ONTARIO WASTE MANAGEMENT ASSOCIATION

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June 12, 2020

The Hon. Rod Phillips
Minister of Finance
c/o Budget Secretariat
Frost Building North, 3rd Floor
95 Grosvenor Street
Toronto, Ontario M7A 1Z1

Dear Minister Phillips:

Re: Recommendations to Ontario's Jobs and Recovery Committee

On behalf of the Ontario Waste Management Association (OWMA), I am pleased to submit policy recommendations to Ontario's Jobs and Economic Recovery Committee on boosting investment and employment following the COVID-19 pandemic and economic shut-down.

With the right conditions for investment, and by enabling increased waste diversion, resource recovery and enhanced disposal capacity here in Ontario, close to 13,000 net new jobs could be created in our province, along with a GDP boost of $1.5 billion.

Our key policy recommendations require no additional expenditure of tax dollars by the Ontario government. Instead, our proposals focus on modernizing and streamlining regulations that presently create barriers to investment and job creation. These proposals include:

- Reform the **Financial Assurance Guideline** so waste sector operators with multiple sites, with good financial and environmental standing, have access to a single pooled concept financial assurance evaluation, reducing costs and unleash funds for business investment.
- Reduce complexity of **environmental approvals** under the *Environmental Protection Act* and the *Ontario Water Resources Act*, so a single Certificate of Approval could be issued for air emissions, waste and wastewater, instead of multiple approvals being required.
- Eliminate duplication in the **Environmental Assessment Program** by allowing concurrent reviews of an Environmental Compliance Approval (ECA) and Environmental Assessment (EA). This change alone could reduce the review processing time by about one-year.

Providing the right conditions for investment will reduce administrative burden for businesses and municipalities, create more infrastructure to manage Ontario's waste disposal and diversion needs, and create jobs across the province.

Sincerely,

Mike Chopowick
Chief Executive Officer

Encl. "*OWMA Waste Sector Economic Recovery Recommendations for Ontario*" (June 12, 2020)

THE RIGHT CONDITIONS FOR INVESTMENT

Waste Sector Economic Recovery Recommendations for Ontario

June 12, 2020

About OWMA

The OWMA is the voice of the waste management sector in Ontario. We represent over 250 organizations across the province who manage over 85% of the province's waste. OWMA members have diverse interests and investments in waste collection, landfills, transfer stations, material recycling facilities, resource recovery facilities including energy-from-waste (EFW), organics waste processing and composting, and hazardous waste recycling and safe disposal.

Purpose

The objective of this submission is to provide the Ontario Jobs and Economic Recovery Committee with achievable policy recommendations to modernize laws and regulations that affect the waste sector's ability to invest in new facilities and infrastructure. These recommendations focus on reducing barriers to investment for businesses and municipalities who are prepared to add capacity and create jobs in Ontario's waste management sector.

SUMMARY OF RECOMMENDATIONS

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Executive Summary

The COVID-19 pandemic and resulting shut-down of businesses across Ontario has negatively impacted the provincial economy, with lost jobs and investment. According to the Financial Accountability Office of Ontario, the provincial real GDP will decline by 9.0 per cent in 2020, the largest annual decline on record.

With pandemic containment measures reducing the COVID-19 caseload and leading to the re-opening of the economy, the Ontario government now has an extraordinary opportunity to create jobs and accelerate investment by modernizing outdated legislation and regulations.

This is especially true in Ontario's waste management sector, where modernized regulations and streamlined approvals for new infrastructure would strongly position the waste sector to contribute to Ontario's economic recovery - while enhancing environmental sustainability.

Much of Ontario's waste systems infrastructure, for both disposal and diversion, operates at near capacity. Ontario faces a growing challenge on how it will manage the 16 million tonnes of waste annually generated in our province. Key policy changes can help get much needed waste systems infrastructure projects underway faster, create jobs, and protect the environment. These priority policy changes include:

1. Amend Ontario's ***Financial Assurance Guideline*** to adopt a risk-based, pooled fund model, potentially making tens-of-millions of dollars available for investment into infrastructure and job creation in Ontario.
2. Modernize the ***Environmental Assessment Act*** to exempt low-impact waste projects from having to undergo an environmental assessment, and reduce duplication and redundancies in the lengthy EA process.
3. Streamline the ***Environmental Compliance Approvals*** process to reduce delays and administrative burden.

Investment in waste management systems is needed. Currently, the process of approvals and permissions for siting and expanding waste management infrastructure is a costly and slow process, impacting our ability to meet Ontario's growing waste disposal and diversion needs.

Providing the right conditions for investment will reduce administrative burden for businesses and municipalities, create more infrastructure to manage Ontario's waste disposal and diversion needs, and create jobs across the province.

Reform the Financial Assurance Guideline

Financial assurance (FA) is financial security (cash or marketable securities) that guarantee the costs of complying with environmental objectives can be covered, should an owner or operator of a site be unable pay for remediation to due to bankruptcy or insolvency. Most waste facility sites covered by an Environmental Compliance Approval (ECA) require upfront financial assurance for potential clean-up and remediation costs.

The Ontario government now has an opportunity to formally review its financial assurance guideline and regulations to create a more equitable spread of financial burden of FA across all waste facility sectors. This review should consider solutions such as:

- Allowing single pooled evaluations for corporations with multiple sites;
- Adopting a risk adjusted financial assurance amount for companies with low risk of credit default (for example, as provided to mining operators under Ontario Mining Act);
- Adjust the inflation parameter for financial assurance to the Consumer Price Index, versus the Non-Residential Building Construction Index, to better reflect the historical need for FA funds;
- Expanding FA payment methods to include surety bonds, insurance, pooled concept and corporate guarantees.

A Barrier to Investment

The financial assurance guideline requires waste operators to assume a 100% risk of failure regardless of design, optional mitigation measures included in the facility design or operation. The cumulative total of site-specific financial assurance is currently in excess of the risk-based liability for environmental remediation. In total, the provincial government holds **over $500 million** in financial assurance for waste management facilities. Financial assurance is provided and held by the Ministry of the Environment primarily in the form of a Letter of Credit [LOC], which has a significant restrictive impact on the ability of a companies to invest, innovate and create employment. Comparatively, there is a very low risk of default. Minimal amounts of collected Financial Assurance have ever been used to remedy an operator failure.

LOCs are essentially “cash” from a corporate financial perspective, resulting in funds being unavailable for business operations. LOCs also restrict a company’s ability to invest in new facilities and integrate new environmentally beneficial technologies. The rising costs of financial assurance have reached a such a magnitude that developers will be discouraged from making waste systems infrastructure investments in Ontario. Allowing additional payment methods, such as unconditional bonds to be backed by a surety from an insurance company, may eliminate the need for some companies to provide cash-backing for their bonds, thus minimalizing the impact of opportunity cost to the individual company, and providing additional capital for infrastructure investment.

Currently, financial assurance is specific to a property or facility. Site-specific financial assurance does not provide the flexibility necessary to address the potential remediation risk within the waste sector. A pooled financial assurance system (for example, an individual corporate fund to cover multiple sites) would place a greater emphasis on prevention and provide more flexibility in allocating funds as needed for remediation of contaminated sites, resulting in higher levels of environmental protection.

The low level of risk associated with waste sites should also be better utilized in FA calculations. Adopting risk-based financial assurance evaluations for corporations would recognize the very low likelihood of corporate default or operator failure. This would more fairly allocate FA burdens according to risk, while maintaining high levels of environmental protection.

Recommendations to Reform the Financial Assurance Guideline:

1. **Reduce Costs**: Allow waste sector operators with multiple sites, with good financial and environmental standing, to have access to a single pooled concept financial assurance evaluation.

2. **Modernize Inflation Parameters**: Adopt a more appropriate inflation parameter, such as the Consumer Price Index, in place of the Non-Residential Building Construction Price Index (NRBCPI).

3. **Re-allocate Burden of Risk**: Adopt risk-adjusted financial assurance calculations for companies with good environmental records and low likelihood of corporate default or operator failure (for example, as provided to mining operators under *Ontario Mining Act*).

4. **Enhance Flexibility**: Expand allowable payment methods to include surety bonds, insurance, and corporate guarantees. Allow unconditional bonds to be backed by a surety from an insurance company.

Streamlining Environmental Compliance Approvals

Business and industry in Ontario continue to be burdened by a lengthy Environmental Compliance Approval (ECA) process. Low risk approvals or amendments to existing approvals can take up to two years due to insufficient Ministry staff resources, process delays and protracted decision making.

Environmental risks should be better aligned with rigour of the approvals process. There are several options available to address ECA approval concerns, including expanded application of electronic approvals, permit-by-rule, and focusing Ministry resources on formal reviews of higher risk or more complex approvals.

The complexity of the ECA process can also be streamlined by reducing the number of applications required separately for each media (i.e., air, waste, wastewater) and the number of applications required within each media (i.e., for each emission source). Currently, single sites may need multiple approvals, leading to complex regulatory situations for both the Ministry and waste operators.

A streamlined approvals process will encourage more investment in waste systems. In the food and organic waste diversion sector alone there are immense economic opportunities. This includes 13,000 new jobs and another $1.5 billion in GDP through increased collection and processing, and $7 billion in capital investment and $21 billion in economic spinoffs across the Canadian economy through realizing the full potential of composting and biogas development.

There are also opportunities to reduce methane emissions when biogas is produced from organic waste as a source of energy and offsets the use of other fossil fuels, and diverting CO_2 emissions when organic matter is returned to the soil as compost.

Solutions to Streamline Environmental Compliance Approvals:

1. <u>**Reduce Posting Requirements**</u>: Eliminate Environmental Bill of Rights (EBR) postings for Materials Recovery Facilities (MRFs), thereby reducing the ECA application process by 30 to 45 days, and for simpler types of ECA amendments where there is no potential for predicted/anticipated increase of environmental impacts (e.g. changes in plant layout).

2. <u>**Reduce Approvals Complexity**</u>: Issue a new single, site-wide approval in place of individual approvals under the *Environmental Protection Act* (EPA) and the *Ontario Water Resources Act* (OWRA) (i.e., EPA s. 9, s. 27 and

OWRA s. 53), so that any future changes to that site would be reflected in a single Certificate of Approval that would encompass multiple media (i.e., air, waste and wastewater).

3. **Reduce Duplication**: Eliminate the need for a stormwater management plan approval: The planning, design and construction of stormwater works at waste facility sites are already approved by municipal governments. Eliminating review and approval by the Ministry of the Environment, Conservation and Parks would reduce duplication of efforts by two levels of governments.

4. **Reduce regulatory burdens**: Support the development of new environmental infrastructure by broadening use of the Environmental Activity and Sector (EASR) system (instead of Environmental Approvals) to deal with compost processing and anaerobic digestion facilities.

5. **Encourage additional organic waste processing capacity by**:

    a. Removing the prohibition across Environmental Compliance Approvals (ECAs) against putrescible waste being accepted by waste facilities

    b. Developing clear, consistent rules and ECA conditions for odour management for waste management facilities across Ontario.

    c. Exempting homogenous streams of waste from Part V of the *Environmental Protection Act* for wastewater treatment facilities and anaerobic digesters.

Modernize the Environmental Assessment Program

OWMA applauds the Ontario government's recent effort to consider proposals to improve the environmental assessment (EA) process, such as eliminating duplication, streamlining certain parts of the process, improving service standards, providing more clarity to applicants, and reducing unreasonable delays. OWMA was pleased to see many of these concepts for improvement brought forward in the Ministry's 2019 "*Modernizing Ontario's Environmental Assessment Program*" Discussion Paper.

The policy recommendations OWMA submitted in response to that paper would, if implemented, provide opportunities to make environmental approvals, including for waste management activities, more expedient and efficient, which will help our sector deliver investment in waste facility capacity and job creation.

Across the waste management sector, there are examples of projects that are specifically intended to meet public policy objectives and serve the provincial interest. These objectives include achieving waste diversion targets, ensuring the safe transfer and disposal of waste materials, and recovering energy from waste materials. For many of these projects, such as transfer stations, for example, there is a very high level of knowledge regarding any environmental risk associated with them, as well as common, well-understood information regarding their impacts.

Many issues regarding common waste sector projects are best addressed by the Environmental Compliance Approval process, due to the well-understood knowledge of any potential risks. We recommend that many of the thresholds and limits for requirements under the *Environmental Assessment Act*, listed under Regulation 101/07, be updated to reflect current waste management practices that represent low-risk activities and projects.

Recommendations to Modernize Environmental Assessments:

1. **Eliminate Duplication:** Project applicants should be permitted to have an Environmental Compliance Approval (ECA) and an Environmental Assessment (EA) reviewed concurrently to achieve better efficiencies in the planning process. This change alone could reduce the review processing time by about one-year.

2. <u>Standardized Processes for Waste Projects</u>: Create sector-specific standardized Terms-of-Reference template for waste projects that enables proponents to incorporate local/project specific elements as needed. This would considerably shorten the time spend on the terms-of-reference process, which can take up to four years for development and Ministry review.

3. <u>Exemptions for Low-Risk Projects:</u> Developing a screening process or project list that would exempt low-risk waste system infrastructure projects. This process could still provide strong environmental oversight while reducing delays (and costs) on projects that will help Ontario meet its waste disposal and diversion capacity needs. Examples of low-risk projects that could be exempted through this screening process could include capacity expansions of existing landfills and energy-from-waste facilities.

4. <u>Improved definition of "Directly Affected Persons"</u>: Only allow concerns submitted by directly affected persons and municipalities for consideration (similar to Alberta). Ontario's environmental assessment program should adhere to the principle that the further away a person or party is from a project (for example, in another municipality that is external to a host community), the less likely they are to be considered "directly affected".

5. <u>Reduce "Bump-Up" EA Requests</u>: OWMA recommends that the Ministry of the Environment provide more guidance on which requests are considered important enough to justify a higher level of assessment on a project. Unwarranted or vexatious bump-up requests often result in significant delays, and forces proponents to unnecessarily start the environmental assessment process all over again if a request for a higher level of assessment is granted. OWMA also recommends that there be regulated timelines for bump-up decisions. Matters that justify bump-up requests should be clearly defined.

Support Development of New and Innovative Technologies

There are innovative opportunities to recover energy from non-recyclable waste, such as facilities that derive energy-from-waste, including anaerobic digestion, landfill gas to energy (LFGTE) systems, conventional combustion and thermal conversion technologies. Renewable natural gas (RNG), can also be derived from waste and used to reduce our reliance on fossil fuels by providing a source of fuel for trucking fleets and supplying natural gas pipelines. This provides further opportunities for Ontario to reduce greenhouse gas emissions and meet the objectives of the Made-in-Ontario Environment Plan.

Facilities that recover energy from waste are capital intensive, yet provide broad benefits to the economy. While Ontario's waste sector is positioned take the lead on investing in energy recovery, there is a role for the government in supporting research into new technologies for recovering resources from waste, and facilitating partnerships around clean technology innovation that targets energy recovery and gas capture, and transforms it into a renewable energy source.

Ontario's waste management sector is increasingly looking towards technology to improve throughputs and drive operational efficiency across all aspects, from collection, recycling and resource recovery. Through next-generation technology, productivity and output quality can be maximized, while minimizing costs and reducing contamination of the waste stream. Advances in digitization and artificial intelligence, largely in the form of automation, is seen as an effective way of driving the sector forward into the future, reducing costs, improving safety and protecting the environment.

Recommendations to Promote Energy Recovery:

1. **Facilitate Energy Supply Partnerships:** The Ontario government and its Ministry of Energy can play a key role in facilitating long-term partnerships between waste processors and natural gas utilities to establish necessary renewable natural gas supply infrastructure, for example, in the area of enabling biogas injection into the natural gas pipeline network from anaerobic digestion facilities.

2. **Promote Energy Recovery:** Establish both a Waste Diversion Credit and an Energy Recovery Credit for municipalities and businesses that direct waste to energy from waste facilities, or purchase energy products from energy from waste facilities in the form of gas, heat, electricity or transportation fuels. These credits would enable customers to acknowledge the positive contributions of

energy from waste facilities including reducing the demand for fossil fuels and diverting waste from landfill disposal.

3. **Support Technological Innovation:**

   a. Provide support for research and development projects that produce renewable and low carbon fuels: The support should apply to both energy producers and users and encourage a coordinated approach between both parties to ensure long term viability of the projects. The financial support could be in the form of grants, low interest loans and tax credits, and also include favourable consideration of energy purchasing contracts with provincial/municipal agencies such as transit authorities or utilities.

   b. Support and encourage the research and development of technological innovation: This support could include incentives for waste service provider procurement contracts that include use of innovative technology, amendments to regulations, for example in transportation regulations, to enable enhanced use of automation and artificial intelligence, and ensuring that government policies, especially in the recycling sector, foster well-functioning competitive markets where waste service operators are motivated through sufficient returns on investment to take calculated risks and engage in entrepreneurial behavior.