

Town of Riverview COUNCIL REPORT FORM



Presented to: Mayor and Town Council

Presented by: Colin Smith, CAO

Date: December 11, 2023

Subject: Opt in/Opt out - Contract Consideration

BACKGROUND

In 2023, new regulations in New Brunswick shifted the financial and operational responsibility for recycling from municipalities to the organizations that produce and sell packaging, plastics and paper. **Circular Materials** is the organization that the private businesses have created to be responsible for implementing and managing the new extended producer responsibility recycling system in New Brunswick.

The graph below provides an overview of who is Circular Materials and the ir objectives.

Who is Circular Materials

About

We are a national not-for-profit producer responsibility organization that helps producers meet their obligations under extended producer responsibility regulations across Canada.

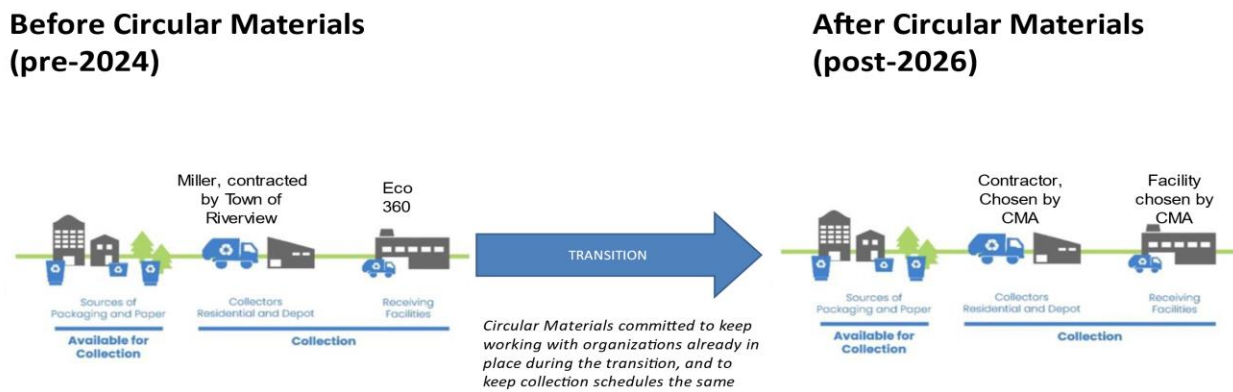
The Province’s rationale in making this change to the recyclable collections in New Brunswick is:

- It moves the costs associated with recycling activities to industry (producers/retailers)

- to improve recycling rates and promote more efficient materials. The goal of CMA is a 3% contamination rate in recyclables. The current contamination rate is between 20-30% in municipalities in our region.

The decision before Council today is to decide on whether it wants to opt into a contract with Circular Materials or to opt out. If the Town opts out, Circular Materials would be required to negotiate with our current waste collector to provide the collection services for the blue material in Riverview for the next three years (transition period). Circular Materials has indicated that it plans to do a region wide or Provincial wide RFP for recyclable collection services in 2027 and beyond. So, after this transition period no matter whether the Town opts in or out, the Town will not play a role in the collection of blue material starting in 2027. The Town will still be responsible for clear and green garbage collection.

Below is a graph that showcases the transition of recyclable material in our region over the next number of years:



The opt in considerations include:

- that the Town would be responsible for collection, education, and administration, and absorb risks associated with Circular Materials recyclable program;
- if Circular Materials demands increased enforcement of blue bag compliance to reduce contamination, the Town will be responsible for developing the plan and implementing the enforcement action;
- the Town may need to negotiate some contract adaptation with Miller (our current contractor), which could come at a cost; and
- Circular Material is offering \$31.37 per stop (incl. admin and education top ups) for this service, which results in the Town receiving approximately \$208,000 in revenue per year during the transition.

The opt out considerations include:

- Circular Materials will be responsible for the service through a 3rd party, including education and customer service and enforcement;
- Town has no responsibility; it minimizes the risks;
- Expectation is for Miller to continue collection following the current schedule until 2027; and
- The Town can amend its contract arrangement with Miller, where Miller will provide the Town compensation for it to continue collection of recyclable material in Riverview, which allows us to gain some new revenue through this process. The estimated potential annual value to the Town is \$163,000 for the transition period (pre-2027).

The transition to this new program in New Brunswick started on November 1st, 2023, when municipalities in the western part of the province had to decide whether they would agree to let Circular Materials manage the collection of recyclables through their own contractor, or if the municipality wanted to become the service provider (either having collection done by the municipality or through a contractor managed by the municipality) for Circular Materials. In phase one of this opt in or out process, 41 of the 48 municipalities opted out. The primary reasons for that decision included:

- Limited time provided by Circular Materials/Province to make an informed decision; and
- The legal risks and potential financial penalties Circular Materials included in the contract that could be forced upon municipalities.

Municipalities in eastern NB are now required to decide if they are going to opt in (be the provider for Circular Materials) or to opt out of this arrangement by December 18, 2023. Moncton has already decided to opt out. While the other municipalities in our region have not decided formally at this point, several of the other municipalities are leaning to opt in. Dieppe is still evaluating their options and would like to see a consistent decision with Riverview.

The Town had our lawyers review the Circular Materials contract, and they identified several unknown risks in the proposed contract that could impact the Town including:

- If contamination levels are not met, we could see penalties per collection;
- If mixed loads are not sorted properly this would result in a \$1,000 fine per load;
- The Town would be responsible to develop "Contamination Reduction Plans" to reduce the contamination in the blue stream to get to CMA's desired 3% contamination;
- All reporting would be the responsibility of the Town;
- In the event of a labor shortage the Town could be billed \$5,000/day; and
- CMA can update/change policies and standards in the agreement at their discretion.

Due to the fact there are several unknown risks in the proposed contract; that the Town loses control of recyclable collections in either opt in or opt scenarios; and that the available funding in either scenario is only available to the municipality in the transition period (not long-term revenue), Town staff are recommending to Council to opt out of the proposal from Circular Materials. Furthermore, Town staff

will work with our current contract, Miller, to amend our current contract so that the Town can secure a financial contribution during the transition period from our collection partner.

CONSIDERATIONS

Legal: contract agreement with Circular Materials will need to be signed if we opt in. There are several legal risks included in this agreement that our lawyers have identified.

Financial: There is some revenue potential for the Town in both options. However, the long-term financial impact on Eco360 and this whole program and what it may mean for municipalities, as well as future tipping fees is not clear.

In the transition period on an annual basis the opt in option is estimated to be an additional \$45,000 in revenue then the opt out scenario; however, there are more unknown risks with that scenario.

Eco360 will also be entering into an agreement with Circular Materials during the transition period to process the recyclable material. If municipalities decided to opt out, which delays the start of this program from May 1st to November 1st it does have an impact on the new revenue that Eco360 would be earning in this transition period.

Policy: n/a

Stakeholders: Eco360 and other regional municipalities; Miller

Strategic Plan:

- Service Excellence

Interdepartmental Consultation: N/A

Communication Plan: N/A

Recommendation of Staff –

Staff is recommending the Town of Riverview opt out of the proposed offer from Circular Materials and agree to revise our current agreement with Miller including updated financial terms, who will enter into an agreement directly with Circular Materials.

Motion

The Town Council give staff direction to opt out of the contract proposal from Circular Materials.