



The Regional Municipality of Durham Report

To: The Committee of the Whole
From: Commissioner of Works, Commissioner of Finance, and Commissioner of Corporate Services
Report: #2019-COW-8
Date: May 15, 2019

Subject:

Organics Management Update and Next Steps

Recommendations:

That the Committee of the Whole recommends to Regional Council:

- A) That procurement expertise and advice be retained at a total cost not to exceed \$100,000 to engage an independent third-party fairness monitor to oversee subsequent procurement processes as approved by Regional Council to protect the Regional Municipality of Durham, and to ensure fairness and transparency on behalf of vendors and other stakeholders with the procurement process to be determined by the Chief Administrative Officer and Commissioner of Finance;
 - B) That Deloitte LLP be retained at a cost not to exceed \$75,000 to provide financial and business advisory services for the next steps of the long-term organics management solution; and
 - C) That external legal counsel be retained at a cost not to exceed \$125,000 to provide advice for the next steps of the long-term organics management solution to assist in the procurement process and contract arrangements.
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Report:

1. Purpose

- 1.1 The purpose of this report is to provide a long-term organics management solution progress update involving anaerobic digestion (AD). In addition, this

report requests approval for the necessary resources to advance the recommended next steps in the procurement to establish a contract for mixed-waste transfer and pre-sort, organics processing service, and beneficial use of by-products/end products for the Regional Municipality of Durham (Region).

2. Background

- 2.1 In 2011, Regional Council directed staff to complete a preliminary investigation of AD technologies which concluded that AD is a proven technology which could be considered once the Region generated sufficient organic waste to support developing its own facility. In 2014, the first Request for Information (RFI) #677-2014 for organics technologies received 10 responses (reported in the 2015 Annual Solid Waste Management Servicing and Financing Study, Report #2015-J-8) for waste pre-sorting and AD solutions.
- 2.2 In 2017, RFI-1158-2017 (Report #2018-COW-146) was issued to gather market information related to available types of technology and services, which resulted in 19 Respondents. A variety of responses were received on the type of service delivery model the Respondents preferred. In June 2018, Regional Council approved Report #2018-COW-146, which directed that AD with a mixed-waste transfer and pre-sort facility be approved as the preferred technologies for the Region's long-term organics management strategy.
- 2.3 In 2019, Report #2019-WR-5 provided the results of the 2018 residential garbage composition study undertaken by Canada Fibers Limited, which confirmed that the organics in the Region's garbage stream can meet the requirements for AD processing in both quantity and quality.

3. Expression of Interest Update

- 3.1 The Region released a non-binding Expression of Interest (EOI) on October 23, 2018 (EOI-1152-2018) to solicit a potential business partner to procure, finance and share the net costs/benefits related to a Regionally-owned facility arising from the Region's long-term organics management solution. If a partnership is deemed viable and beneficial through this EOI process, the Region will report back with an updated business case and seek Regional Council approval to negotiate the terms of a Memorandum of Understanding (MOU) detailing the nature of the legal relationship, financial contributions and responsibilities, sharing of project risks and each partner's role.

- 3.2 The EOI involved two phases. Phase 1 required a written response and Phase 2 was an in-person presentation. The EOI Team evaluated the responses and presentations in accordance with the following core principles outlined in EOI-1152-2018:
- a) Will the Region benefit from the Company's proposed type and level of investment in the Project?
 - b) What net benefits, financial or otherwise, can the Region expect from a partnership with the Company after considering the Company's expected share of any environmental attributes, beneficial by-products and/or potential net revenues arising from the Project?
 - c) How will the Company contribute to the Region, including the Region's overall economic development?
 - d) Did the Company present any conditions to a Business Partnership that will impede or substantively constrain the Project?
- 3.3 On November 15, 2018, the Region received nine submissions to Phase 1 of the EOI. Pursuant to the terms and evaluation criteria stipulated in EOI-1152-2018, the Region's evaluation team, which was overseen by the Region's Purchasing staff, determined that two companies, Epcor and Meridiam, met the EOI qualifications and thresholds for consideration in Phase 1 of the process.
- 3.4 Based on the Phase 2 evaluations, both Meridiam and Epcor met the EOI evaluation thresholds and did not present any significant conditions or restraints that the EOI Team felt would impede or substantively constrain the Project. Also, both Epcor and Meridiam did not express a preference for a certain service delivery option.
- 3.5 Follow up meetings with these two firms and senior staff are scheduled for late May. The final recommendation will be presented to Regional Council in June.

4. Service Delivery Options

- 4.1 Regional Council has approved implementing the long-term organics management solution either through a private sector service contract or a public-private-partnership approach (P3), based on a design, build, operate and maintain contract (DBOM).

- 4.2 Under the DBOM model, the design, construction, operations and maintenance related to the asset are procured under a single contract with a private sector partner. In a DBOM project, the Region owns and funds the construction of new assets or can partner with a business or government entity. The private sector partner will be responsible for the design, construction, operation and maintenance of the facility based on output specifications laid out in the DBOM contract.
- 4.3 The private ownership model involves a facility which is fully owned and operated by the private sector. The Region would enter into a contract for mixed-waste transfer/pre-sort and organic waste processing, in which the Region would deliver organic waste from the source separated organics curbside collection to the AD facility and the garbage (single family and multi-residential) to the transfer/pre-sort facility. The Region would be charged a processing fee by the merchant/private sector partner and be responsible for costs related to haulage and transportation of organic waste and garbage to the private sector facility/facilities.

5. Next Steps

- 5.1 To progress the long-term organics management solution forward, Regional staff are undertaking the following next steps, with assistance from the recommended technical, financial and procurement advisory services as recommended in this report. An updated business case will be provided to Regional Council in June to support a decision by Council to initiate a procurement process:

Upcoming Council Decisions	Timeline
Project Implementation – Staff will report on the technical and financial considerations relating to an implementation of pre-sort/transfer station, AD and provide recommendations for Regional Council direction.	June
Service Delivery Method – Options and recommendations guiding the possible method(s) of service delivery will be presented to Regional Council in June.	June
Recommendations to identify potential business partners for a capital project arising from the EOI-1152-2018 will be presented to Regional Council.	June

Upcoming Council Decisions	Timeline
Energy Products – Staff will report on the potential beneficial uses of the by-products of an AD such as renewable natural gas and digestate, as well as the potential revenues from those products. To the extent there are contractual benefits to the Region from these by-products, the value of those benefits will not be known precisely until after competitive bids have been received in a Request for Proposal (RFP) process.	June and ongoing
Business Case – Updated costing for the AD will be provided to Regional Council in June and updated as more information becomes available (e.g. when the RFP is recommended and all compliant bids have been received, more refined costing will be available).	June and ongoing
Siting – The Region may provide potential bidders with the option to locate on a specific site or alternatively offer a different site. Recommendations for that site will be provided to Regional Council for approval in time to be included in any Request for Pre-Qualification (RFPQ) specifications.	September
Durham York Energy Centre (DYEC) Impacts – A report on the potential impacts on the DYEC will be provided to Regional Council based on the information currently available. Staff will continue to update Council on DYEC impacts as the project develops	September
RFPQ/RFP Specifications – Staff will work with consultants to design the procurement process and accompanying specifications for a RFPQ/RFP in late 2019.	September
Contract Terms and Conditions – Staff will work with consultants to prepare the necessary contractual documents to support the Region's interests.	September

6. Financial Implications

- 6.1 Given the complexities of this Project, significant investment, and the need to progress the ongoing activities/assessments noted above, technical, legal, and financial professional advisory services and costs are necessary. Additional professional expertise will be required to support the RFPQ and RFP phases (e.g. vendor evaluations, assessment of vendors/proprietary technologies, costing and technical, legal, financial and commercial expertise) to ensure adequate information to vendors over each stage and prudent contract development, including commercial terms and appropriate risk sharing and potential for project design and construction. A total of \$240,000 was approved in Report #2018-COW-146 for these purposes but did not incorporate a fairness monitor at that time. The professional advisory services are planned to be funded from the existing project budget.

7. Conclusions

- 7.1 To move forward with the Region's long-term organics management solution, it is recommended that procurement expertise and advice be retained at a total cost not to exceed \$100,000 to engage an independent third-party fairness monitor to oversee subsequent procurement processes as approved by Regional Council (e.g. potential MOU, RFPQ, RFP) to ensure fairness and transparency on behalf of vendors and other stakeholders, with the Chief Administrative Officer and Commissioner of Finance to determine the procurement process.
- 7.2 It is also recommended that Deloitte LLP be retained at a cost not to exceed \$75,000 to provide expert financial and business advisory services for the next steps of the long-term organics management solution including analysis of service delivery model options, business case and related financial analysis, advice on commercial business matters and risk assessment.

7.3 This report further recommends that external legal counsel be retained at a cost not to exceed \$125,000 to provide advice for the next steps of the long-term organics management solution, including advice on the drafting of the RFPQ and RFP documents and contract creation.

Respectfully submitted,

Original signed by John Presta for

Susan Siopis, P.Eng.
Commissioner of Works

Original signed by

Nancy Taylor, BBA, CPA, CA
Commissioner of Finance

Original signed by

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Recommended for Presentation to Committee

Original signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer