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ENERGY & ENVIRONMENTAL MANAGEMENT SYSTEM (EEMS) SOFTWARE LICENSE AGREEMENT

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, January 13, 2004, from the Commissioner of Corporate Services:

1. RECOMMENDATIONS

It is recommended that:

1. The Region offer a software license agreement to other municipalities who could benefit.
2. The Commissioner of Corporate Services be authorized to take all steps necessary to finalize the agreement(s) subject to the prior approval of the Regional Solicitor.

2. PURPOSE

To enter into agreements with other municipalities under Section 20 (Joint Undertakings) of the Municipal Act, 2001, so that other municipalities will be able to benefit from EEMS for the overall purpose of monitoring utilities and ensuring efficiencies and York Region will be able to recover internal and external costs associated with its development.

3. BACKGROUND

Effective energy management hinges upon having a reliable and comprehensive performance measurement tool. The Region has developed EEMS, which is a web-based accessible multi-user database that will enable the Region to more efficiently monitor and analyze energy consumption, perform environmental analyses, and establish baselines for energy consumption. As York Region strives to increase efficiencies in operations, the EEMS system offers an effective tool to deliver the results.

EEMS encompasses two phases of development. For both phases the specifications were written in-house and development was outsourced to Mission Systems Development Corporation (“MISSION”).

The first phase encompasses electricity bill data and performs monthly and annual analyses based on consumption, cost and demand. EEMS Phase I also includes the following functionality: bill verification, energy savings, benchmarking, performance and environmental indices. Input of data is facilitated by a bill import function, which automatically uploads text files into EEMS, thus obviating the requirement for user-entry.

EEMS Phase I includes graphs and tables in a reporting feature, which is easily exportable into Crystal reports, Acrobat format, Word, Excel and Rich text format. Finally, the system includes user ID and password verification integrated with existing network access authentication and three different application-level access profiles.

The second phase includes all remaining utilities (natural gas, water, other fuels) and enhanced bill import, facility type and energy savings analyses and a view-only user access-profile. Second phase development is scheduled to take place between January and March 2004.

4. ANALYSIS AND OPTIONS

4.1 Agreement and Terms

There is currently no commercially available "utility" software that meets the needs of municipalities. Some municipalities that have opted against a management system have the equivalent of several full-time staff doing what EEMS can do with minimal user effort. Developing it in-house reduces these risks and has the advantages of effective benchmarking and performance indexing, less set-up time and modular design.

EEMS specifications were designed in-house and all ownership of the code is retained by York Region. Furthermore, EEMS design is inherently flexible which bodes well for municipal implementation (i.e. no customization required). After EEMS was presented at an Ontario Regional Facilities Management Association meeting on September 23, 2003, widespread interest in EEMS was expressed on behalf of the majority of Regions, which led to the formation of the EEMS licensing agreement. The City of Hamilton and The Regional Municipality of Waterloo were the first to express interest and would most likely be the first to enter into a licensing agreement with York Region.

The main principles of the licensing agreement are as follows:

- York Region is the sole and exclusive owner of EEMS (Phase I & II);
- The License fee for EEMS (Phase I & II) is $20,000, one-half of which is payable upon execution of the agreement and the remainder payable in 90 days subject to the Licensee's written acceptance of the software, otherwise the monies will be refunded to the Licensee and the software returned to the Region;
- The Licensee shall enter into a service agreement with MISSION for a term of at least one year; and
- The warranties of the Region are limited in duration for a period of 90 days from the date of delivery of the software.

The fee payable by the Licensee to the Region for the license has been established by the Region in order that the Region may recover its costs (including internal costs as well as external consulting costs) on a pro-rata basis for the software. It is anticipated that the Region may enter into software license agreements with between two to ten other municipalities thus enabling the Region to recover all or part of its costs.

The Region hired MISSION under the Request for Quotation, “Design and Programming of an Energy Management System”, April 2003. The total external cost to develop EEMS is $82,500. MISSION offers a variety of service levels, ranging from in-house installation and annual support to outsourced server and on-demand support. The Region is not obliged to enter into a service agreement with MISSION.

The second development phase, between January and April 2004, provides an opportune window for other municipalities to enter into a license agreement. Not only will participating municipalities receive free server access and negate support fees during Phase II production, but they will also be able to provide input during Phase II development, resulting in a more robust product. However, all municipalities who have obtained a license, whether during or after the production of Phase II, would be expected to enter into a one-year service agreement with MISSION.

It is envisioned that an EEMS user-group will form and meet annually to share benchmarks and propose upgrades to the EEMS system. Benchmark and performance reporting in EEMS is extensive, including such indicators as cost and consumption data for all utility types (electricity, gas, and water) normalized by square foot (buildings) and m3 water discharged (water and wastewater facilities). The user-group dimension will take advantage of benchmark and performance indices with EEMS, and allow municipalities to benchmark themselves against each other. Finally, all participating municipalities will be able to benefit from cost-sharing of future upgrades.

4.2 Legal Implications

Section 20 of the Municipal Act, 2001 enables a municipality to enter into an agreement with one or more municipalities to jointly provide, for their joint benefit, any matter which all of them have the power to provide within their own boundaries. The Municipal Act, 2001 requires all municipal governments to report annually their respective improvements in the efficiency and effectiveness of the delivery of their municipal services. Through a software license agreement developed by the Region, the Region can license EEMS to other municipalities, on a non-exclusive, non-transferable licence of the object code so that economies of scale will be realized by the participating municipalities. The software license agreement contains, among other provisions, a prohibition against other municipalities from modifying, assigning, or transferring the software, confidentiality provisions, and termination provisions in the event of default.

4.3 Relationship to Vision 2026

EEMS will assist the Region in using energy more efficiently in operations, which is part of Goal 8 in Vision 2026.

5. FINANCIAL IMPLICATIONS

The software licensing agreement will have a positive impact by way of recovering internal and external costs ascribed to the development of the system on at least a partial if not full recovery basis. York Region will receive $20,000 from each Licensee.

Savings attributed to the design of EEMS in-house, rather than the purchase of an “off-the-shelf” product, are estimated at $50,000. EEMS assists the Region in the consolidation and centralization of utility accounts leading to savings of approximately $47,000 per annum. Furthermore, EEMS includes a bill verification feature which will help the Region identify bill anomalies and recover an estimated $34,500 in annual savings from Local Distribution Companies.

The external costs incurred by York Region to develop Phase I and Phase II of EEMS were $44,000 and $38,500, respectively. MISSION support costs range from $100/hour for on-demand support to $5,000 - $6,000 for annual support.

6. LOCAL MUNICIPAL IMPACT

With completion of the software development Regional staff will contact local municipalities to brief them on its capabilities and determine their interest in acquiring a license.

7. CONCLUSION

The EEMS license agreement will allow us to enter under Section 20 (Joint Undertakings) of the Municipal Act, 2001, so that other municipalities will be able to benefit from EEMS for the overall purpose of monitoring utilities and ensuring efficiencies, and York Region will be able to recover internal and external costs associated with its development. Through the licensing agreement York Region will display exceptional leadership in the field while increasing the profile of its energy program.

Further benefits will be derived from enhanced benchmarking and cost-sharing of future EEMS upgrades.

The Senior Management Group has reviewed this report.