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**MEMORANDUM**

**PWC-C 22-2021**

**Subject: MRF Phase 4 Opportunity Review – Chronology of Events and Update on NRFP**

**Date: Tuesday, June 15, 2021**

**To: Public Works Committee**

**From: Catherine Habermebl, Director, Waste Management Services**

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The purpose of this memorandum is to provide the chronology of events related to the to Material Recycling Facility (MRF) Phase 4 Opportunity Review and an update on the negotiated request for proposal (NRFP) process, as requested during the April 13, 2021 Public Works Committee (PWC) meeting.

**Background**

The purpose of the MRF Opportunity Review is to develop a recommendation for the preferred MRF ownership structure and related recycling processing contract for Niagara Region, considering the provincial producer responsibility legislation and proposed regulation for the residential Blue Box program may potentially result in the MRF becoming a devalued asset.

The proposed regulation, under the Resource Recovery and Circular Economy Act (RRCEA), which would make producers responsible for operating the residential Blue Box program, was released for comment on October 19, 2020 by the Ministry of the Environment, Conservation and Parks (MECP). Under this regulation, the costs of the program would be removed from the municipal taxbase and producers of products and packaging would be fully responsible for the waste they create.

The MECP indicated the program will transition to full producer responsibility between 2023 and 2025 and municipalities will no longer have financial or operational control of the program on their respective transition date. Niagara Region will no longer control where residential Blue Box materials will be processed and as a result, the MRF may be a stranded asset.

Niagara Region's preferred date to transition the residential Blue Box program to full producer responsibility is as early as possible in the transition period, which is on January 1, 2023, based on the initial cost benefit analysis. However the draft MECP transition schedule identifies Niagara Region as transitioning during 2024.

The MECP had previously identified that the final regulation would be issued in the spring of 2021, however there has been no response from the province regarding a revised timeline for both the regulation and the municipal transition schedule.

### **Overview of MRF Opportunity Review Phases**

The review consists of four phases, of which three are complete and were fully funded through Resource Productivity and Recovery Authority's Continuous Improvement Fund (approximately \$146,000). The resulting reports have been provided to Niagara Region Waste Management Planning Steering Committee (WMPSC) and PWC, most recently resubmitted as part of the September 8, 2020 PWC meeting package (Confidential PWC-C 35-2020 A Matter of Security of the Property of the Municipality under s.239(2) of the *Municipal Act, 2001* – Phases 1 to 3 MRF Opportunity Review). The completed phases consist of the following:

1. Phase 1 - MRF Market Appraisal of Buildings and Land was completed by D. J. Penwarden Appraisals Ltd. through the RFQ process.
2. Phase 2 - MRF Processing Lines and Systems, Rolling Stock and Equipment State of Repair Assessment and Valuation was completed by Holliday Recycling Technologies Inc. through CIF's RFQ process.
3. Phase 3 - MRF Business Valuation, Strategic Option Evaluation and Market Analysis completed by RSM Canada LLP through RFP process.

Although the Phase 3 report did identify preferred MRF ownership options that represented the best value for money and would best position Niagara Region to transition to full producer responsibility, based on the report's narrow scoring between the short-listed options, it was recommended that Niagara Region should consider further work in Phase 4. Until the options are actually presented to the market and submissions are received, it is speculative as to what cash value would be provided to Niagara Region for the MRF buildings, equipment and property.

Phase 4 is in progress and utilizes two primary consultants engaged through RFP procurement processes:

- MNP Corporate Finance Inc. is the transaction advisor/project consultant; and

- Optimus SBR Inc. is project fairness advisor.

Based on formal direction from Niagara Region Council in 2018 and most recently through Confidential Report PW 17-2020, dated June 16, 2020, the NRFP is in process of being developed. It should be noted that on April 30, 2018, WMPSC passed a motion for a reconsideration regarding proceeding with the NRFP, but it was defeated at the May 15, 2018 PWC meeting.

### **Current Status**

Progress on the NRFP was reduced over the past year primarily due to the delay in the release of the draft Blue Box regulation, which was expected to have further informed the process, along with a change in consultant team members and the COVID-19 pandemic. There was also a reconsideration of one of the Confidential PW 17-2020 recommendations in Confidential PW 19- 2021, which was approved by Niagara Region Council on April, 2021 and affected the content in the NRFP.

A summary of the milestone NRFP activities is provided below, in Table 1. The timelines are estimated and are subject to change based on staff resource constraints. Additionally, staff will report back to Committee if material changes occur during the process or new, substantive information is brought forth (e.g. final residential Blue Box regulations delayed by the Ministry of Environment, Conversation and Parks).

Table 1 - Summary of Milestone NRFP Activities

Estimated Date	NRFP Milestone
August/September 2021	Issuance of NRFP
September - November 2021	Open procurement process, including but not limited to proponent meeting, MRF site visit, review and issuance of addenda
November/December 2021	Submission deadline
1 <sup>st</sup> Quarter 2022	Completion of submission evaluation and negotiation period with final proponent(s)

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Estimated Date	NRFP Milestone
2 <sup>nd</sup> Quarter 2022	Recommendation for award and execution of applicable agreement(s), if applicable
December 2022	Close transaction, if applicable

### **Chronology of Events Related to the MRF Opportunity Review**

The chronology of events related to the MRF Opportunity Review is contained in Appendix A. It begins more than five years ago with the milestone release of Bill 151, the proposed Waste-Free Ontario Act (WFOA), which was the enabling legislation providing a framework to place full responsibility on producers for the residential Blue Box materials at end of life. The potential risk that municipally owned MRFs could become stranded assets was raised by staff at that time and throughout the process to date to Niagara Region Committees/Council. This risk has been relayed as a major concern to the province in comments submitted by Niagara Region, other municipalities and industry/municipal organizations.

Niagara Region Committee motions, recommendations and staff updates related to this project are also included in the chronology to provide context.

Respectfully submitted and signed by

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Catherine Habermebl  
Director, Waste Management Services

### **Appendices**

Appendix A - Chronology of Events Related to the MRF Opportunity Review