or indirectly by reason of or as a consequence of or in any way related to the Board and/or any of its members acting with respect to the Board's Recycling Program and/or the acceptance of Recyclable Material from the Township, or the breach by the Township of its covenants or obligations pursuant to this Agreement.

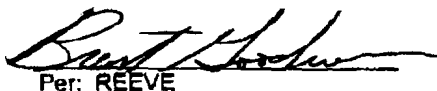
- e) Any notice under this Agreement shall be sufficiently given by personal delivery or by registered letter, postage prepaid, and mailed in a Canadian post office addressed to the Clerk of the Township or the Secretary of the Board at their respective addresses or to any other address that may be designated in writing by either party hereto and the date of receipt of any notice by mailing shall be deemed conclusively to be four (4) days after the mailing.
- f) **Arbitration**
 - i) Where a disagreement, conflict or dispute arises between the parties to this Agreement with respect to the interpretation, construction, meaning or effect of any provision of this Agreement which the parties are unable to resolve, such disagreement, conflict or dispute shall be submitted to the Ontario Municipal Board which shall act as sole arbitrator pursuant to the provisions of The Municipal Act, 2001, as amended from time to time;
 - ii) Each of the parties hereto shall be a party to such arbitration brought before the Ontario Municipal Board pursuant to the provisions of this agreement;
 - iii) The decision of the Ontario Municipal Board with respect to matters placed before it for resolution pursuant to this paragraph shall be final and binding upon the parties and the provisions of S.95 and S.96 of the Ontario Municipal Board Act, R.S.O. 1990 c.O.28 as amended, shall not apply.
- g) The parties hereto, and each of them, covenant and agree that each of them shall and will, upon reasonable request of the other party, make, do, execute or cause to be made, done or executed, all such further and lawful acts, deeds, things, devices and assurances whatsoever for the better or more perfect and absolute performance of the terms and conditions of this Agreement.
- h) The headings in this Agreement are for the use of reference only and shall not be read or construed so as to abridge or modify the meaning of any provision of the main text of this Agreement.
- i) This Agreement constitutes the entire agreement among the parties and except as herein stated and in the instruments and documents to be executed and delivered pursuant hereto, contains all of the representations and warranties among the parties of any kind. This Agreement may not be amended or modified in any respect except by written instrument signed by both parties.
- j) This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

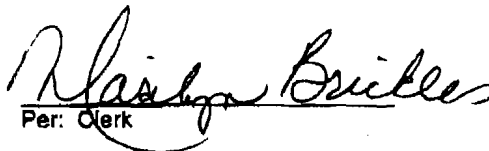
In Witness Whereof the parties hereto have hereunto affixed their respective corporate seals as attested to by their proper officers duly authorized in that behalf.

SIGNED, SEALED AND DELIVERED

This 25 day of June, 2009

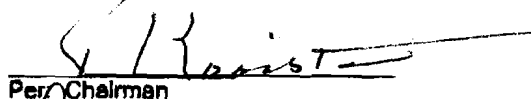
THE CORPORATION OF THE
TOWNSHIP OF WOLLASTON

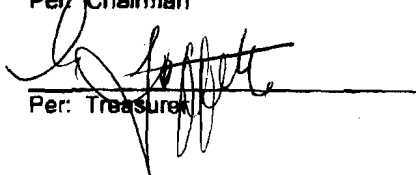

Per: REEVE


Per: Clerk

THE CENTRE AND SOUTH HASTINGS
WASTE SERVICES BOARD

This _____ day of _____, 20____


Per: Chairman


Per: Treasurer