

To: Fraser Valley Regional District Board

Date: 2018-01-24

From: Suzanne Gresham, Director of Corporate Initiatives

Subject: Chaumox Road Landfill (Area A) – Proposed Renewal of Operation and Maintenance Agreement between the FVRD and the Boston Bar Area A Landfill Society

File No: 2320-20/Chaumox Road Landfill

RECOMMENDATION

THAT the Fraser Valley Regional District Board authorize its signatories to enter into an Operation and Maintenance Agreement ["Agreement"] with the *Boston Bar Area A Landfill Society* ["*Landfill Society*"] for the operation and maintenance of the Chaumox Road Landfill for a 10 year term commencing on February 1, 2018 with an option to renew for a further five year term;

AND THAT the Agreement expressly provide that:

[1] the *Landfill Society* operate the Chaumox Road Landfill strictly in accordance with the Operational Certificate issued to the Fraser Valley Regional District by the Province of British Columbia for the purpose of operating and maintaining the Chaumox Road Landfill;

[2] the *Landfill Society* be obligated to reimburse the Fraser Valley Regional District for the full value of the capital costs associated with the purchase of a front end loader and bin truck ["capital equipment"] by the *Landfill Society* through the use of Area A Garbage Disposal Service Area Reserve funds and operational and surplus funds from the Area A Garbage Disposal Service Area budget plus applicable interest, said funds to be reimbursed within 5 years from the commencement date of the Agreement, and

[3] should the *Landfill Society* default on its contractual obligation to reimburse the Fraser Valley Regional District for the costs associated with the capital equipment within the prescribed time period, the ownership of the capital equipment will remain the property of the Fraser Valley Regional District;

AND FURTHER THAT the Fraser Valley Regional District Board authorize the expenditure of available funds from the Area A Garbage Disposal Service Area Reserve Fund and the Area A Garbage Disposal Service Area budget, for the purchase of a used front end loader and bin truck by the *Landfill Society* for purposes of fulfilling its obligations under the Agreement with respect to the operation and maintenance of the Chaumox Road Landfill, said funds estimated to be in the amount \$285,000.;

AND FURTHERMORE THAT the *Landfill Society* be required to carry adequate comprehensive general liability insurance in an amount recommended by the FVRD's insurers, in addition to being responsible for all costs and obligations associated with compliance under the *Workers Compensation Act* of British Columbia;

AND FINALLY THAT the Agreement include accountability provisions which require the *Landfill Society* to report out to the Fraser Valley Regional District on an annual basis.

STRATEGIC AREA(S) OF FOCUS

Provide Responsive & Effective Public Services

BACKGROUND

The Fraser Valley Regional District has been responsible for the operation and maintenance of the Chaumox Road Landfill ["Landfill"] in Electoral Area A since the early 1970s. The original bylaw to establish the Area A Garbage service area was adopted in 1973 by the former Regional District of Fraser Cheam. The Fraser Valley Regional District operates this landfill under an "Operational Certificate" issued by the Province of British Columbia which must be renewed on a regular cycle in accordance with provincial regulations. The Landfill must be operated strictly in accordance with the Operational Certificate.

The *Boston Bar Area A Landfill Society* was incorporated as a non-profit Society in 1999 for the purpose of:

- [1] operating the Area A Landfill;
- [2] disposing of refuse in a timely manner, using recycling and landfill methods; and
- [3] fulfilling legal requirements in the most cost effective manner available.

The *Landfill Society* was incorporated further to the long standing interests of the local community in Area A of operating the Landfill on behalf of the Fraser Valley Regional District. The *Landfill Society* remains in good standing in accordance with the *Societies Act* of British Columbia. All "ratepayers" in Electoral Area A who have applied for membership are members of the *Landfill Society* and there are no membership fees. Under the terms of its bylaws, the *Landfill Society* has the ability to borrow and repay money to carry out the purposes of the society.

On February 3, 2000, the Fraser Valley Regional District entered into a Memorandum of Understanding with the *Landfill Society* with respect to the management of the Landfill. That MOU set out the framework for a partnership between the FVRD and the *Landfill Society* for an initial 3 year period and expressly recognized the interest of the Area A community in operating and managing the Landfill on behalf of the FVRD in a cost effective manner and in accordance with the FVRD's Operational Certificate issued by the Province of British Columbia. Towards this end, the FVRD's role was to provide oversight and technical assistance for purposes of ensuring compliance with the Operational Certificate. Subsequently, the FVRD entered into formal Operation and Maintenance Agreements and renewals with the *Landfill Society*. The last renewal was entered into on January 1, 2011 and expired on December 31, 2015. The *Landfill Society* has continued to operate the Landfill despite the expiration of the most current agreement, albeit negotiations have been on-going with FVRD staff. At the most recent public information meeting held in the community on October 19, 2017, the community again clearly and strongly expressed its interest in continuing to operate the Landfill. FVRD staff met with the full Executive of the *Landfill Society* on November 22, 2017 to continue its discussions and negotiations in anticipation of renewing the Agreement.

DISCUSSION

The Board's *Procurement and Purchasing Policy* would typically require that this contract be put out for a procurement call, however there is a case to be made for sole-sourcing given the FVRD's historic relationship with the *Landfill Society* and contractual expectations with respect to transparency and accountability by the *Landfill Society* in terms of value for money and cost-effectiveness for the delivery of this service by them.

A fundamental driver with respect to the renewal of the contract for a further term is the FVRD's interest in transferring the responsibility of owning, operating and maintaining any capital equipment associated with operating the Landfill to the *Landfill Society* as it is problematic, impractical and not cost-effective for the FVRD to assume this responsibility. However, in order to achieve this, the FVRD will need to essentially loan the *Landfill Society* the funds necessary to purchase a front end loader and a bin truck. These funds will need to be allocated from existing reserve, operational and surplus funds out of the Area A Garbage Service Area budget and the value of the capital equipment will be repaid to the FVRD within 5 years from the commencement date of the Agreement. In the event the *Landfill Society* defaults on its payment to the FVRD, the ownership of the capital equipment will remain with the FVRD. It is anticipated that the costs of a used front end loader will be \$250,000 and the costs of a used bin truck will be \$35,000. The *Landfill Society* will account for revenues received from the operation of the Landfill [largely from third party soil deposit], and these revenues, along with their contract fee, will provide the *Landfill Society* with the ability to repay the FVRD [the Area A Garbage Service Area] for the up-front capital equipment costs.

Aside from the capital equipment provisions set out above, the Agreement would essentially be structured as follows:

1. 10 year term with an option to renew for a further 5 years
2. Strict compliance by *Landfill Society* with the Operational Certificate issued by the Province of British Columbia and provisions with respect to the FVRD's role with respect to oversight in this regard
3. Language which speaks to the FVRD's obligations to plan and budget for Landfill closure in due course
4. The contract price paid to the *Landfill Society* by the FVRD for the first 2 years of the term would be the average contract price of the last 5 years; and the contract price further years 3-10 would be at a negotiated rate based upon a review of the *Landfill Society's* financial plans. [Note – 2017 rate was \$50,000].
5. Allowances for re-opening the contract so as to include additional services, e.g. recycling program
6. Detailed scope of work
7. Additional charge out rates by the *Landfill Society* as may be required from time to time for work outside the scope of this Agreement
8. Accountability, transparency and reporting provisions
9. Insurance
10. Liability and indemnification
11. General [boiler-plate] contractual language

COST

All costs associated with the administration of the contemplated Agreement with the Landfill Society will be borne by the Area A Garbage Disposal Service Area.

On the expense side, the 5 year Financial Plan with respect to the Area A Garbage Service will include closure and post-closure costs of the Landfill in addition to the costs associated with the value of the Operation and Maintenance Agreement with the *Landfill Society*. On the revenue side, revenues are largely derived from Area A tax requisition, third party soil cover, a tax mitigation grant, and modest amounts of miscellaneous revenue.

CONCLUSION

Staff are satisfied that the *Landfill Society* is able to operate the Landfill in accordance with the Operational Certificate issued to the FVRD by the Province of British Columbia as evidenced by past performance. The renewal of this agreement provides the FVRD with the further opportunity to avoid the responsibility and liability of owning and operating the capital equipment associated with operating the landfill and transfers this responsibility to the *Landfill Society*. Keeping the operation of the Landfill in the community provides economic opportunities for Area A residents and this is a significant consideration given that Area A is currently economically depressed. The Area A community takes great pride in being self-sufficient and the renewal of this contract fulfills this desire and expectation.

COMMENTS BY:

Tareq Islam, Director of Engineering & Community Services

Reviewed and supported.

Mike Veenbaas, Director of Financial Services

Reviewed and supported.

Paul Gipps, Chief Administrative Officer

Reviewed and supported.