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TORONTO

REPORT FOR ACTION

Metropolitan Toronto Pension Plan – Termination/Wind-Up and Surplus Distribution

Date: December 16, 2019
To: General Government and Licensing Committee
From: Controller
Wards: All

SUMMARY

This report seeks authority from City Council to:

1. amend the By-law governing the Metropolitan Toronto Pension Plan (Metro Plan) to provide for surplus distribution to the members of the Metro Plan, in accordance with the Surplus Sharing Agreement dated May 11, 2018;

2. terminate the Metropolitan Toronto Pension Plan (Metro Plan), effective January 31, 2020, and distribute the surplus assets remaining following the January 8, 2020 merger of the Metro Plan with OMERS ("remaining assets"); and

3. introduce a Bill to repeal By-law 159-2018, as amended, upon completion of the distribution of the remaining surplus assets of the Metro Plan.

RECOMMENDATIONS

The Controller recommends that:

1. City Council amend Schedule A to By-law 159-2018, as amended, governing the Metropolitan Toronto Pension Plan (Metro Plan), to provide for the distribution of the surplus to the members of the Metro Plan, in accordance with the Surplus Sharing Agreement dated May 11, 2018.

2. City Council approve the termination of the Metropolitan Toronto Pension Plan (Metro Plan), outlined in Schedule A to By-law 159-2018, as amended, effective January 31, 2020, and authorize the City Solicitor, following the distribution of the Metro Plan's remaining assets in accordance with the Surplus Sharing Agreement dated May 11, 2018, to introduce a Bill to repeal By-law 159-2018, as amended.

FINANCIAL IMPACT

There is no separate estimated financial impact arising from this decision and report. City Council has already authorized the merger of the Metro Plan with OMERS and the distribution of the remaining net surplus following the merger, in accordance with the Surplus Sharing Agreement.

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

DECISION HISTORY

The Metro Plan was established in 1956 and covered eligible permanent employees of the former Municipality of Metropolitan Toronto, including predecessors of various agencies, boards and commissions, hired prior to July 1, 1968.

In 1962, the Province of Ontario established the Ontario Municipal Employees Retirement System (OMERS) to provide retirement benefits for employees of local government in Ontario. Furthermore, effective July 1, 1968 the provincial government granted OMERS exclusivity to be the only registered pension plan for all Ontario municipalities and local boards. As such, membership in the Metro Plan was closed to further enrolments at that time.

The Metro Plan continued to be administered and sponsored by the former Municipality of Metropolitan Toronto and ultimately by the City of Toronto after amalgamation. The last active member of the Metro Plan retired in January 2012.

At its meeting held on October 24 and 25, 2011, City Council adopted Executive Committee report EX11.10 "City-Sponsored Pre-OMERS Pension Plans – Analysis of Alternative Investment and Pension Administration through OMERS" authorizing staff to investigate the options of:

(i) a possible merger of the City's five Pre-OMERS (“legacy”) pension plans with the OMERS plan; and

(ii) potentially winding up each of the Plans through purchase of annuities.

http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.EX11.10

As a result, City staff initiated discussions with OMERS staff regarding the potential transfer/merger of each of the five plans. However, these discussions were placed on hold following indication by the Provincial government that for the public sector, further legislation would be required to enable mergers of defined-benefit single-employer pension plans (such as the City’s five legacy plans) with jointly-sponsored pension plans such as OMERS.

In 2014, the Pension Benefits Act (PBA) was amended to add a new Section 80.4 setting out the framework for such mergers and stipulating that before such a merger could proceed, notice of any such proposed merger had to be provided to all members and beneficiaries and that their consent had to be given in accordance with the regulations.

On October 22, 2015, the Province promulgated Ontario Regulation 311/15 under the PBA titled "Conversions and Transfers of Assets under Section 80.4 of the Act and Conversions under Section 81.0.1 of the Act", stipulating that consent for a public-sector merger will exist if at least two-thirds of active members of the single-employer pension plan consent, and no more than one-third of pensioners and other beneficiaries of the plan object.

Since Council's direction in 2011, City staff have maintained an open and transparent dialogue with OMERS staff and with each of the Boards/Committees which are the administrators of the City's five legacy pension plans. City staff also arranged for senior OMERS representatives to attend some meetings of those Boards/Committees to provide information and answer questions. Once the Provincial framework changed, the City revived the discussions with the five legacy plans and OMERS.

At its meeting held on June 13, 2016, Government Management Committee requested the Treasurer to report to the Government Management Committee semi-annually on the status of the merger of the City of Toronto Pre-OMERS Pension Plans and include any relevant correspondence from OMERS with the report.

http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.GM13.5

At its meeting on November 14, 2016 Government Management Committee requested the Treasurer to submit to the Government Management Committee in the second quarter of 2017 updated information on the 2011 "Preliminary Analysis of OMERS Options City of Toronto Pre-OMERS Pension Plans" including updates to:

a. The financial/plan information as of December 31, 2016;
b. Merger options;
c. Financial information for OMERS and the five plans;
d. Demographics;
e. Current going concern and solvency payments;
f. Current active members; and
g. The 8 Exhibits.

http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.GM16.4

At its meeting on May 29, 2017 Government Management Committee received a report on the Progress on the Merger of the City of Toronto pre-OMERS Pension Plans.

http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.GM21.9

At its meeting held on October 2, 3 and 4, 2017 City Council adopted the recommendations in the report entitled Direction Regarding Merger of the Five (5) City of Toronto pre-OMERS Pension Plans with OMERS.

http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.GM22.23

As directed by Council, a Surplus Sharing Agreement was negotiated between the City and the Represented and Non-represented Members of the Metro Plan, and the Member Committee, dated May 11, 2018, identifying how the net surplus remaining in the Metro Plan after the merger with OMERS would be distributed.

At its meeting held on July 23, 24, 25, 26, 27, and 30, 2018, City Council adopted the recommendations in the report from the Treasurer dated June 18, 2018, titled *Mergers of Pre-OMERS Pension Plans with OMERS and Proposal for Sharing of Surplus*, including the recommendations in Confidential Attachment 1 regarding surplus sharing.

http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.GM29.10

COMMENTS

On November 20, 2017, the City of Toronto executed a Pension Transfer Agreement with the OMERS Sponsors Corporation and the OMERS Administration Corporation pertaining to the Metro Plan.

Notices were mailed to the 1,827 members of the Metro Plan providing detailed information on both the Metro Plan and OMERS plan, the merger process and providing them with a voting ballot. As noted above the merger could not have proceeded if more than 1/3 of the members objected to the merger. The City received objection votes from only twenty-four (24) members.

During the merger negotiations with OMERS it was anticipated that the Metro Plan would have a surplus upon wind-up of the Plan. The City, through its outside counsel Osler, Hoskin and Harcourt LLP (Oslers), negotiated the disposition of projected surpluses in the Civic, Metro, and Police pension plans with legal representatives of the respective pensioner groups. The resulting Surplus Sharing Agreements contain different surplus distribution provisions than the current Plan by-laws, requiring that each of the Plan by-laws must be amended to be consistent with the negotiated Surplus Sharing Agreements.

On January 31, 2019, at the conclusion of the allotted time frame for the Metro Plan pensioners to submit their ballots, the City filed an application with the Superintendent of Financial Services seeking consent to the proposed merger of the Metro Plan into the OMERS Pension Plan under Section 80.4 of the PBA.

After reviewing the application, on October 15, 2019, the Chief Executive Officer of Financial Services Regulatory Authority of Ontario, which assumed the regulatory duties of the Financial Services Commission of Ontario effective June 8, 2019, issued a Notice of Intended Decision (NOID) of his intention to consent to the transfer of assets from the Metro Plan to the OMERS Pension Plan with an Effective Transfer date of October 31, 2019 and a Closing Date of January 8, 2020.

Subsequently, on December 27, 2019, the CEO issued his consent to the merger of the Metro Plan with OMERS. As part of the Pension Transfer Agreement, a valuation of the future liabilities to meet the on-going pension payments was conducted by the Metro Plan's actuary and on January 8, 2020, the assets from the Metro Plan required to meet that liability will be transferred to OMERS. Effective February 1, 2020, all members in receipt of a benefit payment from the Metro Plan will commence receiving their first pension payment from OMERS as opposed to the Metro Plan.

After the transfer of the required assets to OMERS in accordance with the actuary's valuation, a surplus of approximately $82 million is expected to remain in the Metro Plan, to be distributed in accordance with the Surplus Sharing Agreement. It is therefore recommended that the Plan by-law be amended to reflect the provisions of the Surplus Sharing Agreement by deleting the existing Section 43, Surplus, and replacing it with the following:

> 43. The Net Surplus shall be divided between the Members and the City, with 50% of the Net Surplus being paid to the Members (the "Members Share") and 50% of the Net Surplus being paid to the City (the "City Share"), subject to payment of expenses as set out in Section 5.2 of the Agreement. The Member Share shall be allocated among the Members in accordance with Article 6 of the Agreement.

Clause 44(d) of the Plan by-law will require a consequential amendment to delete the current reference to subsection 43(2) and replace it with a reference to section 43.

Aside from the surplus, there will be no other assets in the Metro Plan following the OMERS merger.

There being no remaining pension liabilities owing to members under the Metro Plan, following the OMERS merger, authority is also sought to terminate the Plan effective January 31, 2020.

After City Council authorizes the termination of the Metro Plan, the City will proceed with all necessary steps including notifying the pension regulator of the termination, and distributing the remaining assets of the plan, e.g. the surplus, to eligible members of the Metro Plan, in accordance with the Surplus Sharing Agreement of May 11, 2018 and the amended by-law.

With respect to the City's share of the surplus, it is recommended that it be transferred to the Employee Benefits Reserve Funds. The three principal employee benefits reserve funds have been set up to pay for the City's post-retirement and post-employment benefits that are not directly funded through Program operating budgets.

A 2017 credit rating report from Dominion Bond Rating Services (DBRS) considered the sizable unfunded employee liability to be a significant challenge facing the City of Toronto and as the workforce grows older and the overall retirement rate increases, post-retirement benefits costs are expected to grow.

A 2019 Morneau Sheppell Actuarial Valuation of Post-Retirement and Post-Employment Liabilities is forecasting a large increase in Employment Benefits Payments in 2019 and 2020. The City has a Council-approved target balance for the consolidated employee benefits reserve of 2 times annual post-retirement and post-employment employee benefits payments (October 29, 2008). The current ratio is 1.2 and in order to achieve the ratio of 2, an increase to the Non-Program Operating Budget for Employee Related Liabilities of $225 million would be required in 2020.

A strategy for reducing these liabilities include increasing employee benefits reserve fund contributions, therefore, the transfer of the pension surplus into the Employee Benefits Reserve Funds would prevent the further deterioration of the reserve fund balance to benefits payment ratio below 1.2.

Once the surplus has been distributed, the City Solicitor will introduce a bill repealing By-Law 159-2018 to reflect the termination of the Metro Plan.

CONTACT

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SIGNATURE

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