



City of  
**Peterborough**

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**TO: Members of the Waste Management Committee**

**FROM: Melanie Kawalec, Manager of Waste Management**

**MEETING DATE: November 15, 2010**

**SUBJECT: Report WMC10-010  
Landfill Gas Generation Facility Ownership and Operation  
Amending Agreement**

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## **PURPOSE**

A report to recommend that the Landfill Gas Generation Facility Ownership and Operation Amending Agreement between the City, the County of Peterborough, and Peterborough Utilities Inc. be endorsed.

## **RECOMMENDATIONS**

That the Waste Management Committee endorse the recommendations as outlined in Report WMC10-010 dated November 15, 2010, of the Manager of Waste Management as follows:

- a) That the Waste Management Committee endorse the terms of the Generation Facility Ownership and Operation Amending Agreement between the City of Peterborough, the County of Peterborough and Peterborough Utilities Inc., as provided in Appendix A and;
- b) That the Waste Management Committee recommend to their respective Councils, the Mayor, Warden, City and County Clerks be authorized to sign the amending agreement.

## **BUDGET AND FINANCIAL IMPLICATIONS**

There are no budget or financial implications associated with this report.

## **BACKGROUND**

On October 27, 2008, the County and City received notification from PUI that they had completed their due diligence for the production of electricity from the methane gas generated at the Peterborough County/City Waste Management Facility and were prepared to enter into negotiations related to a landfill gas utilization agreement. Staff of the County and City of Peterborough, with the assistance of their solicitors, negotiated a Lease Agreement and a Landfill Gas Generation Facility Ownership and Operation Amending Agreement.

The Waste Management Committee, at their meeting on March 6, 2009, adopted the following resolution:

*“That Committee agrees with the terms of the agreement of March 5, 2009 between the City of Peterborough, the County of Peterborough and Peterborough Utilities Inc. for the Lease Agreement and the General Facility Ownership and Operation Agreement; and further, that the Agreements be presented to City Council and County Council for their consideration.”*

Due to additional permitting and approvals required through the new Green Energy Act, an amending agreement to the Landfill Gas Generation Facility Ownership and Operation Agreement was authorized by City Council, County Council and PUI on November 17, 2009. The amendment was granted solely to allow an extension from the original completion date of December 31, 2009 to December 31, 2010.

We are now in a position that a second amending agreement is required in order to extend the date for meeting the established conditions beyond December 31, 2010. PUI has essentially addressed four of the five conditions but project approval under the Renewable Energy Approval will not be attained until next year. Therefore, this report requests the approval of the second amending agreement solely to allow an extension of the Agreement until December 31, 2011.

Submitted by,

Melanie Kawalec,  
Manager Waste Management

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Attachment:

**Appendix A:** Generation Facility Ownership and Operation Amending Agreement

**Appendix A:**

**GENERATION FACILITY OWNERSHIP AND OPERATION AMENDING AGREEMENT**  
(Peterborough County/City Waste Management Facility)

**THIS AGREEMENT** made this \_\_\_ day of November 2010.

B E T W E E N :

**THE CORPORATION OF THE CITY OF PETERBOROUGH**  
(hereinafter called the "City")

and

**THE CORPORATION OF THE COUNTY OF PETERBOROUGH**  
(hereinafter called the "County")

and

**PETERBOROUGH UTILITIES INC.**  
(hereinafter called "PUI")

**WHEREAS** the City, County and PUI (hereinafter called the "Parties") entered into a Generation Facility and Operation Agreement dated the 26<sup>th</sup> day of March, 2009, (hereinafter called the "Agreement");

**AND WHEREAS** the parties amended the Agreement on 17 November 2009;

**AND WHEREAS** the Parties now wish to amend the Agreement as follows;

**NOW THEREFORE**, in consideration of the agreements herein expressed and other good and valuable consideration, the receipt and sufficiency of such consideration being acknowledged by each Party to each other Party, the Parties agree as follows:

1. Article 3.02 is deleted in its entirety and the, following is substituted in its place:

"3.02 **Conditions Precedent:** The obligation of each Party to perform its covenants under this Agreement are subject to each Party being satisfied on or before December 31, 2011 that:

- (i) the total amount of the Capital Costs for PUI to construct the Gas Utilization System and its share of the Gas Collection System are acceptable;
- (ii) the Project has or will be eligible to enter into a RESOP Contract with the Contracting Authority pursuant to the RESOP;

