



## Agreements with Transit Agencies for Water and Sewer Installations

**Date:** December 17, 2019

**To:** Infrastructure and Environment Committee

**From:** General Manager, Toronto Water

**Wards:** All

### SUMMARY

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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 construction agreements with the applicable transit agency either Metrolinx or Toronto Transit Commission (TTC) for the construction of municipal water and/or sewer infrastructure associated with transit projects. This authority is needed to facilitate efficient implementation of transit construction, given the vast number of transit projects, as well as the scale and complexity of these transit projects across the City.

### RECOMMENDATIONS

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The General Manager, 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 or agreements with Metrolinx for the relocation, alteration, construction and/or installation of municipal water and/or sewer infrastructure including appurtenances by Metrolinx's contractor(s) associated with Metrolinx transit projects, on terms and conditions satisfactory to the General Manager, and in a form satisfactory to the City Solicitor.
2. 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 or agreements with the Toronto Transit Commission for the relocation, alteration, construction and/or installation of municipal water and/or sewer infrastructure including appurtenances by Toronto Transit Commission's contractor(s) associated with Toronto Transit Commission transit projects, on terms and conditions satisfactory to the General Manager and in a form satisfactory to the City Solicitor.

3. 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 or agreements with any future agencies or entities delivering transit projects on behalf of the City or Province for the relocation, alteration, construction and/or installation of municipal water and/or sewer infrastructure including appurtenances by contractor(s) associated with such agencies or entities, on terms and conditions satisfactory to the General Manager and in a form satisfactory to the City Solicitor.

## **FINANCIAL IMPACT**

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The requested authority will not impact the Toronto Water capital budget. All municipal water and/or sewer infrastructure work shall be at the cost of the respective transit authority unless otherwise covered by another Council authority for cost sharing. In addition, there are broad cost benefits to facilitating efficient transit implementation and to streamlining construction associated with transit projects. Where the City does accept any limitation on liabilities with Metrolinx, such as with any limitation on indemnification, the City would bear the risk of any liabilities and third party claims and related costs not covered by Metrolinx under the agreement.

## **DECISION HISTORY**

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This staff report arises as a result of three transit projects which call for transit agencies to construct municipal water and sewer infrastructure as part of their project work. The Council authority for cost sharing for the Steeles Avenue Grade Separation project comes from (November 8, 2016) [Transit Network Plan Update and Financial Strategy](http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX19.1) <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX19.1>.

## **COMMENTS**

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Current transit projects by Metrolinx and the TTC require the relocation of municipal water and/or sewer infrastructure. Toronto Water generally installs its own water and sewer infrastructure. Section 681 and Section 851 of the Toronto Municipal Code, however, do allow for adjacent property owners to apply to the General Manager, subject to certain conditions, to undertake the installation of municipal service connections and associated works where these works are in conjunction with the property owner's service connection work. Where the municipal service connection work is not in conjunction with the property owner's own service connection work, these provisions do not apply. If a property owner is approved to undertake such municipal infrastructure work, it is a condition that it be wholly at the property owner's risk and cost.

In respect to transit projects by Metrolinx and the TTC, these projects generally require the relocation or alterations of municipal water and/or sewer infrastructure and are often

unrelated to any service connection. Generally, authority is required for the transit agency to undertake the work contemplated in this report on the behalf of the City.

With these transit projects, it is often challenging to coordinate the transit agencies' works and project schedule with any City municipal water and/or sewer infrastructure work that may be required to facilitate the transit works. This coordination adds to the complexity, resources and planning for the implementation of both the transit and municipal water and/or sewer infrastructure work.

Allowing Metrolinx and the TTC to construct municipal water and/or sewer infrastructure as part of their transit project work, subject to certain conditions, will create cost, resources and planning efficiencies for both the transit agencies and the City.

## **Metrolinx**

Under the provisions of Chapters 681 and 851 which permit the General Manager of Toronto Water to allow a property owner to carry out work on City water and/or sewer infrastructure in conjunction with their own service connection work, the City requires an unlimited indemnity to be provided by a property owner in respect to the City works. Unlike other private property owners, Metrolinx, as a Crown agency is not bound by certain provincial legislation and must obtain Ministerial approval for certain liabilities, including indemnities.

Accordingly, the City may have to accept certain limitations on liabilities as part of the terms and conditions of the agreement if the work will be undertaken by Metrolinx, provided that these limitations are commercially reasonable to the City.

The current Metrolinx projects include:

1. Steeles Avenue Grade Separation – This project is being delivered by Metrolinx as part of the Stouffville AFP Early Works package for the GO Expansion Program. The project is currently in construction and necessitates relocating the existing municipal 1350 mm and 300 mm watermains and other associated elements, located within the Steeles Avenue East right-of-way between Redlea Avenue and Old Kennedy Road. This relocation work is expected to be undertaken in March 2020. Allowing Metrolinx to undertake this relocation work will ensure that the tight project schedule is not impacted. It will also help to minimize transportation impacts.
2. 401 Tunnel – This project is part of the Metrolinx GO Expansion program. Construction is planned for early Spring 2020. A section of the municipal 400 mm watermain, located within the Kitchener GO corridor near Islington Avenue, needs to be relocated as it is in very close proximity to the other construction works being undertaken by Metrolinx. To facilitate construction management, scheduling and implementation, it will be much more efficient if all the works are constructed by Metrolinx.

Currently, the City is negotiating a Master Agreement with Metrolinx for the GO Expansion Program which, if approved by Council, we expect would establish certain terms and conditions upon which Metrolinx could undertake City works to facilitate its

transit projects. As the foregoing Metrolinx projects will need to proceed prior to the anticipated finalization of this Master Agreement, this separate Council authority is necessary. From time to time, Metrolinx may also have projects or works which will not fall within the scope and/or terms of the Master Agreement, but may also involve relocations or alterations to water and/or sewer infrastructure works. The recommendations in this report would allow for the General Manager to proceed with an agreement for these individual projects.

The General Manager of Toronto Water will consult with the City's Transit Expansion Office in respect to the Metrolinx-related agreements.

## **TTC**

The TTC currently has several projects underway that may require relocation or alteration of existing municipal water and/or sewer infrastructure.

The current TTC projects include:

TTC High Park Station Easier Access project –This project is still being designed but it is anticipated that allowing TTC to relocate a 1350 mm storm sewer (on City owned land operated by TTC for the High Park subway station) will help streamline the construction and facilitate the project schedule.

TTC has nine on-going and upcoming easier access / second exit projects many of which will require changes to municipal water and sewer infrastructure.

The requested delegated authority will allow the General Manager of Toronto Water, where considered appropriate, to enter into agreements authorizing the transit agency to undertake the relocation and/or alteration of existing municipal water and/or sewer infrastructure as part of its project work to facilitate the efficient implementation of transit construction projects without the necessity to obtain separate Council approvals for each project which impact construction scheduling. Similar delegated authorities approved by Council include those authorizing City staff to enter into crossing agreements and permits; water and sewer service installation agreements; and municipal infrastructure agreements.

## **CONTACT**

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Eleanor McAteer, P. Eng., Director, Water Infrastructure Management, Toronto Water  
Telephone: 416-397-4631, E-mail: [Eleanor.McAteer@toronto.ca](mailto:Eleanor.McAteer@toronto.ca)

Lawrence Shintani, P. Eng., Manager, Water Infrastructure Management, Toronto Water,  
Telephone: 416-338-0680 E-mail: [Lawrence.Shintani@toronto.ca](mailto:Lawrence.Shintani@toronto.ca)

**SIGNATURE**

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Lou Di Gironimo  
General Manager, Toronto Water