

Analysis of the Viability of Introducing a Water and Sewer Line Warranty Program for the City of Toronto and its Residents

Date: October 12, 2021

To: Infrastructure and Environment Committee

From: Chief Financial Officer and Treasurer and the General Manager, Toronto Water

Wards: All

SUMMARY

This report responds to City Council's request to the Chief Financial Officer and Treasurer and the General Manager, Toronto Water, to report back on the viability of introducing a water and sewer line warranty program for the City of Toronto and its residents.

The purpose of such a program would be to provide residential property homeowners with the option of a homeowner service warranty protection repair plan to help address their repair costs to the private portion of water and sewer service line pipes located on their private property in the event of a failure or breakdown. While providers of such plans can, and often do, market them directly to residential property homeowners, in this instance, Service Line Warranties of Canada ("SLWC") approached the City, through a presentation to the Infrastructure and Environment Committee ("IEC"), as referenced below, about the prospect of its partnering with the City, through a co-branding marketing agreement, to offer such a plan, giving rise to the request for this report back.

For the reasons set out in this report, City staff have determined that the proposed introduction of a service line warranty program is not viable and, therefore, recommend that this report be received for information purposes with no further action.

The timing of the submission of this report has been impacted by the disruption caused by the COVID-19 pandemic.

RECOMMENDATIONS

1. The Chief Financial Officer and Treasurer and the General Manager, Toronto Water, recommend that this report be received for information.

FINANCIAL IMPACT

There are no financial impacts due to the recommendation to receive the report for information. Any financial implications associated with future decisions pertaining to the provision of a Water and Sewer Line Warranty Program would need to be further assessed and identified.

DECISION HISTORY

At its meeting on September 30, October 1 and 2, 2020, City Council adopted, on consent, Item IE15.10 -- Service Line Warranties by which City Council requested the Chief Financial Officer and Treasurer and the General Manager, Toronto Water, to report back, by the first quarter of 2021, on the viability of introducing to Toronto a water and sewer line warranty program for the City and its residents. The Council decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.IE15.10>,

As part of its consideration of Item15.10, City Council had before it a communication dated September 11, 2020 from the General Manager, Service Line Warranties of Canada ("SLWC") which included a presentation dated September 17, 2020 to IEC, IE. Supp.IE15.10.1 ("SLWC Presentation"). This SLWC Presentation can be found at: <https://www.toronto.ca/legdocs/mmis/2020/ie/comm/communicationfile-117988.pdf>

COMMENTS

Water and Sewer Line Responsibilities

The City operates and maintains municipal water and wastewater systems throughout the City. These municipal systems are located either within City-owned lands, such as a road allowance, or within lands in which the City holds a land interest, such as an easement. The City's obligation to maintain and repair these municipal water and wastewater systems extends only to the private property line, or easement boundary, as the case may be, of properties serviced throughout the City. The underground water and sewer private service line pipes located within each residential private property that connect to the City's water and wastewater systems, known as plumbing under the Building Code, is the responsibility of the private property homeowner. It is the responsibility of each private property homeowner to maintain and repair their own service line pipes as part of their plumbing system at their own cost.

Occasionally, and more commonly during extreme winter cold weather periods, water and wastewater service line pipes can become damaged, leak and fail requiring homeowners to pay for the excavation, repair and/or replacement at their own cost.

While typically, individual home insurance policies include coverage for water damage caused by sudden and accidental rupture of plumbing (including private service line pipes), such insurance policies often do not provide coverage for the actual repair needed to the damaged plumbing itself, including, for example, the underground service line pipes located on the private side from the property line to the foundation wall of a private home. In this event, repairs could pose a significant and unbudgeted expense for the homeowner.

Private Water and Sewer Line Warranty Programs

Recognizing that insurance companies may not provide coverage for these types of repairs, private businesses have capitalized on the business opportunity to provide homeowners with the option of a "warranty" service or homeowner service warranty protection repair plan offering repairs, at a fixed plan cost. Therefore, in addition to insurance companies offering enhanced coverage for additional premiums, several home protection service providers began to provide fee for service plans, based on monthly subscription fees that offer guaranteed service and repairs of the private service line pipes up to a certain value. These plans operate similarly to the more commonly known home heating/cooling protection plans available in the marketplace. Homeowners are free to make decisions to enter into such service plan contracts and to choose among various services providers, and many have done so for home heating services in addition to service line protection. Some private companies offering these home protection services also offer variable plans which include optional extra repair services.

Co-branded SLWC Business Model

SLWC has approached the City, through its SLWC Presentation to IEC, regarding the prospect of its partnering with the City through a co-branding marketing agreement to provide homeowners in Toronto with a homeowner service warranty protection repair plan, the details of which have not been provided to staff beyond the SLWC Presentation. However, as referenced in the SLWC Presentation, SLWC's business model is premised on securing the endorsement of the City, including, use of the City's logo, for advertising and marketing purposes, through a proposed co-branding marketing agreement for its proposed service line warranty plan. Based on the SLWC Presentation, in return for its endorsement, SLWC would offer the City a revenue component. It is believed, but would need to be confirmed, that this revenue component would be in the form of a royalty based on the number of plan contracts signed between SLWC and Toronto residential homeowners.

Other municipal experiences

As noted in the SLWC Presentation, a number of municipalities in Ontario have entered into what is often referred to as 'partnership' arrangements with SLWC.

The City of Hamilton has promoted the SLWC business service to its residents since 2014. The City of Hamilton receives royalty payments from the provider based upon a

percentage of plan sales. The intent of the payment is to cover any additional administrative costs borne by the municipality in fielding calls and enquiries from homeowners concerning the optional voluntary program. The City of Hamilton also provides its "model" contract with SLWC to municipalities in Ontario in return for a royalty from a municipality utilizing their model contract.

The City has also reviewed publicly available local media reports and memoranda presented to Ottawa's City Council about the SLWC program implemented in that municipality. Based on this review, the City should be aware of the risk that homeowners who receive materials from the SLWC with municipal insignia (as part of any co-branding arrangement) might be confused about the municipality's role in such a program. This confusion might involve homeowners erroneously believing that the municipality is providing, backstopping, or requiring enrollment in the program.

Warranty protection repair plan for the City and its residents

City staff have considered the viability of a homeowner service warranty protection repair plan for the private portion of water and sewer service line pipes located on private property and identified a number of concerns that are provided below.

No expressed demonstration of need

From a public policy perspective, staff have not seen a demonstrated need from either homeowners, ratepayer's associations, the business community or via political advocacy for the City to provide municipal endorsement and co-branding utilizing the City's logo to a private company offering a pay-for-service warranty repair plan program for homeowner's service line pipes.

Staff have not seen a need expressed in terms of lack of service availability or deficiencies within the plumbing business sector or a public demand for the City to provide its endorsement and co-branding of any particular company offering plumbing repairs.

Lack of equitable approach

If a need was demonstrated for the introduction of such a program requiring the City's endorsement and co-branding, it would be important to offer an open, fair and equitable process to provide all potential private sector providers of such services with the opportunity to participate and to ensure that an unfair advantage is not gained by one provider over another.

An open and equitable process would demonstrate that the City is providing a competitive and transparent process consistent with its values, among others, of transparency, participation, and accessibility.

Incompatibility with the City's Purchasing By-law and Policies

In these circumstances, City Council authority is required to approve any licence to use the City logo for such commercial purposes, and to approve any related revenue-generation arrangements as Toronto's Municipal Code Chapter 195, Purchasing, does not authorize the latter.

The City, through Strategic Partnerships, maintains policies that govern partnership activities including sponsorships. These policies formalize the practices the City has used for many years to create successful partnerships and ensure consistent treatment for every potential partner. Any variance from these policies would also have to be approved by City Council.

The City's Sponsorship Policy provides, among other things, as follows:

- that the City does not endorse the products, services or ideas of any sponsor (see s.5.1.9);
- that the sponsorship must not result in, or be perceived to result in any competitive advantage, benefit or preferential treatment for the sponsor outside of the sponsorship agreement (see s.5.2.8);
- that sponsors are prohibited from implying that their products, services or ideas are sanctioned by the City (see s.5.3.4);
- that to protect the privacy of Toronto's residents, sponsors are not to have access to personal information held by the City (see s.5.3.2); and,
- that there shall be no actual or implied obligation to purchase the product or service of the sponsor (see s. 5.3.5)

Certain similar provisions can be found in other City policies like the City's Individual and Corporate Naming Rights Policy and, as such, the City policies governing partnership activities prohibit endorsement. In addition, any proposed partnership program may have implications for the City's Corporate Identity Program.

In order to provide its endorsement and co-branding of one company operating on a for-profit business model, either through direct agreement or through a competitive process, a comprehensive review and amendment process would be needed to align City policy and procedures to facilitate such a process and provide staff with a revised public policy context and direction from City Council.

Potential post-award administrative, liability and risk challenges

Setting aside the other concerns noted above, even if the City were to receive revenue in the form of a royalty for its endorsement of a private service program, the revenue may not be a sufficient consideration. For example, Ottawa advises its residents that the compensation received offsets the administrative cost of the program to the municipality, however, it does not otherwise generate revenue. Other municipalities (i.e. Region of Peel and Kingston Utilities), do not accept royalties or other forms of revenue from their agreement with the private service provider.

Should Council provide direction to staff to proceed with provision of the City's endorsement and co-branding with SLWC or an open competitive process, a

supplementary report would be recommended in order to bring to Council's attention additional concerns regarding potential liability and risk challenges, including risks associated with any potential insolvency or failure of a service provider to perform the services, in addition to the afore-mentioned post-award administrative requirements and the associated staffing costs and resulting budget pressures.

Summary

This report provides Council with the requested analysis of the viability of introducing a water and sewer service line warranty repair program for the City of Toronto and its residents. Based on the concerns raised in the body of this report, specifically:

- no expressed demonstration of need;
- lack of equitable approach;
- incompatibility with the Purchasing By-law and City policy; and
- concerns with potential post-award administrative impacts, liability and risk challenges

Staff have determined that the proposed introduction of a water and sewer service line warranty repair program is not viable and, therefore, recommend that this report be received for information purposes with no further action.

CONTACT

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