

Agreement for Water Supply from the Regional Municipality of Durham for Residential Properties on Finch Avenue East at Pickering Town Line in Toronto

Date: June 8, 2021

To: Infrastructure and Environment Committee

From: General Manager, Toronto Water

Wards: Scarborough-Rouge Park (25)

SUMMARY

The purpose of this report is to seek authorization for the General Manager, Toronto Water, to negotiate, enter into and execute a new 20 year term agreement, to replace the previous agreement dated October 3, 2000 which has since expired, between the Regional Municipality of Durham (Region of Durham) and the City of Toronto related to the Region of Durham's ongoing provision of water services and, specifically, its continued supply of drinking water from its municipal drinking water supply system to residential properties on Finch Avenue East, from the Pickering Town Line to 30m north on Beare Road, located in the City of Toronto.

Pursuant to two prior municipal agreements, one of which is the now expired 2000 Agreement, the Region of Durham's municipal water supply system was extended, by the construction of an extended watermain, to accommodate the supply of drinking water to these properties on Finch Avenue East located in the City of Toronto because there was no City of Toronto watermain available to service this area which remains the situation today. Throughout, the Region of Durham has billed these property owners directly for the water supply and collected all such revenue. Aside from the payment by the City of construction costs to extend the Region of Durham's watermain to allow for the provision of this municipal water service by the Region of Durham to these Toronto properties, the City has not incurred any other related expenses under the 2000 Agreement. While it is expected this will remain the case, since the new agreement has yet to be negotiated, it is unknown, what, if any, expenses Durham may request. For this reason, this report seeks the delegation of authority to the General Manager, Toronto Water, to negotiate and enter into the new agreement, as the General Manager considers appropriate, on terms and conditions satisfactory to the General Manager.

RECOMMENDATIONS

The General Manager, Toronto Water recommends that:

1. City Council authorize the General Manager, Toronto Water, to negotiate, enter into, and execute a new agreement with the Regional Municipality of Durham (Region of Durham), as the General Manager considers appropriate, for the continued supply of drinking water from the Region of Durham's municipal water supply system to the residential properties on Finch Avenue East, from the Pickering Town Line to 30m north on Beare Road, located in the City of Toronto, listed in Attachment 1, for a term of 20 years, on terms and conditions satisfactory to the General Manager, Toronto Water, and in a form satisfactory to the City Solicitor.

2. City Council authorize the General Manager, Toronto Water, to provide any municipal consent or other municipal authorization on behalf of the City of Toronto, as may be considered necessary by the General Manager for the purpose of carrying out the intent and to give full effect to the provisions of the agreement or to otherwise provide for the continued provision by the Region of Durham of the municipal water services referenced in recommendation 1.

FINANCIAL IMPACT

There is no immediate financial impact resulting from the adoption of the recommendations in this report.

Under the previous 2000 Agreement, the Region of Durham was to invoice the City of Toronto for any work they performed to repair the related watermain and service connection breaks, but no such reimbursement expense was ever requested by the Region of Durham nor paid by the City of Toronto. Moreover, as the municipal services are provided by the Region of Durham from its municipal water supply system, the Region of Durham bills these property owners directly for the municipal water supply and collects all such revenue.

While it is expected that this will remain the case, since the new agreement has yet to be negotiated, it is unknown, what, if any, expenses Region of Durham may request. Should the City of Toronto incur additional costs as a result of the new agreement, these costs will be included in Toronto Water's future Capital and Operating Budget Submissions as appropriate.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

City Council, at its meeting on August 1, 2, 3, and 4, 2000, adopted Works Committee, Report No. 15, Clause 11, entitled "Water Supply from Durham Region for Properties on Finch Avenue East at Pickering Town Line in Toronto (Scarborough Malvern)" which authorized an agreement between the Region of Durham and the City of Toronto for the supply of drinking water to properties on Finch Avenue East, from 180m west of the

Pickering Town Line to Beare Road in the City of Toronto. The Council decision can be found here:

<https://www.toronto.ca/legdocs/2000/agendas/council/cc/cc000801/wks15rpt/cl011.pdf>

The former Municipality of Metropolitan Toronto Council, at its meeting on November 10, 1981, adopted a report dated October 22, 1981 to the Metropolitan Works Committee entitled "Cost Sharing of Water Main Construction on Finch Avenue East" (see Attachment 2).

The former Borough of Scarborough Council, at its meeting on April 21, 1981, adopted a staff report dated March 24, 1981 of the Director of Street Operations entitled "Request for Watermain Construction - Finch Avenue Westerly from Pickering Town Line". (see Attachment 3)

COMMENTS

The Region of Durham has advised City staff that there are currently seven (7) residential properties located on Finch Avenue and Beare Road in the City of Toronto, listed in Attachment 1, which receive their municipal water supply service directly from the Region of Durham and not the City of Toronto because there are no available City watermains in the vicinity to service these properties. These property owners are billed directly by the Region of Durham for its municipal water supply and the Region of Durham receives this revenue.

The provision of this municipal water supply service by the Region of Durham to Toronto residents dates back as far as 1981 when the former Borough of Scarborough, the former Municipality of Metropolitan Toronto and the Region of Durham entered into an agreement to allow for the construction of a watermain from the Pickering Town Line, 180m west, intended to form part of the Region of Durham's water distribution system and to supply water to three properties in the former Borough of Scarborough (the "1981 Agreement"). While City staff has not been able to locate a copy of the 1981 Agreement, based on a review of City records, it appears the 1981 Agreement provided for the construction and installation of a 150mm diameter watermain and related water service connections to facilitate the municipal water supply service provided by the Region of Durham, the construction cost of which was shared equally by Scarborough and Metropolitan Toronto. At the time, it was reported that the three properties were experiencing deteriorating well water quality with high calcium chloride content in their wells and, as such, the request for the watermain extension was initiated by the residents of these three properties. At the time, there were no Scarborough watermains at, or near, this location, but the Region of Durham had an existing watermain located on Finch Avenue at the Pickering Town Line which provided a feasible solution.

Subsequently, in October 1991, a petition was submitted by other homeowners on Finch Avenue East in Scarborough requesting the further extension of the Region of Durham's watermain to provide a source of drinking water to their properties. Thereafter, while it appears the petition was received for information and possible consideration of next steps and related efforts were taken over the ensuing years, it was not until 2000 that City Council authorized an agreement between the Region of

Durham and the City of Toronto for the supply of drinking water to properties on Finch Avenue East, from 180m west of the Pickering Town Line to Beare Road in the City of Toronto (the "2000 Agreement").

The 2000 Agreement was executed by the municipalities on October 3, 2000 for a 20 year term and it expired on October 3, 2020. It provided for, among other things, the following:

- An extension of the then existing 150mm diameter watermain on Finch Avenue East by an additional 676m from 180m west of the Pickering Town Line to 30m north on Beare Road (the "Watermain");
- The construction of the Watermain at the City's expense;
- The Region of Durham's ownership of the Watermain and its obligation to supply water to only the 11 properties designated in the 2000 Agreement;
- The Region of Durham's supply of water for domestic consumption only, the installation by the Region of Durham of water meters at the properties and the billing and collection by it for the municipal water service;
- The Region of Durham's responsibility for regular maintenance of the Watermain and services connections up to and including the curb stop (shut-off valve) but not any capital improvements to the Watermain;
- Liability for Watermain break(s) and/or the disruption of water supply;
- Any future extension of the Watermain or increase in properties to be serviced would require an amendment to the 2000 Agreement approved by both parties; and
- Termination rights.

In view of the expiry of the 2000 Agreement, the Region of Durham has requested that the City enter into a new agreement with it for the continued provision of the water supply services. While the construction terms forming a central part of the 2000 Agreement are no longer relevant because the Watermain has been constructed and in operation for years, it is expected that any new agreement replacing the 2000 Agreement would include provisions addressing, among other things, the following:

- The Region of Durham's continued provision of the water supply services and the continued direct billing of their current customers for these services at water rates established by Region of Durham's Council, from time to time, and as set out in its Water By-Law.
- The current roles and responsibilities of the parties related to the operation, maintenance and any emergency repairs in accordance with legislative requirements under the Safe Drinking Water Act and associated regulations, and

the Region of Durham's Municipal Drinking Water Licence and Drinking Water Works Permit.

- Notifications and repair standards in the event of maintenance and repairs involving excavation within the right-of-way.
- Any future extension of the Watermain or increase in properties to be serviced; and,
- Termination rights.

As negotiations between the parties have not yet occurred, and the terms of the new agreement requested by the Region of Durham are not yet known, it is recommended that the General Manager, Toronto Water, be authorized to negotiate and enter into any new agreement, as the General Manager considers appropriate, on terms and conditions satisfactory to the General Manager, Toronto Water.

CONTACT

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SIGNATURE

Lou Di Gironimo
General Manager, Toronto Water

ATTACHMENTS

Attachment 1: Figure of Residential Properties Located in the City of Toronto Serviced by Region of Durham Watermain.

Attachment 2: Report dated October 22, 1981 to Metropolitan Works Committee entitled "Cost Sharing of Water Main Construction on Finch Avenue East".

Attachment 3: Report dated March 24, 1981 of the Director of Street Operations entitled "Request for Watermain Construction - Finch Avenue Westerly from Pickering Town Line".