



The Regional Municipality of Durham
Report to: The Joint Works and Finance & Administration Committee
From: C.R. Curtis, Commissioner of Works
R.J. Clapp, Commissioner of Finance
Report No.: 2009-J-18
Date: April 14, 2009

SUBJECT:

Recommendation of a Preferred EFW Proponent: Request for Proposals 604-2008

RECOMMENDATIONS

THAT the Joint Works and Finance Committee recommend to Regional Council that:

- (a) Covanta Energy Corporation be approved as the Regions' preferred vendor under Request for Proposals RFP 604-2008 which was issued and evaluated consistent with Regional Council direction in order to select a preferred vendor to:
- Complete the requirements of the Environmental Assessment (EA) and Environmental Protection Act (EPA) processes; and,
 - Subject to future Provincial and Regional approvals, design, build and operate the Durham/York Energy from Waste Facility (EFW).
- (b) Regional staff be authorized to enter into Phase I of the Project Agreement (the stand-alone Early Works Agreement) with Covanta Energy Corporation at a cost not to exceed \$857,750, shared with York Region, and with Durham's share financed from the existing approved Solid Waste Management Business Plans and Budget, dedicated as follows:
- Up to \$290,000 for Enhanced Architectural Conceptual Design options (including development and provision of three architectural concepts for the facility for consideration); plus,
 - Up to \$567,750 to complete other Early Works tasks including:
 - i. Completion of the Environmental Assessment documentation;
 - ii. Designs, submissions and attainment of Environmental Protection Act (EPA) and Ontario Water Resources Act (OWRA) approvals and permits;
 - iii. Municipal and other approvals and building permit support; and,
 - iv. Final negotiation of Certificates of Approval with the Ministry of the Environment (MOE).
- (c) Regional staff be authorized to finalize the draft Project Agreement for the design, construction and operation of the Durham/York EFW with Covanta Energy Corporation for Phase II of the project, with a final report for EFW project approval to be brought back to Committee and Regional Council in June 2009, including a full assessment of technical, environmental and financial implications

to the end of a 20-year operating term (that includes two renewal periods of five years each at the option of the Regions); and,

(d) Council authorize the following consulting contracts/extensions of existing contracts with financing from the 2009 Solid Waste Management Business Plans and Budgets and York Region for its appropriate share:

- Up to a total of \$800,000 for the Regions' technical consultant HDR Corporation in support of Early Works tasks and continued project technical oversight and advice; and,
- Up to \$1,200,000 for Environmental Assessment consultant Genivar/Jacques Whitford to move from Phase II to Phase III of the Environmental Assessment process, including EA and EPA site and technology specific studies and documentation, and with authorization to enter into an expanded contract with Genivar/Jacques Whitford including a scope of work consistent with finalization of Phase III of the EA and EPA approvals process; and,

(e) The Regional Clerk and Regional Chair be authorized to execute subject agreements.

1.0 BACKGROUND

The Regions of York and Durham, with Durham Region as the lead procurement agency, commenced a two-stage procurement process to select a preferred vendor capable of designing, building and operating the Regions' proposed Energy from Waste (EFW) facility as outlined below:

| | | |
|------------------------|---|-------------------|
| <u>Stage 1:</u> | Issued RFQ 601-2007 to the marketplace | July 12, 2007 |
| | Pre-qualified vendor short-list is approved | January 23, 2008 |
| | Authorization given to issue EFW RFP 604-2008 | May 28, 2008 |
| <u>Stage 2:</u> | Issued RFP 604-2008 to pre-qualified bidders | August 22, 2008 |
| | RFP 604-2008 Closed | February 19, 2009 |
| | Recommendation of Preferred EFW Vendor: | |
| | Joint Committee | April 14, 2009 |
| | Regional Council | April 22, 2009 |

Stage 3: Preferred Vendor to:

- Complete the EA documentation;
- Design, submit and attain EPA and OWRA approvals and permits;
- Municipal and other approvals and building permit support; and,
- Final negotiation of Certificates of Approval with the Ministry of the Environment.

Subject to approval of recommendations herein, to commence April 22, 2009 with timing of completion subject to approvals processes

Project Approval recommendation to Council for the design, build and operation of a York/Durham EFW on the Clarington 01 site

June 24, 2009

Proposals under RFP 604-2008 were invited from the five vendors pre-qualified through the RFQ process. They are:

- i. Veolia Environmental Services Waste to Energy Inc.; AMEC/Black & McDonald;
- ii. Covanta Energy Corporation;
- iii. Green Conversions Systems LLC (formerly WRSI/DESC Joint Venture; Fisia Babcock Environmental GmbH; Kiewit Industrial Company; Morgan Stanley Biomass LLC; Babcock & Wilcox);
- iv. Wheelabrator Technologies Inc. (A Waste Management Company); and,
- v. Urbaser SA.

The RFQ and RFP processes followed a "state-of-the-art" process that applied common best practices used by major provincial and federal infrastructure procurement agencies across Canada. This process included adherence to a strict anti-lobbying clause included within the documentation for both processes, which was also reported to the York and Durham Regions', and Local, staff and Councils. Both process due diligence and communications were strictly monitored. Comments and questions from proponents were dealt with through predetermined processes, including the Addendum and Request for Information processes as set out within the RFP documentation.

The original closing date for submissions of January 15th, 2009 was extended to February 19th 2009 to accommodate the vendors who had expressed the need for additional time due to the complexity of the project. On February 19th, 2009 responses were received from the following four proponents:

- Covanta Energy Corporation;
- Green Conversions Systems LLC;
- Wheelabrator Technologies Inc. (A Waste Management Company); and,
- Urbaser SA.

2.0 EVALUATION PROCESS

Based upon current best practice and considering the magnitude and complexity of the project, the entire RFP process was subjected to rigorous due diligence rules and procedures consistent with common best practices applied by major provincial and federal infrastructure procurement agencies across Canada to ensure integrity and an ability to withstand any challenge regarding any impropriety.

The Region engaged KPMG to monitor from a fairness perspective the RFP Process from its commencement last August to the announcement of preferred proponent. KPMG's approach to monitoring the fairness of an evaluation process is based on a set of fairness principles that KPMG has developed that describe the foundation of a fair process. KPMG's role was solely that of an observer to the RFP process.

Based on its approach and information available to it up to April 8, 2009, KPMG has indicated to staff that it is satisfied that the RFP process was fair to all Proponents.

For Council's information, during the pre-submission stage of the RFP, proponent Wheelabrator Technologies Inc., voluntarily disclosed that their engineering team member, Stantec Consulting Services Inc., was in the process of attempting to acquire all of the issued shares of Jacques Whitford, the Region's EA Consultant. This is not an uncommon situation in the industry, as many large engineering companies are actively engaged in acquiring smaller firms.

The RFP documentation prohibited a number of specifically identified consultants from participating as a member of a Proponent's project team, including Jacques Whitford which was on the list of ineligible proponent team members. This section of the RFP was not violated since Jacques Whitford, even if acquired, was to remain a separate stand-alone corporation from Stantec. The RFP also required Proponents to disclose any potential real or perceived conflict of interest with respect to this project. Wheelabrator disclosed this situation to the Regions upon becoming aware of it.

As a result of Wheelabrator's disclosure, the Region's Legal and Procurement staff consulted with KPMG to ensure that the matter was properly addressed within the confines of the RFP. After some discussions, staff issued a letter to Wheelabrator indicating the Region's conditions for permitting Stantec to remain as a member of that particular proponent project team. The conditions imposed rigorous restrictions and firewalls upon both Stantec and Jacques Whitford. The conditions imposed were modeled after those adopted by the Federal Government's Office of the Ethics Counselor and the Office of the Commissioner of Lobbying. Essentially the conditions required no contact or communications between Stantec and Jacques Whitford staff concerning this project whatsoever. Moreover staff obtained assurances from Stantec that no attempt would be made to do anything with respect to the independent corporate status of Jacques Whitford until after Regional Council had made its decision concerning the submission of the EA. In addition, any Jacques Whitford staff involved with the project were isolated from any contact with any Regional staff that were involved in reviewing the proposals. Finally, in order to ensure transparency in the process, staff required Wheelabrator to disclose the situation in an open Request for

Information which was communicated to all of the other bidding teams well in advance of the date of submission of proposals. It is noteworthy that no comment or complaint concerning this situation was received from any other party engaged in the competitive RFP process.

KPMG provided oversight throughout the process including the evaluation to ensure fairness, consistency and that the evaluation adhered to the pre-determined evaluation criteria. KPMG has been involved throughout the entire EFW procurement process in order to assure Regional Councils and the bidders / vendors that an open, fair, consistent and accountable process was conducted.

A multi-disciplinary evaluation committee, consisting of representatives from the Durham Region Works and York Region Works Departments and Durham Finance Department, evaluated the four proposals. Technical consultants, HDR Corporation, and financial consultants, Deloitte & Touche LLP, assisted the evaluation team in their deliberations. Staff from Durham Purchasing and Legal provided day to day advice, guidance and assistance to the evaluation team. In order to ensure absolute confidentiality and to maintain the integrity of the process, all staff and consultants involved in the process signed confidentiality agreements.

After closing, but prior to the team's evaluation, Durham Purchasing requested confirmation from all Proponents that they would sign the Project Agreement substantially in the form provided within the RFP. During the evaluation process clarifications were requested and received from all proponents on specific technical issues.

The Evaluation Team considered Proposals on the basis of pre-approved evaluation criteria (included in the RFP document) that considered three elements of the Proposals:

- (i) **Technical Elements** – (45 Points);
- (ii) **Project Delivery Elements** – (20 Points); and,
- (iii) **Cost and Commercial Elements** – (35 Points).

Scoring of the proposals was based upon a maximum of 100 points. A breakdown of the individual criteria, provided to the proponents, is attached as Appendix I. Prior to the evaluation process the Evaluation Team and the Fairness Monitor (KPMG) "locked-down" the detailed scoring factors that would be applied during the evaluation. In addition, the Evaluation Team and KPMG agreed that the proposal with the highest aggregate score would be recommended to Regional Council.

Technical Considerations

On Wednesday, May 28, 2008 Regional Council¹ passed a resolution requiring the successful proponent to ensure incorporation, into the design and installation of the EFW facility, the most modern and state-of-the-art emission control technologies that was required to:

- i. Meet or exceed the European Union (EU) monitoring and measurement standards;
- ii. Commit to Maximum Achievable Control Technology (MACT) for emission standards and monitoring;
- iii. Include provisions for continuous sampling of dioxins in addition to stack testing, as defined by EU2000/76/EC and MOE A-7 guidelines;
- iv. Demonstrate the ability to design, build and operate an EFW facility of 140,000 tonnes of operating capacity at project start-up, based upon:
 - a. Durham Region providing 100,000 tonnes of post-diversion waste commencing at project start-up;
 - b. York Region providing 20,000 tonnes of post-diversion waste commencing at project startup; and,
 - c. Surplus capacity totaling 20,000 tonnes of operating capacity to be shared equally between the two Regions;
- v. Demonstrate an ability to accommodate future expansion (scalability) as required to accommodate post-diversion residual waste volume growth up to a maximum capacity of 400,000 tonnes; and;
- vi. Demonstrate an ability to meet the requirements of up to a 25-year design, build and operate contract, with terms and conditions to be set out within RFP documentation.

As directed by Regional Council, the RFP was issued based upon current discussions with the Province (emissions and power purchase) and with the understanding that the project must support the Region of Durham's aggressive residual waste diversion and recycling program, to achieve and/or exceed, on or before December 2010, a 70% diversion rate for the entire Region, with these programs continuing beyond 2010;

To support Council direction, staff developed an Air Emission Limits table, included as Appendix II that received Council approval at their meeting May 18, 2008.

The RFP and subsequent addenda required proponents to meet the Council resolutions and additionally provide:

- i) A single or dual line system with a minimum of 90% operational availability;

¹ Numbering reflects Council Resolution

- ii) Zero process water discharge facility; and to
- iii) Maximize energy production both as superheated steam used to generate electricity and potentially district heating for use in the Courtice Water Pollution Control Plant and the Clarington Energy Park. Any district heating outside of the Energy Park could be considered on the basis of a larger area district heating feasibility study.

A total of 45 points were assigned to Technical Elements:

- The majority (up to 25 points) were allocated to Environmental considerations. The RFP required all proponents to provide guarantees that they would meet the air emission table limits adopted by Durham Council. The evaluation matrix assigned additional points to proposals with lower air, water, odour and noise emissions; demonstrated plan for ease of facility expansion with minimum process disruption; superior management of ash; and greater energy production and recyclable material recovery;
- Design, Construction and Operational Considerations accounted for up to 15 Technical Element points. Evaluation focused on provision of guarantees for process availability with an expectation that the facility would operate continuously for a minimum of 90% of the time. Proposals were also evaluated on the ability to accelerate their construction schedule and guarantee their projected time lines. Evaluators assigned additional points for availability above 90% or for a shorter construction time. This category examined the robustness of the proposed system; the technical feasibility of the proposed process equipment; and that the proponent had proposed only proven and reliable Air Pollution Control Equipment. Evaluators appraised proposed facility operations and maintenance plans to ensure that plans provided for annual maintenance, multi-year maintenance including major equipment replacement and maximum residual value at the end of the contract. The evaluators also awarded points for high quality Environmental Management Systems compliant with ISO 14001:2004; Health and Safety Plans and Training Plans.
- The final five (5) points in the Technical Elements were awarded for innovations in Environmental Performance, Design, Construction and Operational Considerations.

PROJECT DELIVERY CONSIDERATIONS

20 points were assigned to Project Delivery considerations:

- Up to six (6) points were assigned to Schedule and Cost Control systems, including information on critical path project management matching identified project milestones and budget forecasting and cost control measures.

- An additional six (6) points could be assigned based on construction impact controls including QA/QC; construction impact mitigation; and environment, health and safety and community relations plans.
- Up to two (2) points were assigned to Team Organization and Qualifications and the review included assessment of documentation relating to the proponent's project management qualifications, their accountability framework, corporate experience and track record on similar projects.
- The final six (6) points available under Project Delivery related to the proponent's plan to facilitate approvals and examined their proposed time allocation and schedule for obtaining all necessary approvals and permits including the Certificates of Approval from the MOE.

COST AND COMMERCIAL CONSIDERATIONS

RFP-604-2008 required proponents to provide a detailed computer model that allocated capital and operating costs through the lifecycle of the contract, consistent with RFP requirements and their submitted proposal, and including detailed capital, operating, maintenance and lifecycle costs as well as performance guarantees.

A total of 35 points could be assigned to Cost and Commercial Considerations:

- Up to five (5) points were assigned based upon the Evaluation Team's assessment of the integrity of the financial model and reasonableness of cost inputs, including consideration of whether the Model was consistent with RFP requirements, the proposal submitted, and with benchmarks based upon projects of a similar scope and nature;
- Up to 20 points were assigned for value for money components including the magnitude of the Net Present Value cost, timing of cash flows, and the sensitivity of costs to the Regions;
- The final 10 points under Cost and Commercial Elements were assigned based upon the financial capacity and condition of the project guarantor, acceptance of construction inflation, and other guarantees provided within their proposal.

3.0 COVANTA ENERGY CORPORATION – THE PREFERRED PROPONENT

Based on their consensus evaluation, the evaluation team unanimously recommends Covanta Energy Corporation (Covanta) to Regional Council as the preferred proponent. Covanta not only achieved the highest aggregate score but also achieved the highest score in each of the three elements outlined in the RFP (technical, project delivery and cost and commercial considerations).

Covanta is proposing to be the single source, full service contractor to design, permit, build, startup, commission and operate a 140,000 tonne per year (tpy) Energy from Waste facility for the Regions of Durham and York. Covanta is the largest provider of

Energy from Waste services in North America with 35 operating facilities in the United States, including 24 that were designed and built directly by Covanta. Covanta will serve as the overall project coordinator with the responsibility for directing the design, engineering, procurement of equipment, and construction of the new EFW facility. The Covanta Team includes: Aecon Group, Inc. (Construction Services); Sigma Energy Solutions (Engineering); McMillan Associates (Architects); CH2M Hill (Environmental Consultant); and Miller Waste Systems (Waste Disposal/Transportation). Martin GmbH (Martin) will serve as Covanta's EFW technology partner. Martin supplied the technology that is currently used at 22 of Covanta's facilities, as well as numerous facilities in Europe.

The following outlines key technical components of the Covanta proposal:

- Air Pollution Control Equipment including a Flue Gas Treatment Design that includes: Covanta's proprietary Very Low NOx (or VLN™) system; a Selective Non-Catalytic Reduction (SNCR) system with aqueous ammonia injection for additional NOx control; powdered activated carbon (PAC) injection for mercury and dioxins control; a spray dryer absorber (SDA) for acid gas control; and a fabric filter baghouse for particulate and heavy metals removal.
- Dual boiler system with a design capacity of 140,000 tpy, incorporating continuous emissions monitoring systems and dioxin samplers for both systems with flue gas trains fed into a common flue.
- Zero process water discharge to sewer with water sourced from municipal supply. Captured rainwater will be used for site irrigation and the plan incorporates the use of drought-tolerant species to minimize irrigation needs.
- Bottom ash and Portland cement stabilized fly ash sent for landfill disposal in New York, corporate wide material recovery and marketing division to maximize revenues from recovered non-ferrous and ferrous materials. The proponent has provided a letter from Miller Waste guaranteeing long-term disposal capacity over the life of the contract.
- Odour on the tipping floor controlled by a ventilation system that draws air from outside at all times through the receiving area and above the waste storage pit and finally directed to the combustion units for use as combustion air. Dual combustion systems offer the additional advantage of minimizing shut-down times for the odour control system since at least one system will operate most of the time.
- Noise during regular operations mitigated by confining all operations to enclosed areas. Covanta will limit construction activities that create noise to comply with local noise by-laws and will implement a community complaints system to address local concerns during both construction and operational phases.
- Energy recovery is optimized for both electricity generation and potential future district heating scenarios. Covanta has proposed a 20 MW generator capable of maintaining some electricity output even if one boiler unit is shut down. The turbine generator incorporates an extraction turbine as well as physical space for the heat exchangers, pumps and other required equipment for the future district energy system. Covanta provided the highest net electricity production and

performance guarantees of any vendor, both with and without a future district heating system.

- Expandable facility with an initial capacity of 140,000 tonnes per year (tpy) provided by dual 70,000 tpy boiler units. Covanta provided a clear plan delineating expansion in 3 phases from the initial capacity of 140,000 tpy to 250,000 tpy and to a final capacity of 400,000 tpy. The final expansion includes additional process buildings and an additional stack. Covanta has sized the utilities (water, sewer, gas, and electric) for the ultimate 400,000 tonne/year facility.
- Guarantees from Covanta included the shortest construction period of all proponents and 90% plant availability.
- Facility Design meets or exceeds critical design criteria and Covanta's proposal meets critical throughput and environmental performance requirements.
- Operations and Maintenance plans include detailed plant management charts and provide comprehensive details relating to waste handling; environmental monitoring; power generation; contingency operations; and a preventative maintenance plan to facilitate operations and provide for the turn-over of the plant in an acceptable condition at the end of the operating term. Covanta also provides a financial model to support these plans.
- Construction planning and critical path analysis indicated a potential process start-up date by the end of 2013, dependent upon the completion of the EA and EPA processes.
- Innovations include – Covanta's proprietary VLN™ System that reduces the formation of NOx emissions by staging combustion and reducing the amount of Excess Air required in the furnace. This also reduces parasitic electricity demands. The proposed high pressure/high temperature boiler design results in higher steam cycle efficiency enabling Covanta to maximize energy recovery.

4.0 FINANCIAL CONSIDERATIONS

The Covanta proposal received the highest score under Cost and Commercial considerations. The Covanta proposal includes:

- Provision of a detailed financial model including capital, maintenance, life-cycle, and operating costs deemed consistent with RFP requirements and with benchmarks based upon projects of a similar scope and nature. The detail and costing were supported by rationale that demonstrated consistency with accepted industry practices, including provision of adequate backup documentation;
- The lowest total annual operating fee, highest available electricity revenues and the lowest overall project NPV;
- The lowest construction price and a commitment to accept adjustments for inflation commencing April 30, 2009 and up to the Notice to Proceed (NTP) date,

that will be indexed based upon independent third party data from Engineering News Record for (Toronto, Ontario) as follows: 0% of the Construction Cost Index (CCI); 30% of the Material Cost Index (MCI); and 70% of the Building Cost Index (BCI).;

- Corresponding to the best technical guarantee for energy recovery, Covanta provided the highest annual revenues, primarily from electricity sales (based upon an assumed 8 cents per kilowatt hour (kWh)). Electricity revenues remain the highest with and without consideration of future district heating requirements; and,
- Sensitivity analysis performed on the Covanta financial submission demonstrated that the Covanta proposal would remain the lowest cost proposal under each sensitivity scenario investigated as defined within the RFP documentation.

Although not considered as part of the formal RFP evaluation, the Covanta submission did fall within the scope of the May 2008 Durham Business Case evaluation (Report 2008-J-13) conducted by Deloitte & Touche LLP. The Covanta proposal was within the Business Case scope despite:

- Significant changes which have occurred in the economic and capital market environment; and
- The requirement for proponents to bid to a Project Agreement developed during the procurement process, which included final provisions not known or considered at the time that the Business Case was developed. Most notably, these include the securities and guarantees that will protect the Region from risk during the design, construction and operation of the facility, and which are designed to work with other defined terms and conditions, to ensure a well maintained facility considered 'industry standard' at the end of the 20-year operating term (plus each of the two, five-year optional renewal periods).

Covanta's submission includes a commitment to:

- A Total Annual Operating Fee of \$14.67 million (Canadian dollars at February 19, 2009), and excluding consideration of revenues from electricity or ferrous and non-ferrous recoveries;
- An electricity production guarantee of 767 kilowatt hours per tonne of waste (kWh/T), and a guarantee of 90% facility availability;
- A Construction Price of \$235.76 million (Canadian dollars at February 19, 2009);

The Covanta electricity production and availability guarantees noted above result in approximately a minimum of \$8.59 million (Cdn \$) in annual electricity revenues to the project, assuming a fixed power purchase price of 8 cents per kWh/T. Any increase in waste throughput beyond 140,000 tpy will increase annual power production.

Proponents have committed to their submitted costs, subject to adjustments as defined through the RFP documentation, and including inflationary adjustments set through the competitive bidding process. Any future potential scope changes beyond the

proponent's control, either resulting from future decisions of the Regions, and/or the Province through on-going approvals processes, could impact costs.

A subsequent project approvals report, anticipated to be submitted to Committee and Regional Council in June 2009 will include detailed costs and financial implications, upon finalization of the Phase II Project Agreement, and including any implications resulting from the on-going EA and/or other approvals processes.

Covanta confirmed if selected as the Preferred Proponent, it would negotiate in good faith with the Regions to finalize and execute a contract substantially in the form of the final draft Project Agreement. Staff do not anticipate any changes to operating performance requirements.

This report recommends moving to Phase I of the Project Agreement.

The Phase I Early Works Agreement was set up as a stand-alone agreement, which means if subsequent project approvals are not granted by the Province and/or the Regions, the preferred proponent will be paid for the architectural renderings and Early Works charges as provided.

It should also be noted however that the Regions are responsible for the obligations and costs of Early Works immediately upon the award of the Early Works Agreement, even if the project does not proceed beyond the Early Works stage to Phase II of the Project Agreement.

The Phase I Early Works component as recommended will result in the following costs which can be financed from the currently approved Solid Waste Management Business Plans and Budget through Federal Gas Tax funds as approved in the 2009 Business Plans and Budget with a cost sharing arrangement with York Region:

- Up to \$290,000 for Covanta to complete Enhanced Architectural Conceptual Design options (including development and provision of three architectural concepts for the facility for consideration by Regional and Clarington Councils);
- Up to \$567,750 for Covanta to complete other Early Works tasks including:
 - Completion of the Environmental Assessment documentation;
 - Designs, submissions and attainment of Environmental Protection Act (EPA) and Ontario Water Resources Act (OWRA) approvals and permits;
 - Municipal and other approvals and building permit support; and,
 - Final negotiation of Certificates of Approval with the Ministry of the Environment.
- Up to \$800,000 for technical consultant HDR Inc. in support of Early Works tasks and continued project technical oversight and advice;

- Up to \$1,200,000 for Genivar/Jacques Whitford to move from Phase II to Phase III of the Environmental Assessment process, including EA and EPA site and technology specific studies and documentation.

5.0 NEXT STEPS

Following Regional Council approval of the Preferred Proponent, the Regions will enter into Phase 1 of the Project Agreement with Covanta, the Early Works Agreement, which will undertake works including, but not be limited to:

- Completion of the Environmental Assessment documentation;
- Designs, submissions and attainment of Environmental Protection Act (EPA) and Ontario Water Resources Act (OWRA) approvals and permits;
- Municipal and other approvals and building permit support; and,
- Final negotiation of Certificates of Approval with the Ministry of the Environment.

In the event that the EA or the facility permitting process is not successfully concluded, then notice to proceed under the Project Agreement will not be given by the Regions.

Subject to approval of the recommendations herein, staff will proceed to negotiate the final terms and conditions of the Project Agreement with Covanta for the design, build and operation of a Regionally owned facility on the preferred site Clarington 01.

The timing of the initial Council approval of the Preferred Vendor and the inception of Early Works is critical to the timely completion of the Environmental Assessment process. Without successful completion of the Environmental Assessment process, Environmental Protection Act approvals can not be completed and the timing of the overall project may be significantly delayed.

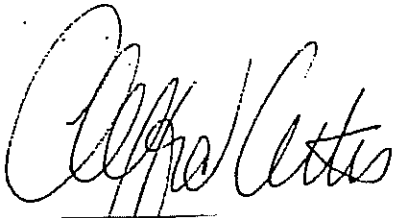
Subject to the recommendations herein, Procurement and Legal Services will negotiate the final terms and conditions of the Project Agreement with Covanta as the Preferred Proponent. Following a successful negotiation process, staff will make a recommendation to Regional Council at the end of June 2009 as part of a detailed report as noted above.

In the event that the Regions and the Preferred Proponent are unable to come to agreement on the final terms and conditions of the Project Agreement, leaving the Regions to believe that further efforts are unlikely to be useful, then the RFP allows the Regions to break off the process with the Preferred Proponent and commence the process of finalizing the Project Agreement with one or more of the next ranked proponents. If necessary, the Regions may refine any of the terms and conditions of the RFP, re-issue some or all of it to selected proponents and request a revised proposal from said proponents.

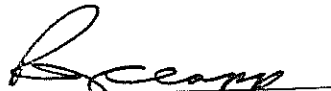
Upon completion of the Early Works Phase, resulting in Certificates of Approval, the project will enter into the second phase and the Regions will be in a position to provide

Notice to Proceed direction to Covanta. Phase 2 will include detailed design, ordering of equipment and construction of the facility.

A final report regarding EFW project approval is anticipated to be brought back to Committee and Regional Council in June 2009, including a full assessment of technical, environmental and financial implications over the 20-year operating term.

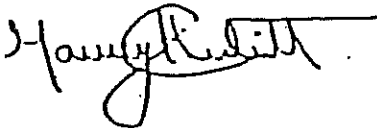


C.R. Curtis, P.Eng. M.B.A
Commissioner of Works



R.J. Clapp, CA
Commissioner of Finance

Recommended for presentation to Committee:



G.H. Cubitt, MSW
Chief Administrative Officer

APPENDIX I

Detailed Evaluation Criteria

Technical Elements – (45 Points)

The following Technical Elements were evaluated:

- Environmental and Performance Considerations - (25 Points)
 - air
 - water
 - ash management
 - odour
 - noise
 - energy recovery
 - recovered materials management
 - capacity and expansion capability
- Design, Construction and Operational Considerations - (15 Points)
 - guarantees
 - facility design
 - facility operations and maintenance
- Innovation in Environmental Performance, Design, Construction and/or Operational Considerations - (5 Points)

Project Delivery Elements - (20 Points)

The evaluation of the Project Delivery Elements of a proposal was done by evaluating the proposals content with respect to the following considerations:

- Schedule and Cost Control - (6 Points)
 - critical path management
 - budget forecasting and cost control measures
- Methods - (6 Points)
 - quality assurance/quality control plans
 - construction impact mitigation
 - environment and management plan
 - health and safety plan
 - community relations plan
- Team Organization and Qualifications - (2 Points)
 - project management qualifications
 - experience and track record
 - accountability framework

- Permits/Approvals Plan - (6 Points)
 - permitting schedule
 - coordination with project schedule
 - understanding and experience with local approval Requirements
 - minimized reliance on regional staff resources

Cost and Commercial Elements - (35 Points)

The evaluation of the Cost and Commercial Elements of a proposal was done by evaluating the proposals content with respect to the following considerations:

- Capital and Operating Costs - (5 Points)
 - reasonableness of cost inputs
 - integrity of the model
- Value for Money - (20 Points)
 - magnitude of NPV costs to Regions
 - timing of cash flows
 - sensitivity of costs to Regions
- Guarantees - (10 Points)
 - financial capacity and condition of project guarantor
 - construction inflation
 - other guarantees

APPENDIX II

Air Emission Limits (Revised May 13, 2008)

| Pollutant | Units | Ontario Guideline A-7 | EU Directive 2000/76/EC EU Limits | MAXIMUM Operational Limits |
|---|---------------------|-----------------------|-----------------------------------|----------------------------|
| Total Particulate Matter | mg/ Rm ³ | 17 | 9 | 9 |
| Sulfur Dioxide (SO ₂) | mg/ Rm ³ | 56 | 46 | 35 |
| SO ₂ Removal Efficiency | % | | - | - |
| Hydrogen Chloride (HCl) | mg/ Rm ³ | 27 | 9 | 9 |
| HCl Removal Efficiency | % | 95% | - | - |
| Hydrogen Flouride (HF) | mg/ Rm ³ | | 1 | 1* |
| Hydrogen Fluoride | mg/ Rm ³ | Not Specified | 0.92 | 0.92 |
| Nitrogen Oxides (NO _x) | mg/ Rm ³ | 207 | 183 | 180 |
| Carbon Monoxide (CO) | mg/ Rm ³ | NS | 46 | 45 |
| | | | | |
| Mercury (Hg) | µg/Rm ³ | 20 | 46 | 15 |
| Hg Removal Efficiency | % | | - | - |
| Cadmium (Cd) | µg/Rm ³ | 14 | Not Specified | 7 |
| Cadmium (Cd) + Thallium (Tl) | µg/Rm ³ | Not Specified | 46 | 46 |
| Lead (Pb) | µg/Rm ³ | 142 | Not Specified | 50 |
| Sum of (As, Ni, Co, Pb, Cr, Cu, V, Mn, Sb), | µg/Rm ³ | Not Specified | 460 | 460 |
| Cd + Tl | µg/Rm ³ | | - | - |
| Sum (Sb, As, Pb, Cr, Co, Cu, Mn,) | µg/Rm ³ | | - | - |
| | | | | |
| Dioxins/Furans (ITEQ) | pg/Rm ³ | 80 | 92 | 60 |
| | | | | |
| Organic Matter (as Methane) | mg/ Rm ³ | 66 | Not specified | 49 |

Notes:

Rm³ = "Reference Cubic Metre" – i.e. 1 cubic metre at Standard Temperature and Pressure (298 °K, 1atm)

All concentrations corrected to 11% O₂

All values represent 24 hour averages

mg = milligrams = 10⁻³ grams

µg = micrograms = 10⁻⁶ grams

ng = nanograms = 10⁻⁹ grams