



REPORT FOR ACTION

Agreements/Encroachment Permits with the Ontario Ministry of Transportation for Sewer and Water Infrastructure

Date: May 19, 2017

To: Public Works and Infrastructure Committee

From: General Manager, Toronto Water

Wards: All

SUMMARY

This report seeks authority for the General Manager of Toronto Water (the "General Manager") to negotiate and, where acceptable to the General Manager, enter into and execute a construction and cost sharing agreement with the Ontario Ministry of Transportation ("MTO") for the relocation of a municipal watermain located within the provincial highway lands at Highway 401 and Leslie Street. The relocation work is to be undertaken by the MTO.

This report also seeks delegated authority for the General Manager to negotiate and, where acceptable to the General Manager, enter into and execute further agreements with the MTO, as may be required from time to time, for the relocation of municipal sewer and/or water infrastructure within provincial highway lands as a result of provincial highway realignment or reconstruction work.

This report further seeks delegated authority for the General Manager to apply for and obtain an encroachment permit from the MTO to permit the encroachment of the relocated watermain upon provincial highway lands at Highway 401 and Leslie Street and delegated authority for the General Manager to apply for and obtain, from time to time, encroachment permits and renewals thereof from the MTO for any existing or future municipal sewer and/or water infrastructure encroaching upon provincial highway lands.

RECOMMENDATIONS

The General Manager of Toronto Water recommends that:

1. City Council authorize the General Manager of Toronto Water to negotiate and, where acceptable to the General Manager, enter into, and execute on behalf of the City an agreement with the MTO for the relocation by the MTO of the municipal watermain and related infrastructure located predominantly within the provincial highway lands at Highway 401 and Leslie Street, on terms and conditions satisfactory to the General Manager and in a form satisfactory to the City Solicitor. The agreement will include, without limitation, the respective parties' obligations related to construction, cost sharing and regulatory approvals.
2. City Council delegate authority to the General Manager of Toronto Water to negotiate and, where acceptable to the General Manager, enter into, and execute on behalf of the City agreements with MTO, as may be required from time to time, for the relocation of municipal sewer and/or water infrastructure located within provincial highway lands as a result of provincial highway realignment or reconstruction, on terms and conditions satisfactory to the General Manager and in a form satisfactory to the City Solicitor. The agreements will include, without limitation, the respective parties' obligations for construction, cost sharing and regulatory approvals and may include that the work be undertaken by the MTO. This authority shall be subject to the General Manager having sufficient funds available in the Approved Toronto Water Capital Plan prior to entering into an agreement requiring that any costs be paid by the City.
3. City Council authorize the General Manager of Toronto Water to apply for and obtain an encroachment permit (including without limitation any renewals, extensions or amendments thereof) from the MTO to permit the encroachment of the relocated municipal watermain and related infrastructure upon the provincial highway lands at Highway 401 and Leslie Street, on terms and conditions satisfactory to the General Manager and in a form satisfactory to the City Solicitor.
4. City Council delegate authority to the General Manager of Toronto Water to apply for and obtain, from time to time, encroachment permits (including without limitation any renewals, extensions or amendments thereof) from the MTO for any existing or future municipal sewer and/or water infrastructure encroaching upon provincial highway lands, on terms and conditions satisfactory to the General Manager and in a form satisfactory to the City Solicitor, and to make payments of amounts owing under such encroachment permits as required.

FINANCIAL IMPACT

Funds for cost sharing of the proposed watermain relocation at Highway 401 and Leslie Street are available in the 2017-2026 Approved Toronto Water Capital Plan.

For future relocations by MTO of municipal sewer and/or water infrastructure, Toronto Water, Engineering and Construction Services and the MTO will meet to establish future funding requirements. Toronto Water will ensure that sufficient funds are available in the Approved Toronto Water Capital Plan prior to entering into any agreement requiring costs to be paid by the City and prior to applying for any encroachment permits or renewals thereof.

DECISION HISTORY

This staff report arises as a result of the new provincial highway realignment by the MTO.

COMMENTS

MTO requires the relocation of a 600 mm diameter municipal watermain and related infrastructure to accommodate the Highway 401/Leslie Street Interchange Project which involves the relocation of existing highway ramps. It is proposed that the municipal watermain and related infrastructure will be relocated to a location east of its current alignment and will cross under Highway 401, west of Leslie Street, as shown in Attachment 1. The north section of the watermain will be located in Oriole Yard on City of Toronto lands, and the remaining watermain section will be located predominantly under Highway 401 on provincially-owned lands.

The City of Toronto requires that MTO complete the watermain construction in Oriole Yard by October 13, 2017 to allow Transportation Services to resume use of the yard to prepare for winter maintenance.

As the municipal water infrastructure is currently located, in part, on provincially-owned highway lands and the relocated municipal water infrastructure will also be, the MTO requires that the City share the cost of the relocation of the watermain and related water infrastructure. The MTO has proposed a 50/50 cost sharing for the relocation work.

Further, given the timing of construction of the Highway 401/Leslie Street Interchange Project and the necessity of coordinating this work with the municipal watermain relocation, the MTO has requested that the relocation work be undertaken by their forces.

Accordingly, an agreement setting out the parties' respective obligations in respect to construction, cost sharing and regulatory approvals (including any necessary environmental compliance approvals from the MOECC) is necessary.

The total cost estimate for the watermain relocation, including taxes and contingencies, is approximately \$5 million, which is consistent with the unit rates used by Toronto Water for watermain replacement projects as part of its approved 2017 Capital Budget.

In addition to the agreement for the relocation of the municipal watermain and related water infrastructure, the City will require an encroachment permit from the MTO to permit the encroachment of the portion of the relocated watermain that will be located within provincially-owned highway lands. The MTO has confirmed that they are prepared to issue an encroachment permit to the City for the proposed relocated watermain.

Chapter 851 of the Municipal Code generally requires work on City lands to be undertaken by the City, subject to certain exceptions that do not apply. Accordingly, Council approval is required to authorize the MTO to undertake the work on the municipal water infrastructure.

As Toronto Water has existing sewer and water infrastructure within provincially-owned highway lands and will likely have future need for same and encroachment permits are of limited duration, City staff are requesting delegated authority to amend and/or apply for renewals or extensions of existing MTO encroachment permits as may be necessary from time to time to permit the construction, maintenance, repair, alteration and/or removal of municipal sewer and water infrastructure within provincially-owned highway lands and to apply for and obtain, where necessary from time to time, such new encroachment permits (and any required amendments, renewals or extensions thereof) for the construction, maintenance, repair, alteration and/or removal of such future municipal sewer and water infrastructure. At present, the MTO charges a fee of \$1,560.00 for an encroachment permit authorizing the construction of such infrastructure with the duration of five years.

With on-going realignment of Highway 401 as well as other projects, it is expected from staff's discussion with the MTO that further relocation of municipal sewer and/or water infrastructure may be requested by the MTO.

City staff do not currently have the delegated authority to enter into agreements of this nature for the relocation of municipal sewer and/or water infrastructure on provincially-owned highway lands on a cost-sharing basis. The delegated authorities for general real estate matters in Item No. EX43.7 adopted by City Council at its meeting on May 11 and 12, 2010 delegates to the Director of Real Estate Services approving and signing authority for the acquisition of licences (such as encroachment permits of this nature) where the total compensation to be paid by the City for such licence does not exceed the sum of \$1,000,000.00.

The requested delegated authority will allow City staff to timely and efficiently address such relocation requests from the MTO and applications for encroachment permits or renewals, extensions or amendments of same for municipal sewer and/or water infrastructure without returning to Council on each occasion. Council has authorized similar delegated authorities including delegated authority to City staff to enter into crossing agreements and permits; water and sewer service installation agreements; and municipal infrastructure agreements.

CONTACT

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SIGNATURE

Lou Di Gironimo
General Manager, Toronto Water

ATTACHMENTS

Attachment 1 - Watermain Relocation Crossing Highway 401

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