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The Regional Municipality of Durham Report

To: Committee of the Whole
From: Commissioner of Works, Commissioner of Corporate Services and
Commissioner of Finance
Report: #2021-COW-14
Date: June 9, 2021

Subject:

Organics Management Solution Update - Request for Prequalification and Initiation of Request for Proposal Process

Recommendation:

That the Committee of the Whole recommends to Regional Council:

- A) That Regional Council approve the top three qualified respondents that have passed the evaluation criteria for RFPQ-1062-2020 for Mixed Waste Pre-sort and Wet Anaerobic Digestion Processing Facility;
 - B) That Works, Corporate Services and Finance staff be authorized to proceed with the issuance of the Negotiated Request for Proposal for the Mixed Waste Pre-sort and Anaerobic Digestion Facility to the top three qualified respondents; and
 - C) That an Honorarium of \$200,000 each be paid to the pre-qualified final compliant unsuccessful respondents for a total of \$400,000 and be funded from the waste management reserve fund.
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Report:

1. Purpose

- 1.1 The purpose of this report is to inform Regional Council on the outcome of the Request for Pre-Qualifications (RFPQ-1062-2020) for the Mixed Waste Pre-sort and Anaerobic Digestion Facility.

- 1.2 This report also provides additional detail on the Negotiated Request for Proposal (NRFP) process and seeks approval for next steps.

2. Background

- 2.1 In June 2018, Regional Council (Report # 2018-COW-146) approved a Mixed Waste Pre-sort and Anaerobic Digestion (AD) facility as the preferred technologies for the Region's long-term organics management strategy. Regional Council approved several additional recommendations to advance the project, including the following:
- a. That the development of a Phased Project Implementation Plan be authorized to consider the merits of a first phase with a transfer station capable of accommodating pre-sort capabilities;
 - b. That a future business analysis of the mixed waste pre-sort and AD facility be limited to either (i) a private sector service contract, or (ii) a design-build-operate and maintain public-private partnership contract;
 - c. That staff explore options for partnerships, joint ventures, public-private partnership, co-ownership and other forms of participation with interested partners;
 - d. That an investigation into the benefits from Regional use of the potential energy and other by-products; and
 - e. That staff proceed to procure an interim five-year solution to ensure continuous organic processing services for the Regional Municipality of Durham (Region).
- 2.2 In June 2019, Regional Council approved Report #2019-COW-17 to proceed with the Mixed Waste Pre-sort facility and AD facility utilizing wet anaerobic digestion under a design, build, operate and maintain (DBOM) service delivery approach. The report set out the advantages and certainty of proceeding with a DBOM model versus a private sector service contract which was informed by a service delivery model assessment that was completed by GHD Limited and Ernst & Young Orenda Corporate Finance Inc. The assessment reviewed the different service delivery options and the risks associated with each option.
- 2.3 The advantages for proceeding through a DBOM model include greater control over the project to:
- 1) ensure built in redundancy;
 - 2) build our own waste processing capacity with future expansion capabilities;

- 3) lower haulage and transportation costs thereby reducing our carbon footprint;
 - 4) greater risk mitigation including minimalizing Regional risk of cost escalation and transfer of operational risk;
 - 5) up-front due diligence from a rigorous procurement process;
 - 6) realize the benefits of the creation of renewable natural gas, and
 - 7) ability to increase diversion thereby deferring the need to expand the DYEC.
- 2.4 Arguably, these benefits are more important today based on priorities established through the Strategic Plan. For example, management and control relates to more than the integrated waste system but also entails control over other environmental/community objectives, including but not limited to, stringent odour management, enhanced biogas utilization/benefit, and the need to achieve set GHG targets and 70 per cent waste diversion.
- 2.5 As well, the DBOM model will ensure the most stringent environmental compliance standards are met and that corporate Greenhouse gas (GHG) emission reduction targets, recognized from the production of renewable natural gas, are achieved.
- 2.6 Regional Council directed staff to proceed with procurement of the project through a two-step Request for Proposal Qualifications (RFPQ) and Request for Proposal (RFP) process.
- 2.7 Report #2019-COW-17 also directed staff to report back to Regional Council on the following:
- a. The feasibility of a potential partnership/joint venture with the preferred proponent identified through an Expression of Interest;
 - b. The evaluation of siting and environmental compliance approvals and permitting application requirements for the mixed waste pre-sort and AD facility;
 - c. A detailed project implementation schedule; and
 - d. Recommended timing and approval to initiate the RFP, based on resolution of uncertainties around key parameters (e.g. siting and haulage implications, project implementation timing and site specifications, energy and other by-product preferences, available connections, revenues, costs and implications due to evolving regulatory requirements).

2.8 As outlined in Section 3 below, staff have reported back to Regional Council since June 2019 providing updates on the four items identified above. This report provides the recommended timing and seeks approval to initiate the RFP.

3. Previous Reports and Decisions

3.1 On May 27, 2020, Regional Council (Report # 2020-WR-1) received for information an update on the evaluation of siting for the project. Regional Council was advised that the Mixed Waste Pre-sort and Anaerobic Digestion Facility Siting Report was published and that a Public Information Session was held on February 27, 2020. As a result of the analysis of the siting options and public consultation, the South Clarington Location at 383 Courtice Road was identified as the preferred location for the AD facility. Staff also responded to comments provided by the Municipality of Clarington on the Mixed Waste Pre-Sort and AD Facility Siting Report.

3.2 On that same day, Regional Council approved Report #2020-COW-20, which approved the site located at 393 Courtice Road, Municipality of Clarington as the recommended location for the Project. Regional Council also directed staff to negotiate with Epcor Utilities Inc. for a potential joint venture/co-ownership relationship and to issue the RFPQ. Report #2020-COW-20 also provided Regional Council with an updated business case and risk assessment for the Project.

3.3 On September 30, 2020, Regional Council (Report #2020-COW-25) ratified the August 11, 2020 Memorandum of Agreement between the Regional Municipality of Durham and EPCOR Power Development Corporation in relation to the termination of the joint venture/co-owner relationship between the parties after negotiations about a joint venture/co-owner relationship were unsuccessful.

3.4 On October 16, 2020, Regional Council (Report #2020-INFO-95) was provided information about a proposed third-party service provider that was discussed at the September 30, 2020 Regional Council meeting. Regional staff informed Regional Council about comments provided by staff to the Ministry of the Environment, Conservation and Parks about the proposed third-party service provider's environmental compliance approval application. Staff comments noted that additional studies and details should be provided by the third-party service provider and that the third-party service provider should be required to meet similar or equivalent requirements as other waste facilities. Section 5. of that

report provided information on how the Region's drivers and market drivers would not be met by the proposed third-party service provider's project.

4. Request for Prequalification

4.1 On August 20, 2020, the Region issued RFPQ-1062-2020 for Mixed Waste Pre-sort and Wet Anaerobic Digestion Processing Facility that closed on December 1, 2020.

4.2 RFPQ-1062-2020 was an invitation for respondents to submit proposals for the design, build, long-term operation and maintenance (DBOM) of a Mixed Waste Pre-sort and wet Anaerobic Digestion Organics Processing Facility. Submissions were evaluated against the following criteria:

- a. Proposed Facility Concept (15%)
- b. Reference Facility Information (35%)
 - Scope and Scale (10%)
 - Availability and Reliability (7.5%)
 - Resource Recovery (10%)
 - Integration in Host Community (7.5%)
- c. Respondent Team Information (30%)
- d. Financial Requirements (20%)
 - Financial Track Record and Experience (10%)
 - Preliminary Financial Approach (10%)

4.3 Following the evaluation of all submissions, the top three ranking respondents that met the minimum 70 per cent scoring requirement underwent reference checks, evaluation of financial conditions and capacity, and reference facility verification as outlined below. Top ranking respondents, listed in alphabetical order were:

- a. Alberici Constructors Inc.
- b. Maple Reinders Constructors Ltd.
- c. Sacyr Environmental USA LLC

Reference Check

4.4 Respondents were required to provide contact information to allow the Region to conduct reference checks on past projects completed and undertake scoring. If

any of the reference checks resulted in a fail, the Region would withdraw the selection of the respondent.

- 4.5 References were contacted for the Lead Project Management Team, Lead Construction Team, Lead Design Team and Lead Operations and Maintenance Team. References were weighted against the following criteria:
- a. Contract Duration and Actual Completion Date;
 - b. Actual Contract Value and Change Orders;
 - c. Performance Corrective Measures;
 - d. Documented Health and Safety Incidents;
 - e. Documented Environmental Non-Conformances; and
 - f. Project Warranty Claims.
- 4.6 Overall, reference check information provided resulted in a pass of each of the top three ranking respondents to undertake the next step in the evaluation process- financial validation.

Financial Validation

- 4.7 Respondents' financial viability was also evaluated based on the extent to which Financing Team Members have the financial strength, based on the Region's financial condition and capacity criteria to fund the design, construction, operation and maintenance of the project.
- 4.8 The financial validation considered the following:
- a. A minimum of \$100 million capital capacity;
 - b. Ongoing operating and maintenance obligations of at least \$30 million; and
 - c. Sufficient financial conditions exist to complete the project with minimal risks to the Region
- 4.9 Overall, financial validation information provided by the respondents resulted in a pass of each of the top three ranking respondents to undertake the next step in the evaluation process- virtual reference facility verification.

Virtual Reference Facility Verification

- 4.10 Reference facility virtual verifications were undertaken only to verify the accuracy of information that was provided by the respondents in their RFPQ submissions.
- 4.11 One reference facility was selected for each of the respondents, to host a virtual reference facility verification that included real-time discussions with facility

owners, consortium representatives and operations staff. Each respondent provided a combination of pre-recorded video footage, visual presentations and verbal verification of facility technologies employed, other technical and facility operations information.

- 4.12 All three top ranking respondents passed the reference facility virtual verifications and qualify to participate in the next step in the procurement process which is the negotiated request for proposal.

5. Initiation of a Negotiated Request for Proposal (NRFP)

- 5.1 Staff are now seeking approval to proceed to the next step in the procurement process, which is the issuance of the Request for Proposal. Upon Regional Council approval, the NRFP will be issued to the three parties identified above, who will then be known as the Prequalified Parties. Only the Prequalified Parties will be able to submit proposals during the NRFP stage.
- 5.2 The NRFP will be issued with a project agreement and technical specifications. The NRFP is expected to be open for approximately seven (7) months, during which staff will meet with the Prequalified Parties during commercially confidential meetings, in the hopes of further refining, where necessary, the specifications and project agreement prior to the close date of the NRFP.
- 5.3 Staff will evaluate NRFP submissions based on the evaluation criteria contained in the NRFP and will identify the top-ranking proponent for the project.

6. Future Approvals

- 6.1 Staff will report back to Regional Council after evaluation and ranking of NRFP submissions.
- 6.2 Staff will seek Regional Council approval to enter negotiations with the top-ranking proponent in accordance with the procurement process, as set out in the NRFP document. The scope of negotiations will be limited to those set out in the procurement documentation and in conformance with procurement requirements.
- 6.3 The final business case will be presented at this time based on the NRFP results and approval will also be sought at this juncture for the Mixed Waste Pre-sort and AD Project's financing strategy.

7. Honorarium

- 7.1 An honorarium for the remuneration of work that pre-qualified respondents will undertake to satisfy the requirements of the NRFP is recommended for this procurement process. This is a standard industry practice for large and complex procurement processes to ensure sufficient market participation.
- 7.2 The Mixed Waste Pre-sort and Anaerobic Digestion Facility is complex, involving mechanical, chemical and biological processes which can interface with one or more of the Region facilities that neighbour the approved site for the facility (e.g. DYEC, Courtice WPCP) for mutual benefit. Proponents are being asked to design, build and operate the facility for 20 years.
- 7.3 The effort and cost for respondents to develop quality bids for this complex project with accurate costs is high as it requires a considerable level of design effort. The honorarium is not expected to fully compensate all costs of an unsuccessful respondent's effort but is deemed necessary to be sufficient to generate meaningful competition among the NRFP submissions.
- 7.4 The honorarium will help to ensure that the Region receives multiple compliant proposals, ensuring competitive tension throughout the procurement process. The honorarium is paid after financial close with the final successful proponent and is paid to the #2 and #3 proponents.

8. Preliminary Business Case

- 8.1 Ultimate costing/revenues will be based on comprehensive competitive solutions proposed through the NRFP. A final update will be presented once a Preferred NRFP Respondent is selected and actual NRFP bid costs are reflected in support of future recommendations to award to a preferred respondent, seek capital project approval and approve a financing strategy, including debt and debt servicing, for the AD project.
- 8.2 Another potentially important development within the 2021 Federal Budget was the establishment of a Clean Fuels Fund, with \$1.5 billion in funding to be provided over the next five years to support the production and distribution of low carbon fuels, including RNG. The program is pending but could provide a significant opportunity. This and other available funding sources will continue to be monitored/pursued, with updates to Regional Council as required.

8.3 While financing recommendations will be subject to formal approval by Regional Council once a preferred vendor team is selected and actual NRFP bid costs are reflected, they will be based on development of a sound long-term strategy, which staff are hopeful could include a viable chance at securing senior government capital funding for the project, in addition to a likely combination of debenture and Reserve Fund financing per the preliminary plan approved subject to AD Project approval in 2020. Preliminary annual net operating impacts and financing will be reported on once a preferred vendor team is selected.

9. Relationship to Strategic Plan

9.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:

- a. Goal 1.1 Accelerate the adoption of green technologies and clean energy solutions through strategic partnerships and investment
- b. Goal 1.2 Increase waste diversion and resource recovery
- c. Goal 1.4 Demonstrate leadership in sustainability and addressing climate change
- d. Goal 5.1 Optimize resources and partnerships to deliver exceptional quality services and value

10. Conclusion

10.1 The Mixed Waste Pre-sort and Anaerobic Digestion Facility continues to be key to the Regional Council approved long-term management strategy of organics within regional boundaries and will work to meet the diversion targets set in the Ontario's Food and Organic Waste Policy Statement.

10.2 As estimated in the Regional Municipality of Durham's Climate Change Action Plan, the renewable natural gas generation from the Mixed Waste Pre-sort and Anaerobic Digestion Facility has the potential to reduce corporate Green House Gas emissions up to 7,500 tCO₂e by the year 2025. This is the single most significant reduction of the short-term initiatives currently proposed by the Regional Municipality of Durham.

10.3 The evaluation undertaken for RFPQ-1062-2020 for Mixed Waste Pre-sort and Wet Anaerobic Digestion Processing Facility has resulted in the top three respondents being pre-qualified to move forward to the Negotiated Request for Proposal process.

10.4 This report has been reviewed by Works, Finance and Corporate Services Departments.

10.5 For additional information, contact: Gioseph Anello. Director, Waste Management Services, at 905-668-7711, extension 3445.

Respectfully submitted,

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