



## **The Regional Municipality of Durham**

### **Works Committee Agenda**

Council Chambers  
Regional Headquarters Building  
605 Rossland Road East, Whitby

**Wednesday, May 8, 2019**

**9:30 AM**

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**1. Declarations of Interest**

**2. Adoption of Minutes**

A) Works Committee meeting – [April 3, 2019](#)

Pages 5 - 13

**3. Statutory Public Meetings**

There are no statutory public meetings

**4. Delegations**

4.1 Jake Farr, PFLAG Canada Durham Region, re: Rainbow Crosswalks in All Municipalities within Durham Region

**5. Presentations**

5.1 Presentation to the Region's Works Operations Challenge Team – 2019 Ontario Champions at the Water Environment Association of Ontario (WEAO) Operations Challenge

5.2 Joseph Green, Project Engineer – Technical Support, re: Effective Energy Management

**6. Waste**

6.1 Correspondence

6.2 Reports

There are no Waste Reports to be considered.

## 7. Works

### 7.1 Correspondence

- A) Correspondence dated March 28, 2019 from the City of Oshawa, re: Resolution passed by Oshawa Council at its meeting held on March 18, 2019 regarding Downed Elevators and Municipal Response 14 - 55

**Pulled by Councillor John Neal from the April 5, 2019 Council Information Package**

Recommendation: Receive for Information

- B) Correspondence dated April 10, 2019 from the Township of Brock, re: Resolution passed by the Public Works and Facilities Committee at their meeting held on April 8, 2019 regarding a Community Safety Zone on Simcoe Street (Regional Road 15) from Holy Family Catholic School west to Mara Road in Beaverton 56

Recommendation: Refer to Staff for Consideration

### 7.2 Reports

- A) License Agreement with Her Majesty the Queen Right of Canada for a Portion of Lands Located at the North West Corner of Highway 7 and Sideline 26 in the City of Pickering for the Purpose of Construction, Operation and Maintenance of a Water Tower and Reservoir and Related Structures (2019-W-29) 57 - 61
- B) Report on Tenders and Additional Financing for The Regional Municipality of Durham Contract T-1008-2018 for the Lake Simcoe Water Pollution Control Plant Air Handling Unit Replacement and Drainage Improvements, in the Township of Brock (2019-W-30) 62 - 66
- C) Award of Request for Proposal #1063-2018 for Consulting Services for the Completion of a Rationalization Study Report and Production of Overall Facility Master Plans for the Ajax-Pickering, Oshawa-Whitby and Sunderland Depots (2019-W-31) 67 - 71
- D) Lake Ontario Collaborative Group – Memorandum of Understanding – Source Protection Plan (2019-W-32) 72 - 78

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|----|---|-----------|
| E) | Regional Municipality of Durham Nomination to the Credit Valley/<br>Toronto and Region/Central Lake Ontario Source Protection<br>Committee ( <a href="#">2019-W-33</a> )  | 79 - 87   |
| F) | Construction of Regional Contract D2012-2 for the Port<br>Darlington Water Pollution Control Plant (WPCP) Phase 2<br>Expansion, in the Municipality of Clarington ( <a href="#">2019-W-34</a> )   | 88 - 92   |
| G) | Supplemental Report on Water Quality and Quantity Concerns<br>with Private Wells Servicing Residents on Fielding Court in the<br>Town of Ajax ( <a href="#">2019-W-35</a> )   | 93 - 112  |
| H) | Approval of Request for Pre-Qualification RFPQ#-1100-2019 of<br>General Contractors for the Construction of the Newcastle Water<br>Supply Plant and the Port of Newcastle Sanitary Sewage<br>Pumping Station, in the Municipality of Clarington<br>( <a href="#">2019-W-36</a> )  | 113 - 117 |
| I) | Report on Tenders and Additional Financing for Regional<br>Municipality of Durham Contract D2019-026 for Simcoe Street<br>(Regional Road 2) and Reach Street (Regional Road 8) Road<br>Rehabilitation and Intersection Modifications in the Township of<br>Scugog ( <a href="#">2019-W-37</a> )                                 | 118 - 123 |
| J) | Report on Tenders and Additional Financing for Regional<br>Municipality of Durham Contract D2019-043 for Watermain<br>Replacement on Adelaide Avenue East (Regional Road 58) from<br>Oshawa Boulevard North to Juliana Drive and from Mary Street<br>North to French Street in the City of Oshawa ( <a href="#">2019-W-38</a> ) | 124 - 128 |
| K) | Waste Collection at Regional Facilities and Waste Reduction<br>Initiatives at Regional Headquarters ( <a href="#">2019-W-39</a> )   | 129 - 135 |
| L) | Affordable Housing Development – 1505 Bowmanville Avenue in<br>the Municipality of Clarington ( <a href="#">2019-W-40</a> )   | 136 - 143 |

## 8. Advisory Committee Resolutions

There are no advisory committee resolutions to be considered

**9. Confidential Matters**

**9.1 Reports**

- A) Confidential Report of the Commissioner of Works –  
Proposed or Pending Acquisition or Disposition of Land  
for Regional Corporate Purposes as it Relates to the  
Purchase of Lands Required for the Bus Rapid Transit  
Project, in the City of Pickering (2019-W-28)

Under Separate Cover

**10. Other Business**

**11. Date of Next Meeting**

Wednesday, June 5, 2019 at 9:30 AM

**12. Adjournment**

Notice regarding collection, use and disclosure of personal information:

Written information (either paper or electronic) that you send to Durham Regional Council or Committees, including home address, phone numbers and email addresses, will become part of the public record. This also includes oral submissions at meetings. If you have any questions about the collection of information, please contact the Regional Clerk/Director of Legislative Services.

**The Regional Municipality of Durham**

**MINUTES**

**WORKS COMMITTEE**

**Wednesday, April 3, 2019**

A regular meeting of the Works Committee was held on Wednesday, April 3, 2019 in the Council Chambers, Regional Headquarters Building, 605 Rossland Road East, Whitby, Ontario at 9:30 AM

Present: Councillor Mitchell, Chair  
Councillor Marimpietri, Vice-Chair  
Councillor Crawford  
Councillor McLean  
Councillor John Neal  
Councillor Smith  
Regional Chair Henry left the meeting at 11:30 AM

Also

Present: Councillor Highet

Absent: Councillor Barton

Staff

Present: E. Baxter-Trahair, Chief Administrative Officer  
J. Demanuele, Director of Business Services, Works Department  
J. Hunt, Director of Legal Services, Corporate Services – Legal Services  
R. Jagannathan, Director of Transportation and Field Services, Works Department  
M. Januszkiewicz, Director of Waste Management, Works Department  
S. Kemp, Manager of Traffic Engineering & Operations, Works Department  
J. Paquette, Manager (Works), Corporate Communications  
J. Presta, Director of Environmental Services, Works Department  
A. Spencer, Project Manager, Traffic, Works Department  
R. Inacio, Systems Support Specialist, Corporate Services – IT  
S. Penak, Committee Clerk, Corporate Services – Legislative Services

**1. Declarations of Interest**

There were no declarations of interest.

## **2. Adoption of Minutes**

Moved by Councillor Marimpietri, Seconded by Councillor Smith,  
(48) That the minutes of the regular Works Committee meeting held on  
Wednesday, March 6, 2019, be adopted.  
CARRIED

## **3. Statutory Public Meetings**

There were no statutory public meetings.

## **4. Delegations**

### **4.1 D. O'Connell, Project Manager, Independent Project Managers, re: an affordable housing project being constructed at 1505 Bowmanville Avenue, in the Municipality of Clarington**

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D. O'Connell, Project Manager, on behalf of Tim Neeb, President of New View Holdings Inc., appeared before the Committee regarding an affordable housing project being constructed at 1505 Bowmanville Avenue, in the Municipality of Clarington.

D. O'Connell requested that the Works Committee ask Regional Council to consider the following two options:

- Option #1- Move the permanent road work up to the summer of 2019; and
- Option #2- Accept the Developer's offer to pay the Region \$225,000 (less design costs) and the Region performs the temporary road work.

Moved by Councillor McLean, Seconded by Regional Chair Henry,  
(49) That D. O'Connell be granted a one-time 2-minute extension in order to finish his delegation.

CARRIED

D. O'Connell asked that the Region of Durham also consider future forms of relief for these types of projects to encourage Developers to continue to provide affordable housing in Durham Region.

D. O'Connell responded to questions from the Committee.

Discussion ensued regarding the feasibility of the options put forth by D. O'Connell; whether accepting one of the options would set a precedent for similar situations in the future; and the temporary lights that Durham Region has offered to install.

J. Hunt expressed concern that the competitive process has already been completed and moving outside the terms of the RFP could create a potential for litigation or disconnect.

Moved by Councillor McLean, Seconded by Councillor Marimpietri,  
(50) That we recommend to Regional Council:

That the Region accept the Developer's offer to pay the Region \$225,000 (less design costs) and that the Region performs the temporary road work, as requested by D. O'Connell as part of a delegation provided to the Works Committee on April 3, 2019.

CARRIED ON THE FOLLOWING  
RECORDED VOTE:

Yes

Councillor Crawford  
Regional Chair Henry  
Councillor Marimpietri  
Councillor McLean

No

Councillor John Neal  
Councillor Smith  
Chair Mitchell

Absent: Councillor Barton

Conflict: None

Moved by Regional Chair Henry, Seconded by Councillor Marimpietri,  
(51) That we recommend to Regional Council:

That staff be directed to review current policies and research additional potential relief mechanisms to promote the development of affordable rental housing in Durham Region including defining the criteria for projects to be eligible for the potential relief mechanisms, and report back to Regional Council with the results of that review and any recommended policy amendments or additions required to implement those mechanisms.

CARRIED

- 4.2 D. Douglas, Environmental Consultant, VisionQuest Environmental Strategies Corp., re: Report #2019-WR-6: EBR 013-4689 Reducing Litter and Waste in our Communities: Discussion Paper [Item 6.2 A)]
- 

D. Douglas, Environmental Consultant, VisionQuest Environmental Strategies Corp., on behalf of GLAD Canada Ltd, appeared before the Committee regarding Report #2019-WR-6: EBR 013-4689 Reducing Litter and Waste in our Communities: Discussion Paper.

D. Douglas stated that the GLAD Company of Canada Ltd. would like to re-confirm their corporate commitment in supporting the Region of Durham through

the provision of a complimentary supply of GLAD “See Through” Blue Bags to support a pilot project.

D. Douglas also stated that GLAD Canada is interested in further investigating opportunities to assist with costs pertaining to debagging, collection, sorting, baling and end market delivery to an identified downstream recipient (EFS-Plastics) of the “see through” blue bags collected in the pilot study, subject to further clarification of such costs by Regional staff and their MRF processor.

D. Douglas requested that the Works Committee (and Council) consider this decision and ultimately proceed with this pilot study, given the importance in assessing options to address litter from blue boxes, as the use of “see through” blue bags has proven to be a superior option across Canada.

D. Douglas responded to questions from the Committee.

It was the consensus of the Committee to alter the agenda to consider Item 6.2 A), Report #2019-WR-6: EBR 013-4689 Reducing Litter and Waste in our Communities: Discussion Paper of the Commissioner of Works next.

## **6. Waste**

### **6.2 Reports**

#### **A) EBR 013-4689 Reducing Litter and Waste in our Communities: Discussion Paper (2019-WR-6)**

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Report #2019-WR-6 from S. Siopis, Commissioner of Works, was received.

M. Januszkiewicz demonstrated the new blue box lid that is made from old tires mined from Durham landfills. She advised that staff will be bringing a report back to the Works Committee before summer (June) that will outline the cost to produce the lids and how residents will receive them. She also advised that this pilot project fulfills the Council directive and is sustainable.

Staff responded to questions regarding changing the wording “best before date” on food containers to reduce the amount of food being thrown away, and providing further education to residents on this matter; the collection of glass mandated under Regulation 101; and possible revisions to Regulation 101 by the province.

Moved by Councillor McLean, Seconded by Councillor Mitchell,  
(52) That we recommend to Council:

- A) That the attached responses to the discussion paper questions (Attachment #1 to Report #2019-WR-6 of the Commissioner of Works) be submitted to the Ministry of the Environment, Conservation and Parks as the Regional



Municipality of Durham's comments on the Reducing Litter and Waste in Our Communities: Discussion Paper; and

- B) That a copy of Report #2019-WR-6 of the Commissioner of Works be forwarded to the Clerks of the Local Area Municipalities.

CARRIED

## 5. Presentations

- 5.1 S. Kemp, Manager of Traffic Operations, re: Durham Vision Zero – A Strategic Road Safety Action Plan (SRSAP) for the Regional Municipality of Durham (2019-W-27) [Item 6.2 B)]
- 

S. Kemp, Manager of Traffic Operations, provided a PowerPoint presentation regarding Durham Vision Zero – A Strategic Road Safety Action Plan (SRSAP) for the Regional Municipality of Durham.

Highlights from the presentation included:

- Some good news
- Why are we concerned?
- Background
- What is Vision Zero?
  - Three pillars:
    - No one should be killed or seriously injured as the result of a collision;
    - Design needs to accommodate humans that make mistakes; and
    - Collisions don't happen by accident.
- Vision
  - Zero people killed or injured across all modes of transportation
- Goal
  - Minimum 10% reduction in fatal and injury collisions over a five year period
- Emphasis Areas (8)
- Our Data
  - 1. Intersections
  - 2. Aggressive Driving
  - 3. Distracted Driving
  - 4. Young Drivers (16-25)
  - 5. Pedestrians
  - 6. Impaired Drivers
  - 7. Cyclists
  - 8. Commercial Vehicles
- Next Steps

S. Kemp advised that next steps would include establishment of a Vision Zero Task Force; implementation of countermeasures; and ongoing monitoring and evaluation of progress towards zero.

S. Kemp responded to questions from the Committee regarding the Ministry of Transportation's (MTO) involvement with Vision Zero; on-going collaboration with Durham Transit and lower tier municipalities; the current technological options that are available for Durham to use; where the funds from the collection of fines go; stronger enforcement of speed limits; the consideration of scramble intersections in Durham; the benefits of roundabouts and who decides what goes in the centers of the roundabouts; inconsistent pedestrian signals throughout the Region; the potential for a communication package to be sent to the truck haulers encouraging alternate routes; and membership of the Vision Zero Task Force.

It was the consensus of the Committee to alter the agenda to consider Item 7.2 B), Report #2019-W-27: Durham Vision Zero – A Strategic Road Safety Action Plan for the Regional Municipality of Durham of the Commissioner of Works next.

## **7. Works**

### **7.2 Reports**

#### **B) Durham Vision Zero – A Strategic Road Safety Action Plan for the Regional Municipality of Durham (2019-W-27)**

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Report #2019-W-27 from S. Siopis, Commissioner of Works, was received.

Moved by Councillor Marimpietri, Seconded by Councillor John Neal,  
(53) That we recommend to Council:

- A) That Regional Council endorse a Vision Zero approach to Road Safety for the Regional Municipality of Durham;
- B) That Regional Council endorse the recommended Strategic Road Safety Action Plan goal of a minimum 10 percent reduction in severe (i.e. fatal and injury) collisions within the next five years (2019-2023);
- C) That Regional Council forward a copy of Report #2019-W-27 of the Commissioner of Works to the Local Area Municipalities, including a report substantially in the form of Attachment 1 to Report #2019-W-27, in the spirit of mobilizing a concerted effort towards Vision Zero; and
- D) That Regional Council direct staff to move forward with the next steps required to implement the Strategic Road Safety Action Plan.

CARRIED AS AMENDED (See Following Motion)

Moved by Councillor John Neal, Seconded by Councillor McLean,  
(54) That the main motion (53) of Councillors Marimpietri and John Neal be amended by adding the following as a new Part E):

- E) That the Vision Zero Task Force also include a Works Committee representative, a cyclist representative, and a citizen/senior representative.

CARRIED

Moved by Councillor Marimpietri, Seconded by Councillor Mitchell,  
(55) That the Committee recess for 10 minutes.

CARRIED

The Committee recessed at 11:45 AM and reconvened at 11:58 AM.

## **6. Waste**

### **6.1 Correspondence**

There were no communications to consider.

### **6.2 Reports**

- A) EBR 013-4689 Reducing Litter and Waste in our Communities: Discussion Paper (2019-WR-6)

This item was considered earlier in the meeting. See pages 4 and 5 of these minutes.

## **7. Works**

### **7.1 Correspondence**

- A) Correspondence dated January 24, 2019 from the Township of Scugog, re: Request to Region of Durham to Improve Road Safety on Regional Road 7 (RR7) Island Road on Scugog Island in the Township of Scugog

Moved by Councillor John Neal, Seconded by Councillor Smith,  
(56) That the correspondence dated January 24, 2019 from the Township of Scugog regarding request to Region of Durham to improve road safety on Regional Road 7 (RR7) Island Road on Scugog Island in the Township of Scugog be referred to staff for consideration.

CARRIED

- B) Correspondence dated March 11, 2019 from the Town of Ajax, re: Resolution passed by Ajax Council at its meeting held on February 25, 2019 regarding Westney Road/Millington Crescent Signalization
- 

Moved by Councillor Crawford, Seconded by Councillor McLean,  
(57) That we recommend to Council:

That a light be designed in 2019 and constructed in 2020 at the Millington Crescent and Westney Road intersection to be funded by the Town of Ajax, without a traffic study being required.

CARRIED

## 7.2 Reports

- A) Servicing Agreements with Bond & Mary Development Inc. and Bond & Mary Development Phase II Inc. for Temporary Sanitary Sewer Connections, in the City of Oshawa (2019-W-26)
- 

Report #2019-W-26 from S. Siopis, Commissioner of Works, was received.

Moved by Councillor Smith, Seconded by Councillor John Neal,  
(58) That we recommend to Council:

- A) That the Regional Municipality of Durham be authorized to enter into Servicing Agreements with Bond & Mary Development Inc. and Bond & Mary Development Phase II Inc. for temporary sanitary sewer connections, in the City of Oshawa to the satisfaction of the Director of Legal Services; and
- B) That the Regional Chair and Clerk be authorized to execute any necessary documents or agreements.

CARRIED

- B) Durham Vision Zero – A Strategic Road Safety Action Plan for the Regional Municipality of Durham (2019-W-27)
- 

This item was considered earlier in the meeting. See pages 6 and 7 of these minutes.

## 8. **Advisory Committee Resolutions**

There were no advisory committee resolutions to be considered.

## 9. **Confidential Matters**

There were no confidential matters to be considered.

## 10. **Other Business**

10.1 Traffic through the Hamlet of Columbus, in the City of Oshawa

Staff provided an update regarding the traffic through the Hamlet of Columbus. R. Jagannathan advised that staff have referred this to the Durham Regional Police Service (DRPS) regarding more enforcement in that area, and additional observations are planned for this location.

10.2 Maxwell Heights Secondary School Crossing

Councillor John Neal noted his concerns regarding students crossing Coldstream Drive with there being no sidewalks, lights or line markings at Maxwell Heights Secondary School. Staff noted that most students cross at the Coldstream Drive/Harmony Road signalized intersection, but they are in conversation with city staff and are looking at talking to the principal/school board to educate students.

**11. Date of Next Meeting**

The next regularly scheduled Works Committee meeting will be held on Wednesday, May 8, 2019 at 9:30 AM in the Council Chambers, Regional Headquarters Building, 605 Rossland Road East, Whitby.

**12. Adjournment**

Moved by Councillor John Neal, Seconded by Councillor McLean,  
(59) That the meeting be adjourned.

CARRIED

The meeting adjourned at 12:18 PM

Respectfully submitted,

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D. Mitchell, Chair

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S. Penak, Committee Clerk

File: A-2100

March 28, 2019

**DELIVERED BY E-MAIL**

(premier@ontario.ca)

The Honourable Doug Ford,  
Premier of Ontario

Re: Downed Elevators and Municipal Response

Oshawa City Council considered the above matter at its meeting of March 18, 2019 and adopted the following recommendation:

- "1. That pursuant to Report CORP-19-22 dated February 20, 2019, the Provincial Government be requested to proclaim into force the remaining elements of Bill 8 related to elevating devices in all building stock.
  2. That pursuant to Report CORP-19-22 dated February 20, 2019, the Provincial Government be requested to amend the Technical Standards and Safety Act, 2000, as necessary, to:
    - a) Authorize the Technical Standards and Safety Authority inspectors to impose timelines to complete repairs/replacements to elevators in buildings whether subjected to a Technical Standards and Safety Authority order or not and to impose appropriate penalties if there is a non-compliance; and
    - b) Authorize the Technical Standards and Safety Authority inspectors to impose conditions requiring the owner to provide an alternate mechanical means of access above the ground floor when a repair to the single elevator in a building is being undertaken whether such repair is by an order of the Technical Standards and Safety Authority or not and to impose penalties if there is a non-compliance.
  3. That pursuant to Report CORP-19-22 dated February 20, 2019, the Provincial Government be requested to amend the Ontario Building Code to require new single elevator buildings to provide an alternative mechanical means of access above the ground floor or consider requiring multi-level buildings to have two
- 

The Corporation of the City of Oshawa, 50 Centre Street South, Oshawa, Ontario L1H 3Z7  
Phone 905-436-3311 1-800-667-4292 Fax 905-436-5697  
**www.oshawa.ca**

elevators as appropriate and to consult with the building and development industry during the process.

4. That a copy of Report CORP-19-22 and the related Council resolution be sent to:
  - All Region of Durham Municipalities
  - Durham Region Members of Parliament and Members of Provincial Parliament
  - Federation of Canadian Municipalities
  - Association of Municipalities of Ontario
  - Local Health Integration Network
  - Oshawa's Accessibility Advisory Committee
  - Durham Regional Accessibility Advisory Committee
  - Large Urban Mayor's Caucus of Ontario
  - Technical Standards and Safety Authority
  - Advocacy Centre for the Elderly
  - Federal/Provincial/Territorial Ministers for Seniors
  - United Senior Citizens of Ontario
  - Oshawa Senior Citizens Centres
  - Ministry of Municipal Affairs and Housing
  - Ministry of Government and Consumer Services
  - The City's Building Industry Liaison Team including Durham Region Homebuilder's Association and Building Industry and Land Development Association
  - Ontario Building Officials Association
  - Ontario Non-Profit Housing Association; and,
5. That staff continue to investigate the potential of a stand-alone By-law to address elevating devices in the City of Oshawa."

Please find attached a copy of Report CORP-19-22.

If you need further assistance concerning the above matter, please contact Paul Ralph, Commissioner, Development Services Department at the address listed below or by telephone at 905-436-3311.




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Mary Medeiros  
Acting City Clerk

/ld

- c. All Region of Durham Municipalities
- Durham Region Members of Parliament and Members of Provincial Parliament
- Federation of Canadian Municipalities
- Association of Municipalities of Ontario
- Local Health Integration Network
- Oshawa's Accessibility Advisory Committee
- Durham Regional Accessibility Advisory Committee
- Large Urban Mayor's Caucus of Ontario
- Technical Standards and Safety Authority
- Advocacy Centre for the Elderly
- Federal/Provincial/Territorial Ministers for Seniors
- United Senior Citizens of Ontario
- Oshawa Senior Citizens Centres
- Ministry of Municipal Affairs and Housing
- Ministry of Government and Consumer Services
- The City's Building Industry Liaison Team including Durham Region Homebuilder's Association and Building Industry and Land Development Association
- Ontario Building Officials Association
- Ontario Non-Profit Housing Association



To: Corporate Services Committee

From: Tracy Adams, Commissioner,  
Corporate Services Department

Report Number: CORP-19-22

Date of Report: February 20, 2019

Date of Meeting: February 25, 2019

Subject: Downed Elevators and Municipal Response

File: D-2200

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## **1.0 Purpose**

This report responds to the Corporate Services Committee's May 28, 2018 direction to examine the implementation of a specific by-law to address situations in rental properties when elevators are not working, especially when it can put vulnerable populations at risk during extreme weather and to report back to Committee.

## **2.0 Recommendation**

That the Corporate Services Committee recommend to City Council:

1. That pursuant to Report CORP-19-22 dated February 20, 2019, the Provincial Government be requested to proclaim into force the remaining elements of Bill 8 related to elevating devices in all building stock.
2. That pursuant to Report CORP-19-22 dated February 20, 2019, the Provincial Government be requested to amend the Technical Standards and Safety Act, 2000, as necessary, to:
  - (a) Authorize the Technical Standards and Safety Authority inspectors to impose timelines to complete repairs/replacements to elevators in buildings whether subjected to a Technical Standards and Safety Authority order or not and to impose appropriate penalties if there is a non-compliance; and
  - (b) Authorize the Technical Standards and Safety Authority inspectors to impose conditions requiring the owner to provide an alternate mechanical means of access above the ground floor when a repair to the single elevator in a building is being undertaken whether such repair is by an order of the Technical Standards and Safety Authority or not and to impose penalties if there is a non-compliance.

3. That pursuant to Report CORP-19-22 dated February 20, 2019, the Provincial Government be requested to amend the Ontario Building Code to require new single elevator buildings to provide an alternative mechanical means of access above the ground floor or consider requiring multi-level buildings to have two elevators as appropriate and to consult with the building and development industry during the process.
4. That a copy of Report CORP-19-22 and the related Council resolution be sent to:
  - All Region of Durham Municipalities
  - Durham Region Members of Parliament and Members of Provincial Parliament
  - Federation of Canadian Municipalities
  - Association of Municipalities of Ontario
  - Local Health Integration Network
  - Oshawa's Accessibility Advisory Committee
  - Durham Regional Accessibility Advisory Committee
  - Large Urban Mayor's Caucus of Ontario
  - Technical Standards and Safety Authority
  - Advocacy Centre for the Elderly
  - Federal/Provincial/Territorial Ministers for Seniors
  - United Senior Citizens of Ontario
  - Oshawa Senior Citizens Centres
  - Ministry of Municipal Affairs and Housing
  - Ministry of Government and Consumer Services
  - The City's Building Industry Liaison Team including Durham Region Homebuilder's Association and Building Industry and Land Development Association
  - Ontario Building Officials Association

### **3.0 Executive Summary**

On May 28, 2018, the Corporate Services Committee directed staff to examine the implementation of a specific by-law to address situations in rental properties when elevators are not working, especially when it can put vulnerable populations at risk during extreme weather and to report back to Committee. Staff have determined that elevator availability and functionality has become a growing concern amid an increased reliance on elevators for day-to-day living. The previous Provincial Government recognized the issue of poor maintenance and repair of elevating devices and introduced Bill 8, which aimed to update legislative standards and regulations related to elevating devices through amendments to the Technical Standards and Safety Act, 2000, S.O. 2000, c. 16 ("Technical Standards and Safety Act, 2000"). Following the change of government in 2018, the sections of Bill 8 related to elevating devices have not yet been proclaimed into force; however, the province has stated they are currently working with the Technical Standards and Safety Authority (T.S.S.A.) to assess the relevant issues and determine where improvements to policy can be made.

The City has received a total of fifty-one (51) complaints between 2014 and 2018 related to non-functioning and/or malfunctioning elevators. Of these fifty-one (51) complaints, six (6) Property Standards Orders were issued, and twenty-seven (27) complaints were closed with no violation found after investigation. Multiple root causes have been identified through a literature review and discussions with members of the industry, such as on-going maintenance issues and obsolete elevating devices with little or no access to replacement parts.

The issue of elevator maintenance and availability affects municipalities across the province and requires a specific policy response and technical skills to respond effectively. Staff's review found that these issues are best handled at the provincial level through enhancements to the Technical Standards and Safety Act, 2000, as T.S.S.A. inspectors have the expertise to address concerns related to elevator maintenance and availability. Additionally, the review found that a special by-law would be unlikely to achieve expedited results in the situations of downed elevators, and rather existing tools should continue to be utilized.

#### **4.0 Input From Other Sources**

The following table (**Table 1**) identifies internal and external sources consulted during the preparation of this report.

**Table 1 Sources Consulted**

<b>Internal</b>	<b>External</b>
<ul style="list-style-type: none"><li>• Building Services</li><li>• Legal Services</li><li>• Fire Services</li></ul>	<ul style="list-style-type: none"><li>• Ministry of Government and Consumer Services</li><li>• Ministry of Municipal Affairs and Housing</li><li>• Technical Standards and Safety Authority</li></ul>

##### **4.1 Ministry of Municipal Affairs and Housing (M.M.A.H.)**

The M.M.A.H. is aware of current Ontario Building Code requirements and property standards by-law opportunities. The M.M.A.H. was unable to provide any other information on the issue of non-functioning elevators in apartment buildings.

##### **4.2 Ministry of Government and Consumer Services (M.G.C.S.)**

In June 2017, the Ontario government requested that the T.S.S.A. commission an Elevator Availability Study. Following the results of this Study, Bill 8, Access to Consumer Credit Reports and Elevator Availability Act, 2018, was passed in May 2018. This created new regulation-making powers for government in relation to elevator repair issues. The M.G.C.S. is currently working with the T.S.S.A. and industry to assess issues relating to elevating devices and determine where improvements to policy can be made.

### 4.3 Technical Standards and Safety Authority (T.S.S.A.)

The T.S.S.A. ensures industry compliance with safety requirements legislated by the Technical Standards and Safety Act, 2000. The purpose of the Technical Standards and Safety Act, 2000 is to enhance public safety in Ontario by providing for the efficient and flexible administration of technical standards with respect to matters such as elevating devices.<sup>1</sup>

When contacted, the T.S.S.A. advised that there is currently limited-to-no action that can be taken by the organization in relation to out-of-service elevators as the role of the T.S.S.A. involves the safety of the elevating device while it is in use. The organization is able to write orders requiring repairs for malfunctioning elevators that pose a direct safety risk; however, they do not address elevators that are entirely out-of-service. Since the release of the Elevator Availability Study, the T.S.S.A. has been focusing on making improvements to maintenance requirements and has met with various elevator companies to ensure consistency in the maintenance of elevating devices. The T.S.S.A. notes that proper maintenance can help prevent instances of non-functioning or malfunctioning elevators. Additionally, the T.S.S.A. works off a risk-based inspection scheduling system that takes into account past history, orders, incidents and the age of the device, among other things.

## 5.0 Analysis

### 5.1 Background

Elevator availability and functionality have become a growing concern amid an increased reliance on elevators for day-to-day living and a heightened awareness that factors like extreme weather events can have a direct impact on tenants when elevators are out-of-service. The recently commissioned Elevator Availability Study found that most elevators in Ontario are repaired within twenty-four (24) hours with approximately 1% of Ontario elevating devices across office, residential and institutional buildings experiencing outages longer than one (1) week over a given year.<sup>2</sup>

In 2015, City of Oshawa (“the City”) Development Services report DS-15-176 (**Attachment 1**) responded to Council’s June 12, 2015 direction to investigate the issue of non-functioning elevators for lengthy periods in apartment buildings. It is important to note

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<sup>1</sup> Technical Standards and Safety Act, 2000. Retrieved from <https://www.ontario.ca/laws/statute/00t16>

<sup>2</sup> Technical Standards and Safety Authority. “T.S.S.A. Elevator Availability Study, 2017”. Retrieved from <https://www.tssa.org/Modules/News/index.aspx?feedId=a432fea8-34f2-4fb2-97ec-b393c44fc0eb,4c142457-0d0f-4773-a511-7866672bbffa,ff34d029-6100-428b-87a6-89ed3918dcd4,7b882e28-3b4f-4044-ba7f-6df58a31ce1b,5b7aff3b-3f29-440e-b6f7-f3341638e717,3b0a683e-3289-4504-a528-320a2d741fa6,b32b6789-a2cf-4413-a8b2-cc829952ee7e,4ca86901-c2ab-453b-b95b-123f516c0c9f,f53a4329-8b60-4d38-acc2-ffff6c74d7f1,e018aaf8-86ba-4954-902c-489db3ded3c8&newsId=c30d9b40-0544-4e38-92d5-be3275000def>

that Bill 8 (see section 5.3.1 of Report CORP-19-22) has made progress with responding to the recommendations found in DS-15-176.

Staff conducted a review of property standards complaints received related to non-functioning and malfunctioning elevators in the City. The Property Standards By-law 1-2002 ("the By-law") regulates and governs standards for the maintenance and occupancy of property within the City. General trends can be seen in **Table 2**. This data takes into account calls for service received between 2014 and 2018. It includes calls related to both malfunctioning and non-functioning elevators. The numbers are approximate and based on a manual search through electronic records.

Highlights of the data include:

- Calls for service related to elevator malfunctioning and non-functioning have decreased during this reporting period.
- Approximately thirty-four (34) out of fifty-one (51) calls for service were related to reports of elevators that were out-of-service, while the remainder related to reportedly malfunctioning machines.
- Approximately twenty-seven (27) out of fifty-one (51) calls for service were closed with no violation following inspection or follow-up.
- Of the fifty-one (51) calls for service, six (6) Property Standards Orders have been issued requiring that an elevator be repaired.
  - In the majority of cases, no Order was necessary as no violation was found or the property owner was already taking steps to respond to the issue.
- On average, when an Order had been issued it took approximately twenty-four (24) days to obtain compliance<sup>3</sup>; however, some Orders include provisions for compliance beyond only elevator deficiencies, resulting in an extended period of time needed for compliance. Additionally, Property Standards Orders have minimum required periods of time for service and appeals, resulting in longer periods of time for compliance when compared to other by-law Orders issued by the City.<sup>4</sup>
- Approximately three-hundred (300) units, across four (4) buildings, have been affected by out-of-service or malfunctioning elevators in circumstances where a violation was found and an Order was issued.<sup>5</sup> In these cases, residents may have had access to an alternate elevator(s) that remained in service.<sup>6</sup>

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<sup>3</sup> Total number of days between the date the complaint was filed and date file was closed.

<sup>4</sup> An Order cannot be deemed to be complied with until all items on the Order have been addressed. As such, in cases where an Order has been issued that contains both elevator-related and non-elevator deficiencies, a longer period of time may be required for overall compliance, even if the elevator issue has already been rectified.

<sup>5</sup> This number does not double count affected units, for example in instances where buildings had more than one Order issued during the prescribed time period.

<sup>6</sup> Unable to confirm the number of elevators in each apartment building.

**Table 2 General City of Oshawa Elevator Reactive Complaint Statistics<sup>7</sup>**

Status	2014	2015	2016	2017	2018
Closed with no violation	3	7	7	7	3
Other	7	7	4	2	4
<b>Total</b>	10	14	11	9	7

## 5.2 The Issue

The problems and causes of out-of-service elevators are complex and there is no “one”, single issue. Though the instance of a downed elevator in a single-elevator building can cause a number of problems, it is important to be aware of the various issues that can contribute to an elevator being out of service. Multiple root causes have been identified through a literature review and discussions with members of the industry. Root causes can generally be divided into two broad categories: on-going maintenance issues and obsolete elevators. In addition to issues identified in **Table 3** below, problems prolonging repairs may include lack of mechanic availability or delays in authorizing repairs.<sup>8</sup> Furthermore, parts may be unavailable locally or in general, causing further delays in ordering pieces or finding appropriate substitutes.

**Table 3 Root Causes**

On-Going Maintenance Issues	Obsolete Elevators
<ul style="list-style-type: none"> <li>a) Increasing stock of older buildings with single, older elevators that may face more issues with age</li> <li>b) Lack of money for maintenance</li> <li>c) Lack of desire to spend money on proper, regular maintenance</li> </ul>	<ul style="list-style-type: none"> <li>a) High cost to upgrade existing elevators</li> <li>b) Parts unavailable (no longer exist or not stocked locally)</li> <li>c) Problems with obsolete elevators are compounded when elevators are not maintained regularly</li> </ul>

Additionally, there is currently no requirement for the number of elevators that must be installed in a building at the time of construction, although there are elevator consultants that can be hired to provide guidance on the matter<sup>9</sup>. The Elevator Availability Study also identified concerns with a lack of minimum preventative maintenance standards, as

<sup>7</sup> It is important to note that the figures in Table 2 may not be reflective of enforcement action related only to elevator deficiencies. In a number of cases, the complaint and/or Order involved other property standards deficiencies. A longer period for compliance may be required in these instances, as elevator issues may be resolved, but additional time may be required to satisfy the other remedial work noted in the Order. Additionally, a file may be closed with a status other than with “no violation” due to continued non-compliance in relation to the other deficiencies noted in an Order, even if the elevator repairs have been completed. Furthermore, the status of “other” refers to files that may have been closed through compliance or cancellation.

<sup>8</sup> T.S.S.A. Elevator Availability Study. 2017.

<sup>9</sup> The Ontario Building Code does require a “firefighter” elevator when a building is classified as a “high-rise”.

compliance with minimum maintenance standards for safety is at an all-time low.<sup>10</sup> With that being said, the T.S.S.A. has acknowledged this particular issue and is working with elevator companies to make improvements to maintenance requirements and ensure consistency in the maintenance of elevating devices.

### 5.3 Relevant Provincial Legislation

#### 5.3.1 Bill 8

A number of attempts have recently been made at the provincial level to update legislative standards and regulations related to elevators. In 2017 and 2018 respectively, bills were introduced with the goal of creating governing standards for availability of elevating devices, including standards and timelines for their repair. A summary of recent legislative attempts can be found in **Table 4**.

**Table 4 Timeline of Legislative Amendment Attempts Related to Elevators**

Bill 109	Bill 199	Bill 8
<ul style="list-style-type: none"><li>• Introduced March 2017</li><li>• Proposed to amend the Building Code Act, 1992, S.O. 1992, c.23</li><li>• Standards for elevator capacity for new buildings of a certain height</li><li>• Maximum timelines for elevator repairs</li><li>• Has not received Royal Assent</li></ul>	<ul style="list-style-type: none"><li>• Introduced February 2018</li><li>• Proposed to amend the Technical Standards and Safety Act, 2000</li><li>• Allow for the creation of regulations governing standards of availability for elevating devices, including standards for and timelines of repairs</li><li>• Has not received Royal Assent</li></ul>	<ul style="list-style-type: none"><li>• Received Royal Assent May 2018</li><li>• Elevator standards not yet proclaimed in effect</li><li>• Proposed to amend the Technical Standards and Safety Act, 2000</li><li>• Allows for the creation of regulations governing standards of availability for elevating devices, including standards for and timelines of repairs</li></ul>

Neither Bill 109 nor Bill 199 received Royal Assent. Bill 8 received Royal Assent in May, 2018, although the sections contained in the Bill that relate to elevators have not yet been proclaimed into force. It is important to note that a new provincial government was elected in June 2018, resulting in a potential disruption while finalizing the legislation. It is recommended that the City re-iterate to the new provincial government the importance of the un-proclaimed sections of this Bill. Sections of Bill 8 that are related to elevating devices can be found in **Appendix 2**. If/when the remaining sections of Bill 8 are proclaimed, the Lieutenant Governor in Council will be able to make regulations governing elevating devices, including those related to repair.<sup>11</sup> According to the M.G.C.S., the

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<sup>10</sup> T.S.S.A. Elevator Availability Study. 2017

<sup>11</sup> Ontario Legislative Assembly. "Bill 8, Access to Consumer Credit Reports and Elevator Availability Act, 2018" Retrieved from <https://www.ola.org/en/legislative-business/bills/parliament-41/session-3/bill-8>

government is currently working with the T.S.S.A. and the Industry to assess the relevant issues and determine where improvements to policy can be made.

### 5.3.2 Residential Tenancies Act, 2006, S.O. 2006, c. 17 (“R.T.A.”)

The R.T.A. came into effect in 2007 with the goal of creating “a rental housing system that protects tenants, helps landlords and promotes investment in Ontario’s rental housing market”<sup>12</sup>. As part of the R.T.A., Ontario Regulations. 517/06 (“O.Reg. 517/06”) establishes maintenance standards for residential complexes where no municipal property standards by-law applies. The City of Oshawa has passed Property Standards By-law 1-2002, and as such O.Reg. 517/06 **does not apply**; however, it is of interest to note that the Regulation also contains an elevator-specific standard, as follows:

Section 43. Elevators intended for use by tenants shall be properly maintained and kept in operation **except for such reasonable time** as may be required to repair or replace them.

The R.T.A. sets out obligations that landlords and tenants have for the maintenance and repair of a rental property. If something no longer works due to normal wear and tear, or because it breaks or wears out, the landlord must repair it so that it works properly, or replace it. If a tenant has a maintenance problem, they should first advise the landlord in writing. If the landlord does not fix the problem within a reasonable time of being notified, the tenant can report the problem to the City; file an application with the Landlord and Tenant Board (L.T.B.), or do both of these things. When applying to the L.T.B., the tenant can request the L.T.B.<sup>13</sup>:

- Grant a rent abatement;
- Order the landlord to repair or place something, or do work by a certain date;
- Order the landlord to pay the tenant for any reasonable expenses the tenant paid to repair or replace something or damage caused to the tenant’s property, or out-of-pocket expenses of the tenant that resulted from the maintenance and repair problems;
- Stop the landlord from increasing the rent for the rental unit until the landlord fixes any serious maintenance problems;
- End the tenancy; or,
- Make another type of order.

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<sup>12</sup> Ministry of Municipal Affairs and Housing. “Residential Tenancies Act.” Retrieved from <http://www.mah.gov.on.ca/page137.aspx>

<sup>13</sup> Social Justice Tribunals Ontario. “Landlord and Tenant Board: Maintenance and Repairs Brochure” Retrieved from [http://www.sjto.gov.on.ca/documents/ltb/Brochures/Maintenance%20and%20Repairs%20\(EN\).html](http://www.sjto.gov.on.ca/documents/ltb/Brochures/Maintenance%20and%20Repairs%20(EN).html)



### 5.3.3 Building Code Act, 1992, S.O., c.23 (“B.C.A.”) and O. Reg. 332/12: Building Code (“O.B.C.”)

The O.B.C. is a regulation under the B.C.A. that establishes minimum standards for building construction, as well as technical and administrative requirements. The B.C.A. is also the enabling legislation for municipal property standards by-laws. Currently, no standard exists within the O.B.C. that regulates the number of elevators required in new buildings. Only when the building is classified as a “high-rise” building will the O.B.C. require a “firefighter” elevator with specific features. The O.B.C. is not retroactive and only applies to new construction. As such, it cannot be applied to existing, older, single-elevator buildings.

The B.C.A. prescribes standards in terms of the issuance, service and appeal of Property Standards Orders, along with remedial action (including carrying out remedial work and/or the laying of charges). The B.C.A. also enables the issuance of Emergency Orders, in circumstances where non-conformity with the standards poses “an immediate danger to the health or safety of any person” and this Order requires the “remedial repairs or other work to be carried out immediately to terminate the danger”. In this case there are situational standards which must be met:

- It must be an immediate danger
- It can apply to any person
- It must be such that the Officer **must** act immediately to remove the danger
- Emergency Orders must not be used in situations where a standard Property Standards Order under section 15.2 could reasonably have been used

Given the situational standards required by law to issue an Emergency Order, it would not be appropriate in most situations to consider its use in relation to a downed elevator.

### 5.4 Oshawa Property Standards By-law 1-2002

As noted, the B.C.A. permits municipalities to enact property standards by-laws that regulate the maintenance and repair of properties. The By-law was enacted in 2002 and regulates and governs the standards for the maintenance and occupancy of property within the City. Elevating devices are addressed multiple times within the By-law:

Section 3.1.1 An Owner shall maintain any services and facilities supplied in respect of a Property by that same Owner and shall maintain common areas intended for the use of Occupants. Such services and facilities may include, but are not limited to:

(c) elevator facilities and equipment

Section 5.8.1 Common areas in Apartment Buildings, including laundry rooms, recreation rooms, storage rooms, hallways, elevator cages and other shared facilities shall be maintained in good Repair and kept clean and free from health, fire and accident hazards.

Section 7.6.1 Elevators (where provided) and all its parts and components (including lighting fixtures, lamps, elevator buttons, floor indicators and ventilation fans) shall be maintained in good Repair.

The By-law permits Municipal Law Enforcement Officers (M.L.E.O.) to issue Orders requiring the repair/maintenance of elevating devices; however, the By-law does not address the provision of alternative/barrier-free access with respect to non-functioning elevators, nor does the By-law provide time requirements specifically for elevator repairs/replacement. The By-law is not able to be amended in a manner that achieves the function of these noted items, as the scope of the By-law is limited to minimum maintenance standards and there are legislated process and service requirements (i.e. minimum number of days until Order is deemed to be served).

The B.C.A. provides a legislated ability for owners to appeal all Orders issued under a property standards by-law (excluding an Emergency Order), and with this ability comes a period of fourteen (14) days to file the appeal. As such, a minimum of fourteen (14) days is a standard length of time prescribed for compliance.

Furthermore, M.L.E.O. are not qualified to inspect the mechanical components of elevators. Instead, an Officer may require the owner to obtain an inspection from a qualified elevator technician, likely the T.S.S.A, through the use of a 15.8 Order. Following this, a 15.2 Order may be issued requiring repairs to be conducted, if necessary. It is important to note that this process is likely required and extends the length of time for the investigation. It does not expedite the process of making the elevator operable and accessible to residents.

## **5.5 Possible Action by Property Owners**

Given that elevator outages can be inconvenient and impair a resident's daily life, it is recommended that owners take steps to help mitigate the effects. Some best practices that have been developed by City staff in consultation with an industry leader in elevator maintenance are listed below. These best practices are intended to deal with issues of maintenance and non-functioning elevators. This list is not exhaustive, but is intended to provide some suggestions for building owners to consider when facing out-of-service elevators.

Owners of buildings with one or more elevators should:

- Understand that maintenance and communication are critical concerns of significant importance
  - Maintaining elevators lessens the risk of going out-of-service
    - Owners need to ensure they are continually checking maintenance log books to confirm maintenance is regularly occurring—preventative maintenance is important
  - Communicating to residents in advance when outages are planned helps tenants make alternative arrangements, if necessary
  - Communicating with residents during an outage is important, especially during an unplanned outage

- This helps to inform residents of the issue, timelines for repair, and lessen concerns
- Attempting to schedule regular maintenance and/or repairs outside of busy hours, when possible, may reduce impact on residents
- Understand that elevator consultants are available for hire that can help streamline the repair/replacement process

When all elevators are out-of-service, owners may consider the following:

- Hiring porters to assist tenants with access
- Renting or installing stair lifting devices to assist individuals with health and mobility issues
- In extreme circumstances, arranging for alternative accommodation for individuals with ongoing medical and/or mobility issues (i.e. move someone to a ground floor unit)
- Regularly monitoring elderly tenants or tenants with health and mobility issues to ensure assistance can be provided as needed

## **5.6 Recommendations and Special By-law**

While the standards that regulate elevating devices are provincially mandated it is staff's observation that elevating device failures, inadequate repairs, part shortages, and inadequate maintenance would be aided by stricter province-wide standards such as:

- Minimum repair time frames and response times
- Annual maintenance requirements
- Requirements to replace elevators that are deemed obsolete
- Requiring alternate mechanical elevating devices where only one device exists
- Changing the O.B.C. to require all single elevator buildings to provide an alternative mechanical means of access above the ground floor or requiring these buildings to have two elevators

Given the existing regulatory options available to M.L.E.O. and the possible responses by property owners noted earlier, staff do not recommend the creation of a special by-law to address the private matter of situations in rental properties when elevators are non-functioning. There are a number of existing tools available to both tenants and landlords during periods of service disruption. A special by-law is unlikely to achieve expedited results compared to existing tools, such as Property Standards By-law enforcement, T.S.S.A. investigations, and L.T.B. applications, and would not achieve the desired compliance. In the case of malfunctioning and out-of-service elevators, it is difficult, if not impossible, to expedite repairs beyond that of the existing tools. Additionally, delays in elevator repairs are often related to identification of the problem and the availability of repair parts. Creating a specific by-law or utilizing existing tools are not able expedite these processes. Instead, M.L.E.O. will continue to address minimum standards with regard to elevating devices, including through proactive building audits and responding to resident complaints.

In 2017, M.L.E.O., in collaboration with Fire Services, began conducting a number of audits of apartment buildings across the City. These audits focus on Property Standards and Fire Code violations. If deficiencies are found that violate municipal standards, including non-functioning elevating devices, they are addressed proactively at this time. To date, no apparent elevator deficiencies have been included in a Property Standards Order related to an apartment building audit.

Additionally, staff will be investigating the addition of Administrative Monetary Penalties to the By-law during 2019. This may provide an additional penalty tool for M.L.E.O. against property owners who fail to comply with the minimum repair and maintenance standards set out in the by-law.

It is recommended that Council approve the recommendations noted in Report CORP-19-22, including those related to Bill 8 and the T.S.S.A. Downed elevators are an issue that affect residents in municipalities across Ontario, and it is important that there is a consistent province-wide approach to directly address the underlying issues behind malfunctioning and failing elevating devices. Given the T.S.S.A.'s current role in the inspection and approval of elevating devices, they are best equipped to continue being the primary group involved with these devices and related issues.

## **6.0 Financial Implications**

There are no financial implications directly related to the recommendations in this report.

## **7.0 Relationship to the Oshawa Strategic Plan**

- 4.2 Accountable Leadership – Develop and Leverage Relationships



Jerry Conlin, Director,  
Municipal Law Enforcement and Licensing Services



Tracy Adams, Commissioner,  
Corporate Services Department

Attachments



## Public Report

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To: Development Services Committee

From: Paul D. Ralph, BES, RPP, MCIP, Commissioner,  
Development Services

Report Number: DS-15-176

Date of Report: September 30, 2015

Date of Meeting: October 5, 2015

Subject: Non-Functioning Elevators in Single Elevator Apartment  
Buildings for Lengthy Periods of Time

File: B-1300-0024

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### 1.0 Purpose

The purpose of this report is to respond to Council's June 12, 2015 direction to investigate the issue of non-functioning elevators for lengthy periods in apartment buildings. Staff were directed to:

- Assess current and past Building Code Standards;
- Consult with the Ministry of Municipal Affairs and Housing (M.M.A.H.) to determine whether they have any suggestions or past studies that may assist;
- Consult with the Technical Standards and Safety Authority (T.S.S.A) to obtain ideas and suggestions;
- Consult with industry leading elevator companies to obtain practical ideas and general input regarding this matter;
- Assess and comment upon emergency access and egress from buildings with non-functioning elevators; and
- Assess possible standards that may exist in other locations (within and outside Canada) which provide for an alternate mechanical means of egress.

A copy of the June 12, 2015 Council direction forms Attachment 1 to this report.

## **2.0 Recommendation**

That the Development Services Committee recommend to City Council:

1. That pursuant to Report DS-15-176 dated September 30, 2015, the Provincial Government be requested to amend the Technical Standards and Safety Act, 2000, as necessary, to:
  - (a) Authorize the Technical Standards and Safety Authority inspectors to impose timelines to complete repairs/replacements to elevators in apartment buildings/retirement homes whether subject to a Technical Standards and Safety Authority order or not and to impose appropriate penalties if there is a non-compliance; and
  - (b) Authorize the Technical Standards and Safety Authority inspectors to impose conditions requiring the owner to provide an alternate mechanical means of access above the ground floor when a repair to the single elevator in an apartment building/retirement home is being undertaken whether such repair is by an order of the Technical Standards and Safety Authority or not and to impose penalties if there is a non-compliance.
2. That pursuant to Report DS-15-176 dated September 30, 2015, the Provincial Government be requested to amend the Ontario Building Code to require new single elevator apartment buildings/retirement homes to provide an alternate mechanical means of access above the ground floor or consider requiring large multi-level apartment buildings/retirement homes to have two elevators as appropriate and to consult with the building and development industry during the process.
3. That a copy of Report DS-15-176 and the related Council resolution be sent to:
  - Durham Region Members of Parliament and Members of Provincial Parliament
  - Federation of Canadian Municipalities
  - Association of Municipalities of Ontario
  - Local Health Integration Network
  - Oshawa's Accessibility Advisory Committee
  - Durham Regional Accessibility Advisory Committee
  - Large Urban Mayor's Caucus of Ontario
  - Technical Standards and Safety Authority
  - Advocacy Centre for the Elderly
  - Federal/Provincial/Territorial Ministers for Seniors
  - United Senior Citizens of Ontario
  - Oshawa Senior Citizens Centres
  - Ministry of Municipal Affairs and Housing
  - The City's Building Industry Liaison Team including Durham Region Homebuilder's Association and B.I.L.D.
  - Ontario Building Officials Association

### **3.0 Executive Summary**

There are many multi-level apartment buildings in Oshawa containing only one elevator. Many of the tenants living in these apartment buildings are senior citizens or people with health and mobility issues that require a mechanical means to access floor levels above the ground floor.

It has recently been observed that some single elevator apartment building owners are repairing or replacing elevators, causing them to be unavailable to tenants for lengthy periods of time. The delay associated with repairs and replacements has had the unfortunate circumstance of confining some tenants with health and mobility issues to their apartments.

On June 12, 2015 Council requested staff to review this issue and report back to the Development Services Committee.

The review in this report focused on:

- Assessing Ontario Building Code standards;
- Consulting with external agencies and elevator companies to obtain practical ideas, suggestions, and general input regarding this matter;
- Assessing and commenting upon emergency access and egress from buildings with non-functioning elevators; and
- Assessing possible standards that may exist in other locations which provide for an alternate mechanical means of egress when an elevator is being repaired or replaced.

This matter is a fundamental accessibility issue related to the quality of life of tenants and their ability to get in and out of their homes for daily activities.

The Provincial Government should be requested to take a leadership role to address this issue, which affects many Ontario residents. This report recommends that the Provincial Government make certain changes to Provincial legislation to address this important issue.

### **4.0 Input From Other Sources**

#### **4.1 Ministry of Municipal Affairs and Housing**

The Ministry of Municipal Affairs and Housing has advised that it is aware of the barrier-free access requirements set out in the Ontario Building Code for new construction. However, the Ministry was unable to provide any information on the issue of non-functioning elevators as a result of lengthy repairs or maintenance in existing apartment buildings.

#### **4.2 Technical Standards and Safety Authority**

The T.S.S.A. has advised that it has no authority to require elevator maintenance or repairs to be completed in accordance with any timeframe.

#### **4.3 ThyssenKrupp Northern Elevator Corporation**

ThyssenKrupp Northern Elevator Corporation (ThyssenKrupp) is a world leading manufacturing, installer and service provider of elevators. ThyssenKrupp provided the following comments and suggestions with regards to non-functioning elevators and lengthy elevator repairs and maintenance:

- Property owners should ensure that regular maintenance and repairs are planned in advance;
- Property owners should consider performing maintenance after hours to reduce the impact on tenants and increase elevator availability;
- Property owners could encourage overtime for contractors to reduce elevator downtime;
- Property owners have the potential to rent stair climbing devices or use stair chairs that can be used by individuals with health and mobility issues to help them get up and down the stairs; and
- Property owners could consider installation of a second elevator system in single elevator apartment buildings, where feasible.

#### **4.4 Fire Services**

Fire Services has advised that its jurisdiction is limited to elevators for use by fire fighters and requires elevators to have an emergency power supply facilitating access to all floors in high buildings. Elevators are not used during a fire.

Fire Services further commented that the Fire Protection and Prevention Act does not legislate elevators that are out of service for repairs.

#### **4.5 Other Sources**

The following have also been consulted in the preparation of this report:

- Legal Services
- Municipal Law Enforcement and Licensing Services
- City of Toronto's Municipal Licensing and Standards Division
- City of London

### **5.0 Analysis**

#### **5.1 Background**

The number of people with mobility issues is growing, which has resulted in an increased reliance on elevators in apartment buildings. Elevators give seniors or people with health and mobility issues the ability to live in their apartments longer and help to make apartment buildings accessible to all.



Recently there have been a number of complaints from tenants living in multi-level apartment buildings in Oshawa. The complaints focus on:

- Elevators that are inoperable for extended periods due to regular maintenance, inspections and repairs;
- Elevators that have broken down and are awaiting parts for repairs; and
- Elevators that are inoperable as a result of an order by the T.S.S.A. for repairs or upgrades.

This results in seniors and people with health and mobility issues being contained to their apartments.

Some property owners are not providing an alternate mechanical means of access above the ground floor during the repairs or maintenance. This can jeopardize the health, safety and quality of life of tenants with health and mobility issues.

This issue has led to tenants seeking help from the City and/or Province.

On June 12, 2015 City Council requested staff to review this issue and report back to the Development Services Committee on the findings.

## **5.2 Relevant Provincial and City of Oshawa Legislation**

### **5.2.1 Ontario Building Code**

The Ontario Building Code (Building Code) is a regulation of the Building Code Act, 1992 and governs the construction, renovation, change of use and demolition of buildings in Ontario. It provides specific powers for inspectors and rules for the inspection of buildings, and gives municipalities the authority to establish property standard by-laws.

On January 1, 2015, the Building Code was amended to enhance barrier-free requirements for buildings to support accessibility.

The Building Code requires at least one firefighter elevator in buildings that are 16 metres (approximately six storeys) or higher. However, the Building Code does not require buildings to have more than one elevator, and it does not address issues such as the length of time required to undertake the repair and maintenance.

The Building Code is not retroactive which means that amending the Building Code to require buildings to have a minimum of two elevators or an alternative mechanical means of access would not resolve the issues faced by existing single elevator apartment buildings.

The Building Code also does not offer any guidance or provide standards that would compel property owners to provide a minimum of two elevators or an alternative mechanical means of access in a newly constructed single elevator apartment building.

This report recommends requesting the Provincial Government to amend the Ontario Building Code to require new apartment buildings to provide an alternate mechanical means of access above the ground floor where there is a single elevator or a second elevator, as appropriate.

### **5.2.2 Technical Standards and Safety Authority**

The T.S.S.A. administers and enforces technical standards for elevating devices in Ontario, including elevators and lifts for persons with physical disabilities, to ensure that all elevating devices conform to the Technical Standards and Safety Act, 2000 and applicable regulations.

In addition, the T.S.S.A. reviews and registers elevating devices, issues licences, conducts inspections and performs incident investigations.

The T.S.S.A. does not regulate the length of time that an elevator is shut down for repairs or maintenance. Through consultation, the T.S.S.A. indicated that it has no authority over the timing of repair for a non-functioning elevator, as long as the owner and elevator company are working at restoring elevator service.

In the past few years, the T.S.S.A. has ordered the replacement of many elevators in single elevator apartment buildings. However, the T.S.S.A. has not mandated a time limit for the completion of the work.

This report recommends requesting the Provincial Government to amend the Technical Standards and Safety Act to:

- Authorize the Technical Standards and Safety Authority inspectors to impose timelines to complete repairs/replacements to elevators in apartment buildings/retirement homes whether subject to a Technical Standards and Safety Authority order or not and to impose appropriate penalties if there is a non-compliance; and
- Authorize the Technical Standards and Safety Authority inspectors to impose conditions requiring the owner to provide an alternate mechanical means of access above the ground floor when a repair to the single elevator in an apartment building/retirement home is being undertaken whether such repair is by an order of the Technical Standards and Safety Authority or not and to impose penalties if there is a non-compliance.

### **5.2.3 Residential Tenancies Act**

The Residential Tenancies Act, 2006 (R.T.A.) was established to create a rental housing system that protects tenants, helps landlords and promotes investment in Ontario's rental housing market.

The R.T.A. provides information on "services and facilities" which includes elevator facilities. Section 20(1) of the R.T.A. states that: "A landlord is responsible for providing and maintaining a residential complex, including the rental units in it, in a good state of

repair and fit for habitation and for complying with health, safety, housing and maintenance standards.”

If a tenant is concerned with a deficient or out-of-service elevator, they have the ability to file an application with the Landlord and Tenant Board. The Landlord and Tenant Board (the Board) resolves disputes between landlords and tenants and provides information to landlords and tenants about their rights and responsibilities under the R.T.A.

There are cases where tenants have submitted complaints about non-functioning elevators and lengthy repairs or maintenance to the Board. The Board has, in certain cases, ruled in favour of the tenants and the tenants were entitled to a general abatement of rent depending on the location of their rental unit in the building.

There is additional regulation under the R.T.A through Maintenance Standards, Ontario Regulation 517/06, which sets out the standards for elevators as follows:

43. Elevators intended for use by tenants shall be properly maintained and kept in operation except for such reasonable time as may be required to repair or replace them.

It is important to note that this regulation does not specify what is meant by “reasonable time”.

Most would consider it unacceptable to require tenants such as seniors and those with health and mobility issues to take the matter of non-functioning elevators to the Landlord and Tenant Board due to the actions or inactions of a landlord. This issue is not unique to Oshawa and the Province should be asked to take a leadership role in resolving these issues by giving more powers to T.S.S.A. inspectors.

#### **5.2.4 Oshawa Property Standards By-law**

The Building Code allows municipal councils to pass property standard by-laws. The City of Oshawa enacted a Property Standards By-law, By-law 1-2002 (the “By-law”) in 2002 which prescribes standards for the maintenance and occupancy of properties in Oshawa. The By-law requires that owners maintain common areas of buildings as follows:

Section 3.1.1 An owner shall maintain any services and facilities supplied in respect of a Property by that same owner and shall maintain common areas intended for the use of occupants. Such services and facilities may include, but are not limited to:

(c) elevator facilities and equipment

Section 5.8.1 Common areas in Apartment Buildings, including laundry rooms, recreation rooms, storage rooms, hallways, elevator cages and other shared facilities shall be maintained in good Repair and kept clean and free from health, fire and accident hazards.

Section 7.6.1 Elevators (where provided) and all its parts and components (including lighting fixtures, lamps, elevator buttons, floor indicators and ventilation fans) shall be maintained in good Repair.

However, the By-law does not provide any information with respect to providing alternate and/or barrier-free access requirements when faced with non-functioning elevators. The By-law also does not cite any time requirements for elevator repairs, maintenance or replacements. Under the Building Code a Property Standards Order may be appealed and if due diligence is demonstrated by the owner, the Property Standards Committee would most likely support the appeal and extend the time frame for compliance.

MLELS staff advise that the City does not have qualified staff to inspect the mechanical components of an elevator and as such orders would require that the owner schedule an inspection with the T.S.S.A. and that a report and action plan to make the elevator operable and safe be provided to the City forthwith. This clearly does not speed up the process to make the elevator operable but it is a tool which puts the onus on an owner to take immediate action.

MLELS staff are presently conducting a comprehensive review the City's Property Standards By-law. As part of that review staff will determine if amendments to the By-law can be made to address this issue. This report will be reported through the Corporate Services Committee.

### **5.3 Municipal Scan**

#### **5.3.1 City of Toronto**

The City of Toronto, like many other municipalities, is facing similar challenges where many tenants have recently been affected by frequent, lengthy and multiple elevator outages in buildings with only one elevator. In June 2014 Toronto City Council voted to direct staff to look into the feasibility of establishing service standards for elevator repairs in buildings and housing that service vulnerable people or people with disabilities, as part of an ongoing review of Toronto's property standards. Toronto staff are currently undergoing their review and will be reporting back to Council in early 2016.

#### **5.3.2 City of London**

The City of London's Property Standards By-law includes wording to ensure that elevators will be repaired as expeditiously as possible, whereas most municipalities do not include any wording regarding timing of elevator repairs or maintenance. Specifically, Section 5.1.1 of London's Property Standards By-law states that:

"Elevating devices shall be maintained:

- a) In accordance with the requirements of the Elevating Devices Act, R.S.O. 1990, Chapter E.8 and the Fire Code;
- b) With all parts and appendages, including lighting fixtures, lamps, elevator bottoms, floor indicators and ventilation fans in good repair and operational; and

- c) Repaired as expeditiously as possible.”

It should be noted that the Elevating Devices Act referred to in the City of London Property Standards By-law has been subsequently repealed and replaced with the Technical Standards and Safety Act.

#### **5.4 Possible Remedial Actions by Property Owners in Oshawa**

There are several actions that property owners can take to assist tenants when an elevator is out of service for repair or maintenance. The following is a list of Best Practices developed by City staff in consultation with an industry leader in elevator maintenance. The Best Practices are intended to deal with maintenance standards and non-functioning elevators and lengthy repairs.

Owners of buildings with a single elevator should:

- Schedule regular maintenance and/or repairs outside of busy hours, when possible, to reduce impact to the tenants;
- Give residents advance warning for all planned elevator repair and maintenance, and keep residents up-to-date through constant communication (e.g. Facebook, Twitter, email).

In the event of elevator service disruptions, owners with a single elevator may consider the following:

- Hire porters, doormen and/or students to assist tenants with access in and out of the building, carrying groceries and laundry, obtaining mail, etc. and let the tenants know when extra staff will be available to help carry items up and down the stairs;
- Rent stair climbing devices that can be used by individuals with health and mobility issues;
- Consider the installation of a second elevator, if feasible;
- Arrange to have the elevator in supervised service for a short period in the morning and in the afternoon to give tenants a brief opportunity to leave and return to the building subject to T.S.S.A. approval;
- In extreme circumstances, arrange for alternative accommodation for individuals with ongoing medical and/or mobility issues (i.e. move someone to the ground floor);
- Install a second railing in the stairwell so residents who have difficulty walking can hold onto both sides for support;
- Check in with and monitor elderly tenants or tenants with health and mobility issues on a regular daily basis and consider providing them with temporary cell phones should they get stuck in the stairwell or need assistance getting out of their apartment; and

**Meeting Date: October 5, 2015**

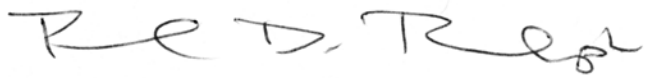
These actions should be considered by property owners of apartment buildings with single elevators.

## **6.0 Financial Implications**

There are no financial implications associated with the Recommendations in this report.

## **7.0 Relationship to the Oshawa Strategic Plan**

The Recommendations advance the Social Equity and Accountable Leadership goals of the Oshawa Strategic Plan.

A handwritten signature in black ink, appearing to read "P. D. Ralph".

Paul D. Ralph, BES, RPP, MCIP, Commissioner,  
Development Services

**Excerpts from the Oshawa City Council Meeting held on June 12, 2015**

Moved by Councillor Neal, seconded by Councillor Sanders,

(323) "That the rules of procedure be waived to introduce a motion concerning elevators in residential rental apartment buildings." Carried on a 2/3 vote of members present

Moved by Councillor Neal, seconded by Councillor Kerr,

(324) "Whereas many of Oshawa's rental residents live in multi-level apartment buildings, up to five floors in height, containing only one elevator; and,

Whereas many of the tenants living in such apartment buildings are senior citizens or people with health and mobility issues that require a mechanical means to access floor levels above the ground floor; and,

Whereas it recently has become apparent that many single elevator apartment building owners are repairing or replacing elevators, thus causing them to be unavailable to tenants for lengthy periods of time; and,

Whereas most apartment building owners are not providing an alternate mechanical means of access above the ground floor during the repairs; and,

Whereas tenants are seeking help from the City or Province because they are becoming confined to their apartment; and,

Whereas the City and Province seem to have no authority or tools to require building owners to provide alternate mechanical elevating devices during lengthy repairs or replacements; and,

Whereas the health and safety of some of the most needy people in the community is being jeopardized when elevators are being made inoperable;

Be it resolved that staff in Building Services, Municipal Law Enforcement and Licensing Services and Fire Services be directed to investigate this matter as follows:

- Assess current and past Building Code Standards
- Consult with the Ministry of Municipal Affairs and Housing to determine whether they have any suggestions or past studies that may assist
- Consult with the Technical Standards & Safety Authority to obtain ideas and suggestions
- Consult with industry leading elevator companies to obtain practical ideas and general input regarding this matter
- Assess and comment upon emergency access and egress from buildings with non-functioning elevators
- Assess possible standards that may exist in other locations (within and outside Canada) which provide for an alternate mechanical means of egress; and,

That staff report back to the Development Services Committee with their findings; and upon adoption of staff's findings, the following entities be so advised:

- Durham Region Members of Parliament and Members of Provincial Parliament
- Federation of Canadian Municipalities
- Association of Municipalities of Ontario
- Local Health Integration Network
- Oshawa Accessibility Advisory Committee
- Durham Regional Accessibility Advisory Committee
- Large Urban Mayor's Caucus of Ontario
- Technical Standards & Safety Authority
- Advocacy Centre for the Elderly
- Federal/Provincial/Territorial Ministers for Seniors
- United Senior Citizens of Ontario
- Oshawa Senior Citizens Centres
- Ministry of Municipal Affairs and Housing." Carried



Legislative  
Assembly  
of Ontario



Assemblée  
législative  
de l'Ontario

3RD SESSION, 41ST LEGISLATURE, ONTARIO  
67 ELIZABETH II, 2018

## Bill 8

*(Chapter 7 of the Statutes of Ontario, 2018)*

### **An Act to amend the Consumer Reporting Act and the Technical Standards and Safety Act, 2000**

**The Hon. T. MacCharles**  
Minister of Government and Consumer Services

1st Reading	March 20, 2018
2nd Reading	April 23, 2018
3rd Reading	May 2, 2018
Royal Assent	May 7, 2018



## EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 8 and does not form part of the law.*

*Bill 8 has been enacted as Chapter 7 of the Statutes of Ontario, 2018.*

The Bill amends the *Consumer Reporting Act* and the *Technical Standards and Safety Act, 2000*.

### ***Consumer Reporting Act***

Section 12 is remade to give consumers a right to obtain disclosure of consumer scores and to provide for the rules respecting such disclosures. The remade section 12 also modifies the existing rules respecting disclosures of consumer reports. A new section 12.0.1 sets out the requirements respecting which method of generating a consumer score a consumer reporting agency is required to use.

The Act is amended to provide for security freezes on consumers' files. New section 12.4 provides the requirements respecting security freezes and new section 12.5 provides the information consumer reporting agencies are required to publish respecting security freezes and security alerts.

Amendments are made to expand the information the Registrar may require a consumer reporting agency to obtain and provide to the Registrar. The amendments also provide the Registrar with the authority to order an agency to amend or delete certain credit and personal information or prohibit or limit the use of credit and personal information. A new section 16.1 provides for inquiries by the Registrar.

### ***Technical Standards and Safety Act, 2000***

An assessor appointed by the Corporation is allowed to impose an administrative penalty on a person if the assessor is satisfied that the person has contravened or is contravening a prescribed provision of the Act or the regulations, a restriction, limitation or condition of a prescribed authorization or a prescribed Minister's order or a prescribed director's order. The prescribing regulation is made by the Lieutenant Governor in Council. The person against whom an order imposing an administrative penalty is made can appeal the order to the person prescribed by a regulation made by the Minister or to the Licence Appeal Tribunal if the Minister has not prescribed a person for that purpose.

The Lieutenant Governor in Council may make regulations governing standards of availability for elevating devices or classes of them, including standards for their repair and time requirements for their repair, governing the reporting of outages as related to elevating devices or classes of them and requiring a director to establish one or more publicly accessible databases of information with respect to elevating devices or classes of them.

**An Act to amend the Consumer Reporting Act and the Technical Standards and Safety Act, 2000**

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**CONSUMER REPORTING ACT**

**1 The French version of the *Consumer Reporting Act* is amended by striking out “Commission” wherever it appears in the following provisions and substituting in each case “Tribunal”:**

1. Subsection 4 (3).
2. Subsections 6 (2), (3) and (6).
3. Clause 6 (8) (b).
4. Subsection 14 (4).
5. Clause 25 (e).

**2 Subsection 1 (1) of the Act is amended by adding the following definitions:**

“consumer score” means a consumer score as defined in the regulations, or if consumer score is not defined in the regulations, a score, grade or value assigned to a consumer that is generated from information about the consumer maintained by a consumer reporting agency; (“pointage du consommateur”)

“prescribed” means prescribed by the regulations made under this Act; (“prescrit”)

**3 The French version of subsections 6 (4) and (5) of the Act is repealed and the following substituted:**

**Pouvoirs du Tribunal**

(4) Si l’auteur de la demande ou l’inscrit demande une audience devant le Tribunal conformément au paragraphe (2), le Tribunal fixe la date et l’heure de l’audience, et la tient. À la demande du registrateur à l’audience, le Tribunal peut enjoindre à celui-ci, par ordonnance, de mettre à exécution son intention ou de s’en abstenir, ou de prendre les mesures qu’il estime opportunes aux termes de la présente loi et des règlements. À cette fin, il peut substituer son opinion à celle du registrateur.

**Conditions de l’ordonnance**

(5) Le Tribunal peut assortir son ordonnance ou l’inscription des conditions qu’il considère opportunes pour l’application de la présente loi.

**4 Clause 9 (3) (m) of the Act is repealed and the following substituted:**

(m) any other information that may be prescribed.

**5 Section 12 of the Act is repealed and the following substituted: Right of consumer to request disclosure**

**12 (1) A consumer may, in writing, request a consumer reporting agency to provide,**

- (a) the consumer’s consumer report; or
- (b) the consumer’s current consumer score and consumer report.

## **Electronic requests**

(2) A consumer may make a request under subsection (1) electronically.

### **Content of disclosure under cl. (1) (a)**

(3) If a consumer makes a request under clause (1) (a), the consumer reporting agency shall, in accordance with this section, section 12.0.1 and any prescribed requirements, disclose to the consumer the following information:

1. The nature and substance of all information in the consumer reporting agency's files pertaining to the consumer at the time of the request.
2. The sources of credit information.
3. The name and contact information, including the address and the telephone number or email address, of every person on whose behalf the file has been accessed within the three-year period preceding the request.
4. If the agency furnished a consumer report pertaining to the consumer within the one-year period preceding the request,
  - i. the names and contact information, including the address and the telephone number or email address, of the recipients of that report, and
  - ii. a copy of the consumer report if it was furnished in writing or the particulars of the content of the report if it was furnished orally.
5. If the agency generated and furnished a consumer score, furnished a consumer score generated by another entity or furnished any other information evaluating the credit or personal information of the consumer within the one-year period preceding the request,
  - i. the names and contact information, including the address and the telephone number or email address, of the recipients of that score or information, and
  - ii. the score and the particulars of any other information evaluating the credit or personal information of the consumer.
6. Any other information relating to the consumer score that may be prescribed.

### **Content of disclosure under cl. (1) (b)**

(4) If a consumer makes a request under clause (1) (b), the consumer reporting agency shall, in accordance with this section, section 12.0.1 and any prescribed requirements, generate the consumer's current consumer score and disclose the following information to the consumer:

1. The consumer score.
2. The date on which the consumer score was generated.
3. The range of possible consumer scores under the method used.
4. The primary factors used by the agency in generating consumer scores under the method used.
5. The information listed in subsection (3).
6. Any other information that may be prescribed.

## **Disclosure of right to dispute**

(5) When a consumer reporting agency discloses information under this section, the agency shall inform the consumer of his or her right to dispute any information contained in the file under section 13 and the manner in which a dispute may be made.

## **Request for disclosure**

- (6) When making a request for disclosure under this section, a consumer shall,
- (a) provide the consumer reporting agency with a copy of any prescribed identification and a copy of any other identification the agency may reasonably require to verify the consumer's identity;
  - (b) indicate to the consumer reporting agency by which of the methods referred to in subsection (7) the consumer chooses to receive the disclosure; and
  - (c) provide the consumer reporting agency with any other prescribed information.

## **Method of disclosure**

(7) A consumer reporting agency shall disclose information in whichever of the following methods the consumer chooses in the consumer's request:

1. In person, if the consumer attends personally at the agency's premises during normal business hours for that purpose.
2. By telephone.
3. By mail.
4. Electronically.
5. By a prescribed method of disclosure.

## **Timing of disclosure**

(8) The consumer reporting agency shall make disclosures required under this section in accordance with the following rules respecting timing:

1. If a consumer chooses to receive the disclosure in person, by telephone or by mail, the consumer reporting agency shall have the information available or mail the information, as applicable,
  - i. on or before the prescribed deadline, or
  - ii. if no deadline is prescribed, within a reasonable time in the circumstances after the consumer provides everything required under subsection (6).
2. If a consumer chooses to receive the disclosure electronically, the consumer reporting agency shall send the electronic copy,
  - i. on or before the prescribed deadline, or
  - ii. if no deadline is prescribed, on or before the day that is two business days after the consumer provides everything required under subsection (6).
3. If the consumer chooses to receive the disclosure by a prescribed method the consumer reporting agency shall provide the disclosure on or before the prescribed deadline.

## **Plain language**

(9) A disclosure made under this section must be in understandable language and if it is made in writing it must be easily readable.

## **Consumer's adviser**

(10) A consumer who chooses to receive a disclosure in person shall be permitted to be accompanied by one other person of his or her choosing to whom the consumer reporting agency may be required by the consumer to disclose the consumer's information.

## **Trained personnel**

(11) Every consumer reporting agency shall provide trained personnel to explain to the consumer any information disclosed to him or her under this section.

## **Explanation of consumer score**

(12) If a consumer who received a disclosure under subsection (4) makes a request in accordance with any prescribed requirements to the consumer reporting agency that made the disclosure, the agency shall explain to the consumer how the consumer's credit or personal information has affected the consumer's consumer score.

## **Fees**

(13) A consumer reporting agency shall not charge a fee for making a disclosure under this section unless the agency is permitted to do so by the regulations.

## **Same, exception for electronic disclosure**

(14) Despite subsection (13), if the consumer requests the electronic disclosure of a consumer report or a consumer score and consumer report and the consumer reporting agency has already made an electronic disclosure to the consumer two or more times during the calendar year in which the request is made, the agency may charge a fee for the disclosure, subject to any prescribed limitations.

## **Same, exception for disclosure under cl. (1) (b)**

(15) Despite subsection (13), if the consumer requests the disclosure, by any method, of a consumer score and consumer report under clause (1) (b) and the consumer reporting agency has already made a disclosure by any method under subsection

(4) to the consumer two or more times during the calendar year in which the request is made, the agency may charge a fee for the disclosure, subject to any prescribed limitations.

## **No conditions**

(16) A consumer reporting agency shall not require a consumer to give any undertaking or waive or release any right as a condition of receiving a disclosure under this section.

## **Exception for certain medical information**

(17) A consumer reporting agency shall withhold from the disclosures required under this section any medical information obtained with the written consent of the consumer which the consumer's own physician has specifically requested in writing be withheld from the consumer in his or her own best interest.

## **Consumer scores**

**12.0.1** (1) Subject to subsection (2), when generating a consumer score, a prescribed consumer reporting agency shall use the method that is most commonly used by the agency to generate scores.

## **Prescribed method of generating consumer score**

(2) If the regulations prescribe a method of generating a consumer score to be used for a prescribed purpose or in a prescribed circumstance, the consumer reporting agency shall use that method when generating a consumer score for the purpose or in the circumstances, as the case may be.

## **Previous requests not a factor**

(3) The consumer reporting agency shall ensure that the fact that a consumer has made a request for disclosure under section 12, or exercised any other right under this Act, is not used in the generation of a consumer score with respect to that consumer.

## **Publication of information about consumer scores**

(4) The consumer reporting agency shall, in accordance with any prescribed requirements, publish any prescribed information about consumer scores on a website maintained by the agency.

## **6 The Act is amended by adding the following sections: Security freeze**

**12.4** (1) A prescribed consumer reporting agency shall place a security freeze on the file of a consumer on or before the prescribed deadline if,

- (a) the consumer has, in accordance with this section and any prescribed requirements, required the agency to place a security freeze on the file; and
- (b) the consumer has complied with subsection (9) and any prescribed requirements.

## **Effect of security freeze**

(2) During the period that a security freeze on a consumer's file is in effect, the consumer reporting agency shall not disclose any credit or personal information about the consumer maintained by the agency, including any consumer scores, to any person.

## **Suspending a security freeze**

(3) The consumer reporting agency shall suspend a security freeze on or before the prescribed deadline if,

- (a) the consumer whose file is subject to the security freeze requires the suspension in accordance with this section and any prescribed requirements; and
- (b) the consumer has complied with subsection (9) and any prescribed requirements, including any requirements respecting the duration of a suspension.

## **Same, duration**

(4) If the consumer reporting agency is required to suspend a security freeze under subsection (3), the suspension shall be for the duration specified by the consumer.

## **Same, effect**

(5) A security freeze that is suspended is not in effect.

## **Terminating a security freeze**

- (6) The consumer reporting agency shall terminate a security freeze on or before the prescribed deadline if,
- (a) the consumer whose file is subject to the security freeze requires the termination in accordance with this section and any prescribed requirements; and
  - (b) the consumer has complied with subsection (9) and any prescribed requirements.

## **Expiry**

- (7) Unless terminated earlier, a security freeze expires at the end of the prescribed period, if any.

## **Disclosure despite a security freeze**

- (8) Despite subsection (2), the consumer reporting agency may, in accordance with any prescribed requirements, disclose to prescribed persons and entities such information as may be maintained by the agency about a consumer, if the information is prescribed.

## **Identification**

- (9) A consumer who requires a consumer reporting agency to place, suspend or terminate a security freeze shall provide the agency with a copy of any prescribed identification and a copy of any other identification the agency may reasonably require to verify the consumer's identity.

## **Fees**

- (10) A consumer reporting agency shall not charge the consumer a fee for placing, suspending or terminating a security freeze unless the agency is permitted to do so by regulations.

## **Information**

- (11) When a consumer requires that a security freeze be placed on his or her file, the consumer reporting agency shall provide the consumer with the information referred to in section 12.5 and the name and telephone number or email address of a person the consumer can contact for an explanation of the information.

## **Publication of information re alerts and freezes**

**12.5** Every prescribed consumer reporting agency shall, in accordance with any prescribed requirements, publish the following information on a website maintained by the agency:

1. A description of alerts and their implications.
2. A description of security freezes and their implications.
3. Information respecting how a consumer may request an alert or security freeze.
4. Information respecting how a consumer may remove an alert and terminate a security freeze.
5. Information respecting how a consumer may make directions to disclose to particular persons or entities during a security freeze.
6. Any other prescribed information respecting consumer alerts and security freezes.

## **7 Subsection 13 (1) of the Act is repealed and the following substituted:**

### **Correction of errors**

- (1) Subject to any prescribed limitations, a consumer may, in accordance with any prescribed requirements, dispute the accuracy or completeness of any item of information contained in his or her file and the consumer reporting agency shall, within a reasonable time and in accordance with any prescribed requirements, use its best endeavours to confirm or complete the information and shall correct, supplement or delete the information in accordance with good practice.

## **8 (1) Subsection 14 (1) of the Act is repealed and the following substituted:**

### **Order by Registrar re proof and documentation**

- (1) In connection with a complaint made to the Registrar in respect of a consumer reporting agency or in connection with an inspection or investigation of a consumer reporting agency undertaken under this Act, the Registrar may order a consumer reporting agency to,

- (a) obtain proof or documentation of the credit and personal information contained in a consumer file from the source of that information; and
- (b) provide a copy of the proof and documentation of the credit and personal information to the Registrar in a



reasonable time period and in the form and manner specified by the Registrar.

## **Order by Registrar re information**

(1.1) The Registrar may order a consumer reporting agency to amend or delete credit and personal information or restrict or prohibit the use of credit and personal information if,

- (a) the agency failed to comply with an order under subsection (1) with respect to the information; or
- (b) in the Registrar's opinion the information maintained by the agency is inaccurate, incomplete or does not comply with the provisions of this Act or the regulations.

## **(2) The French version of subsection 14 (3) of the Act is repealed and the following substituted:**

### **Audience devant le Tribunal**

(3) Si le consommateur ou l'agence de renseignements sur le consommateur s'estime lésé par une décision du registrateur aux termes du présent article, le consommateur ou l'agence de renseignements sur le consommateur peut demander une audience au Tribunal. L'article 6 s'applique alors avec les adaptations nécessaires à la décision de la même manière qu'à une intention exprimée par le registrateur aux termes de l'article 6 et comme si le consommateur et l'agence de renseignements sur le consommateur étaient l'auteur de la demande ou l'inscrit. Toutefois, l'ordre du registrateur peut être exécutoire immédiatement sauf suspension par le Tribunal jusqu'à ce que l'ordre soit définitif.

## **9 The Act is amended by adding the following section:**

### **Inquiry by Registrar**

**16.1** (1) For the purposes of ensuring compliance with this Act and the regulations, the Registrar, or a person designated by the Registrar in writing, may inquire into, and direct a consumer reporting agency to provide, within such time as the Registrar or designated person may specify, information about the agency's practices in connection with any of the requirements in this Act and the regulations.

### **Duty to provide information**

(2) If the Registrar or a designated person requires the production of information from a consumer reporting agency under subsection (1), the consumer reporting agency shall provide that information to the Registrar or designated person within the specified time.

### **Orders**

(3) If, after giving the consumer reporting agency an opportunity to be heard, the Registrar determines that a practice of the agency contravenes this Act or the regulations, the Registrar may order the agency to amend or discontinue the practice.

### **Limits on orders**

(4) The Registrar may order no more than what is reasonably necessary to achieve compliance with this Act or the regulations.

### **Appeal**

(5) If a consumer reporting agency considers itself aggrieved by an order of the Registrar under this section, the agency may apply to the Tribunal for a hearing in accordance with the prescribed procedures and section 6 applies with necessary modifications except as otherwise specified by the regulations.

## **10 Section 24.1 of the Act is repealed.**

## **11 (1) Section 25 of the Act is amended by adding the following clauses:**

(0.a) prescribing anything that is referred to in this Act as prescribed;

. . . . .

(a.1) defining the term "consumer score" in subsection 1 (1);

## **(2) Clause 25 (h) of the Act is repealed and the following substituted:**

(h) exempting a class of consumer reporting agencies from any provision of section 12 or limiting the extent to which any provision of section 12 applies to a class of consumer reporting agencies;

- (h.1) clarifying the requirements with respect to disclosures for the purposes of subsection 12 (9);
- (h.2) permitting, limiting and governing fees for the purposes of subsections 12 (13), (14) and (15) that a consumer reporting agency may charge with respect to a disclosure under section 12;
- (h.3) prescribing methods for generating a consumer score and the purposes and circumstances in which a prescribed method is to be used by a consumer reporting agency for the purposes of section 12.0.1;
- (h.4) governing the information, including specified wording, that a consumer reporting agency shall publish with respect to consumer scores for the purposes of subsection 12.0.1 (4);
- (3) **Section 25 of the Act is amended by adding the following clauses:**
  - (m) permitting and governing fees for the purposes of subsection 12.4 (10) that a consumer reporting agency may charge for placing, suspending or terminating a security freeze;
  - (m.1) governing the information, including specified wording, that a consumer reporting agency shall publish with respect to alerts and security freezes for the purposes of section 12.5;
  - . . . . .
  - (r) governing the payment of fees for an application for registration or a renewal of registration under this Act and prescribing the amount of those fees;

#### **TECHNICAL STANDARDS AND SAFETY ACT, 2000**

**12 The heading before section 1 of the *Technical Standards and Safety Act, 2000* is repealed and the following substituted:**

#### **PART I**

#### **PURPOSE, APPLICATION, DEFINITIONS**

**13 Section 3 of the Act is amended by adding the following definitions:**

“administrative penalty” means an administrative penalty imposed under section 32.1;

(“pénalité administrative”) “assessor” means a person appointed as an assessor under this Act; (“évaluateur”)

**14 The Act is amended by adding the following heading before the heading “Corporation” before section 3.1:**

#### **PART II**

#### **ADMINISTRATION**

**15 Subsection 3.16 (2) of the Act is amended by adding the following paragraph:**

9. An assessor.

**16 Sections 4 and 5 of the Act are repealed and the following substituted:**

#### **DIRECTORS, INSPECTORS, INVESTIGATORS AND ASSESSORS**

#### **Appointments of directors, inspectors, investigators and assessors**

**4 (1)** The Corporation may appoint directors, inspectors, investigators and assessors for the purposes of this Act, the regulations or a Minister's order, including for the purpose of determining whether authorization holders continue to meet the requirements for authorization and the requirements of this Act, the regulations and Minister's orders.

#### **Restrictions**

(2) An appointment is subject to the restrictions, limitations and conditions set out in it.

#### **Identification**

(3) A director, inspector, investigator or assessor shall produce, on request, evidence of his or her appointment.

#### **Powers of director**

5 (1) A director has general supervisory and administrative responsibility in respect of all or any part of this Act, the regulations or a Minister's order with respect to which he or she is appointed.

### **Powers regarding inspectors, investigators and assessors**

- (2) Unless otherwise stated in his or her appointment, a director,
- (a) may supervise and direct inspectors, investigators, assessors and other persons responsible for administering or enforcing this Act, the regulations or a Minister's order; and
  - (b) is an inspector, an investigator and an assessor and may exercise any of their powers and perform any of their duties.

### **Delegation**

- (3) A director may delegate in writing any of his or her powers or duties to any person subject to the restrictions, limitations and conditions set out in the delegation.

### **17 The Act is amended by adding the following heading before the heading "Authorizations" before section 6:**

#### **PART III**

#### **AUTHORIZATIONS AND SAFETY AND COMPLIANCE ORDERS**

### **18 Subsection 13 (1) of the Act is amended by adding "an administrative penalty" after "a cost" in the portion before clause (a).**

### **19 The Act is amended by repealing the heading before section 17 and substituting the following:**

#### **PART IV**

#### **INSPECTIONS AND ENFORCEMENT**

#### **INSPECTIONS AND INVESTIGATIONS**

### **20 The Act is amended by adding the following sections:**

#### **ADMINISTRATIVE PENALTIES**

### **Order**

32.1 (1) An assessor may, by order, impose an administrative penalty against a person in accordance with this section and the regulations made by the Minister if the assessor is satisfied that the person has contravened or is contravening,

- (a) a prescribed provision of this Act or the regulations as it applies to any thing described in section 2 that is prescribed or any prescribed class of any such thing;
- (b) a restriction, limitation or condition of a prescribed authorization; or
- (c) a prescribed Minister's order or a prescribed director's order.

### **To whom payable**

- (2) An administrative penalty is payable to the Corporation.

### **Purpose**

- (3) An administrative penalty may be imposed under this section for one or more of the following purposes:
- 1. To ensure compliance with this Act and the regulations.
  - 2. To prevent a person from deriving, directly or indirectly, any economic benefit as a result of a contravention described in subsection (1).

### **Amount**

- (4) The amount of an administrative penalty shall reflect the purpose of the penalty and shall be determined in accordance with the regulations made by the Minister, but the amount of the penalty shall not exceed \$10,000.

### **Form of order**

- (5) An order made under subsection (1) imposing an administrative penalty against a person shall be in the form that the Corporation determines.

## **Service of order**

(6) The order shall be served on the person against whom the administrative penalty is imposed in the manner that the Corporation determines.

## **Absolute liability**

- (7) An order made under subsection (1) imposing an administrative penalty against a person applies even if,
- (a) the person took all reasonable steps to prevent the contravention on which the order is based; or
  - (b) at the time of the contravention, the person had an honest and reasonable belief in a mistaken set of facts that, if true, would have rendered the contravention innocent.

## **No effect on offences**

(8) For greater certainty, nothing in subsection (7) affects the prosecution of an offence.

## **Other measures**

(9) Subject to section 32.3, an administrative penalty may be imposed alone or in conjunction with the exercise of any measure against a person provided by this Act or the regulations, including the application of restrictions, limitations or conditions to an authorization by a director, the suspension or revocation of an authorization or the refusal to renew an authorization.

## **Limitation**

(10) An assessor shall not make an order under subsection (1) more than two years after the day the assessor became aware of the person's contravention on which the order is based.

## **No hearing required**

(11) Subject to the regulations made by the Minister, an assessor is not required to hold a hearing or to afford a person an opportunity for a hearing before making an order under subsection (1) against the person.

## **Non-application of other Act**

(12) The *Statutory Powers Procedure Act* does not apply to an order of an assessor made under subsection (1).

## **Appeal**

**32.2** (1) In this section,

“appeal body” means the person prescribed by the Minister or, if no person is prescribed by the Minister, the Tribunal; (“organisme d’appel”)

“Tribunal” means the Licence Appeal Tribunal. (“Tribunal”)

## **Same**

(2) The person against whom an order made under subsection 32.1 (1) imposes an administrative penalty may appeal the order to the appeal body by delivering a written notice of appeal to the appeal body within 15 days after receiving the order.

## **If no appeal**

(3) If the appellant does not appeal the order in accordance with subsection (2), the order is confirmed.

## **Hearing**

(4) If the appellant appeals the order in accordance with subsection (2), the appeal body shall hold a hearing and may, by order, confirm, revoke or vary the assessor's order, and the appeal body may attach conditions to its order.

## **Parties**

(5) The assessor, the appellant and the other persons that the appeal body specifies are parties to the appeal.

## **Non-application of other Act**

(6) If the appeal body is not the Tribunal, the *Statutory Powers Procedure Act* does not apply to an order of an

assessor appealed under subsection (2).

### **Immediate effect**

(7) Even if the appellant appeals an order of the appeal body, the order takes effect immediately, unless the order provides otherwise, but the Divisional Court may grant a stay until the disposition of the appeal.

### **Effect of paying penalty**

**32.3** If a person against whom an order imposing an administrative penalty is made pays the penalty in accordance with the terms of the order or, if the order is varied on appeal, in accordance with the terms of the varied order, the person cannot be charged with an offence under this Act in respect of the same contravention on which the order is based and no other prescribed measure shall be taken against the person in respect of the same contravention on which the order is based.

### **Enforcement**

**32.4** (1) If a person against whom an order imposing an administrative penalty is made fails to pay the penalty in accordance with the terms of the order or, if the order is varied on appeal, in accordance with the terms of the varied order, the order may be filed with the Superior Court of Justice and enforced as if it were an order of the court.

### **Date of order**

(2) For the purposes of section 129 of the *Courts of Justice Act*, the date on which the order is filed with the court shall be deemed to be the date of the order.

**21 The Act is amended by adding the following heading before the heading “Orders and Regulations” before section 33:**

#### **PART V GENERAL**

**22 (1) Clause 34 (1) (a) of the Act is amended by striking out “clause 35.1 (2) (a)” and substituting “clause 35.1 (b)”.**

**(2) Subsection 34 (1) of the Act is amended by adding the following clauses:**

- (n.1) establishing and governing standards of availability for elevating devices or classes of elevating devices, including standards for their repair and time requirements for their repair;
- (n.2) specifying the persons who are responsible for ensuring compliance with the standards described in clause (n.1);
- (n.3) defining outages as related to elevating devices or classes of elevating devices and governing the reporting of outages as related to elevating devices or classes of elevating devices, including specifying,
  - (i) the persons required to do the reporting,
  - (ii) the information that must be included in the reporting, and
  - (iii) form and time requirements for the reporting;
- (n.4) requiring a director to establish one or more databases of information with respect to elevating devices or classes of elevating devices that include the specified information, which may include information about the standards of availability described in clause (n.1) that apply to the devices and the information reported under clause (n.3);
- (n.5) requiring a director to make any or all of the databases described in clause (n.4) or the parts of them that are specified in the regulation accessible to the public in the specified way and governing that accessibility;
- . . . . .
- (r) delegating to the Minister the power to make regulations with respect to any matter that may be the subject of a regulation made under clause (n.2).

**(3) Section 34 of the Act is amended by adding the following subsections:**

## **Residual authority to act**

(2) Despite any delegation to the Minister under clause (1) (r) and without having to revoke the delegation, the Lieutenant Governor in Council continues to have authority to make regulations in respect of the matter that is the subject of the delegation.

## **Making regulation not revocation**

(3) If the Lieutenant Governor in Council makes a regulation to which subsection (2) applies, the regulation does not have the effect of revoking a delegation under this section unless the regulation so specifies.

## **Minister's regulations preserved**

(4) The Lieutenant Governor in Council may, by regulation, revoke a delegation to the Minister under clause (1) (r), but the revocation of a delegation does not result in the revocation of any regulation the Minister made under the delegated power before the revocation of the delegation.

## **23 (1) Section 35.1 of the Act is repealed and the following substituted: Minister's regulations**

**35.1** The Minister may make regulations,

- (a) specifying any provision of this Act, any regulation or any provision of a regulation for the purposes of clause 3.12 (1) (a) or (b);
- (b) requiring every person who is subject to this Act or the regulations to obtain and maintain liability insurance, in at least the prescribed amount and in accordance with the prescribed conditions, including deductibles;
- (c) prescribing any matter or thing described in clause (b) as prescribed.

## **(2) Section 35.1 of the Act, as re-enacted by subsection (1), is amended by adding the following clauses:**

- (d) governing administrative penalties that an assessor may order and all matters necessary and incidental to the administration of a system of administrative penalties, including,
  - (i) specifying the amount of an administrative penalty or providing for the determination of the amount of an administrative penalty by specifying the method of calculating the amount and the criteria to be considered in determining the amount,
  - (ii) providing for different amounts to be paid, or different calculations or criteria to be used, depending on the circumstances that gave rise to the administrative penalty or the time at which the penalty is paid,
  - (iii) specifying information that must be included in an order for payment of an administrative penalty,
  - (iv) governing the procedure for making an order under section 32.1 for an administrative penalty and the rights of the parties affected by the procedure, including the time at which the order is deemed to be served on the person against whom the order is made, and
  - (v) governing the appeal of an order for payment of an administrative penalty;
- (e) specifying the purposes for which the Corporation may use the funds that it collects as administrative penalties;
- (f) respecting any matter with respect to which the power to make regulations is delegated by the Lieutenant Governor in Council to the Minister under clause 34 (1) (r).

## **24 Subsection 37 (1) of the Act is repealed and the following substituted:**

### **Offences**

- (1) A person is guilty of an offence if the person,
  - (a) contravenes or fails to comply with any provision of this Act, the regulations or a Minister's order;
  - (b) knowingly makes a false statement or furnishes false information under this Act, the regulations or a Minister's order;
  - (c) contravenes or fails to comply with a term or condition of an authorization; or

- (d) contravenes or fails to comply with an order or requirement of a director, an inspector or an assessor or obstructs an inspector.

## **Penalty**

- (1.1) A person convicted of an offence under subsection (1) is liable to,
- (a) a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both, if the person is an individual; or
  - (b) a fine of not more than \$1,000,000, if the person is a body corporate.

## **COMMENCEMENT AND SHORT TITLE**

### **Commencement**

**25 (1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.**

**(2) Sections 2 and 4 to 7, subsection 8 (1), sections 9 to 11, 13, 15, 16, 18 and 20, subsections 22 (2) and (3) and 23 (2) and section 24 come into force on a day to be named by proclamation of the Lieutenant Governor.**

### **Short title**

**26 The short title of this Act is the *Access to Consumer Credit Reports and Elevator Availability Act, 2018*.**



The Corporation of  
The Township of Brock  
1 Cameron St. E., P.O. Box 10  
Cannington, ON L0E 1E0  
705-432-2355

April 10, 2019

Mr. Steven Kemp, Manager, Traffic Engineering & Operations  
Region of Durham – Works Department  
101 Consumers Drive  
Whitby, Ontario  
L1N 6A3

Dear Sir:

Re: Speed Limit Reduction on Simcoe Street (Region Road 15) Beaverton  
Community Safety Zone

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This is to acknowledge receipt of your correspondence dated March 13, 2019 which was considered by the Public Works and Facilities Committee at their meeting held on April 8, 2019.

Please be advised that Committee adopted a resolution requesting the consideration of a Community Safety Zone on Simcoe Street from the Holy Family Catholic School west to Mara Road.

Would you please review this request and advise the undersigned as to its feasibility.

Should you have any questions, please do not hesitate to contact the undersigned.

Yours truly,

THE TOWNSHIP OF BROCK

A handwritten signature in black ink, appearing to read "Becky Jamieson".

*for* Becky Jamieson  
Clerk

BJ: dh

cc: Nick Colucci, Director of Public Works





## The Regional Municipality of Durham Report

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To: Works Committee  
From: Commissioner of Works  
Report: [#2019-W-29](#)  
Date: May 8, 2019

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### **Subject:**

License Agreement with Her Majesty the Queen Right of Canada for a Portion of Lands Located at the North West Corner of Highway 7 and Sideline 26 in the City of Pickering for the Purpose of Construction, Operation and Maintenance of a Water Tower and Reservoir and Related Structures

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### **Recommendation:**

That the Works Committee recommends to Regional Council:

- a) That a License Agreement for a portion of land being part of Federal lands north of Highway 7 and west of Sideline 26 in the City of Pickering be approved including the following terms and conditions:
  - i) The term be for a period of ten years commencing June 1, 2019, ending May 31, 2029;
  - ii) The annual license fees for the ten year period of the License Agreement are as follows:
    - 1. For the period commencing June 1, 2019 and ending May 31, 2020, the annual amount will be \$34,312.50, plus HST;
    - 2. For years 2 through 10, the annual rental rate will increase by 2.50% beginning June 1 of each calendar year;
- b) The Regional Municipality of Durham will be responsible for all costs for the licensed premises; and
- c) That the Regional Chair and Clerk be authorized to execute all documents

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associated with the agreement.

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**Report:****1. Purpose**

This report seeks authorization for the Regional Municipality of Durham (Region) to enter into a License Agreement with Her Majesty the Queen in Right of Canada (Crown), for a portion of lands located at the north west corner of Highway 7 and Sideline 26 in the City of Pickering for the purpose of construction, operation and maintenance of a water tower and reservoir and related structures.

**2. Background**

- 2.1 The Region requires a water pumping station and related infrastructure to service Seaton and surrounding areas in central Pickering. The licensed lands are to be used for the sole purpose of constructing, maintaining, inspecting, and operating the water tower and reservoir and related structures that will provide water to the area surrounding the lands.
- 2.2 The Region entered discussions to acquire the land from the Crown. Due to the property being located within the future airport lands, the Crown would only agree to a License Agreement.

**3. Discussions**

- 3.1 Negotiations with the Crown have resulted in a License Agreement for a term of ten years commencing on June 1, 2019 and ending May 31, 2029.
- 3.2 The License has been negotiated based on a fee of 5 per cent of the market value of the land as vacant. An external appraisal report was completed determining market value to be \$686,250, resulting in a license fee of \$34,312.50.

3.3 The fee structure through the term of the agreement will be:

<u>Term</u>	<u>Amount</u>	<u>Increase</u>
June 1, 2019 - May 31, 2020	\$34,312.50	
June 1, 2020 - May 31, 2021	\$35,170.31	2.50%
June 1, 2021 - May 31, 2022	\$36,049.57	2.50%
June 1, 2022 - May 31, 2023	\$37,874.58	2.50%
June 1, 2023 - May 31, 2024	\$38,821.44	2.50%
June 1, 2024 - May 31, 2025	\$39,791.98	2.50%
June 1, 2025 - May 31, 2026	\$40,786.78	2.50%
June 1, 2026 - May 31, 2027	\$41,806.45	2.50%
June 1, 2027 - May 31, 2028	\$42,851.61	2.50%
*Amounts exclude applicable HST		

3.4 The Region will be responsible for all additional operating costs related to the infrastructure.

#### 4. Financial Implications

4.1 Financing for the License Agreement will be provided from within the annual Water Supply Operating Budget.

4.2 Since approval of this License Agreement requires a long-term financial obligation for payment beyond the term for which Council was elected, the Regional Treasurer has updated the Region's financial debt and obligation limit. In accordance with Section 4 of the Ontario Regulation 403/02, the Region's Treasurer has calculated an updated long-term debt-financial limit and has determined that the limit has not been exceeded. Therefore, this License Agreement does not require the approval of the Local Planning Appeal Tribunal.

#### 5. Conclusion

5.1 The Works Department has advised that they wish to enter into the License Agreement for lands located at the North West corner of Highway 7 and Sideline 26 in the City of Pickering, and it is recommended that the Regional Municipality of Durham enter into the License Agreement based on the above noted terms and conditions.

5.2 For additional information, please contact Jeremy Harness, Manager, Administrative Services and Real Estate, at 905-668-7711, extension 3475.

**6. Attachments**

Attachment #1: Location Map – North West corner of Highway 7 and Sideline 26, City of Pickering

Respectfully submitted,

**Original signed by John Presta for**

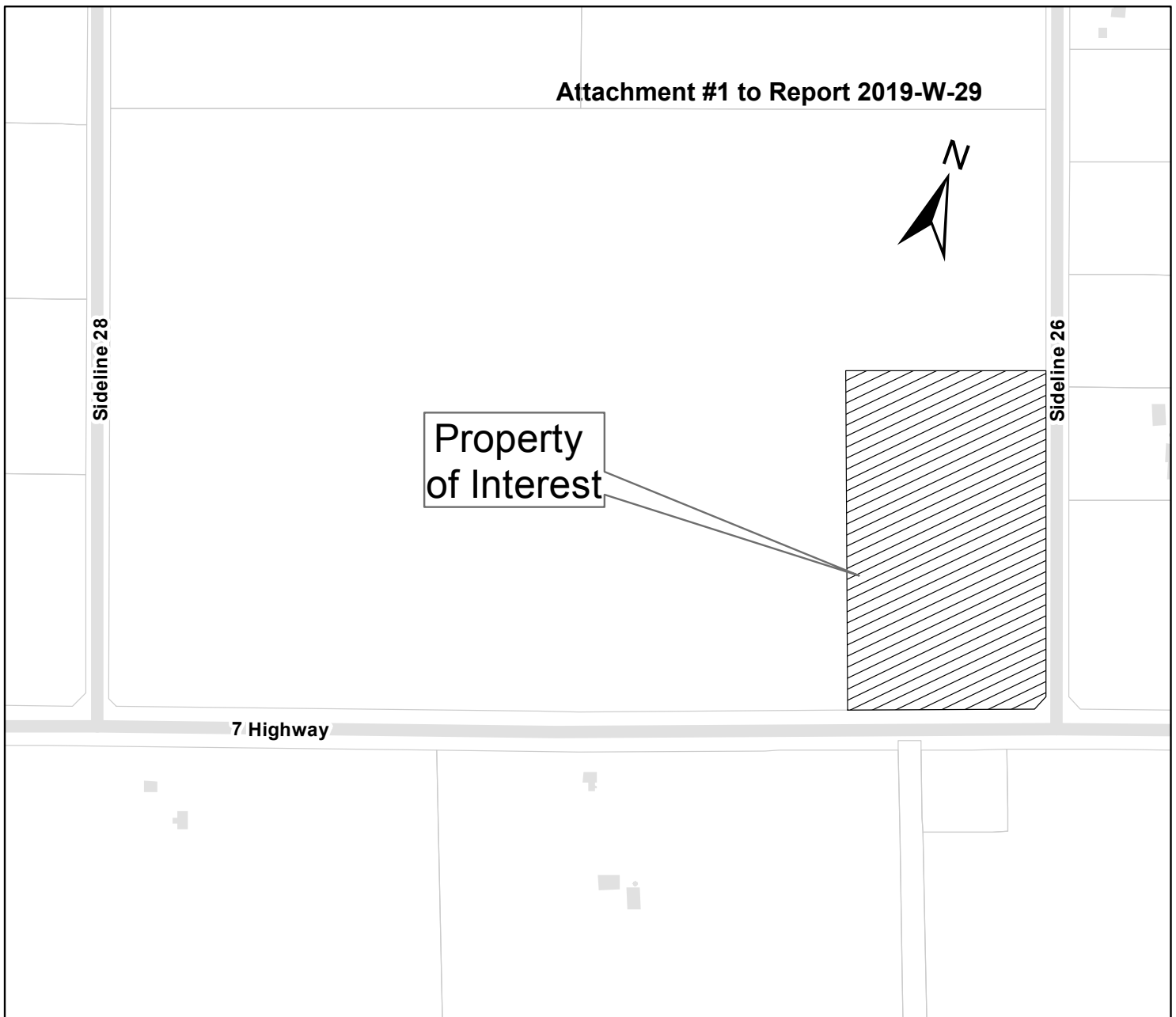
Susan Siopis, P.Eng.  
Commissioner of Works

Recommended for Presentation to Committee

**Original signed by**

Elaine C. Baxter-Trahair  
Chief Administrative Officer

# Attachment #1 to Report 2019-W-29



## Attachment #1: Location Map North West corner of Highway 7 and Sideline 26, in the City of Pickering



2015 ORTHOPHOTOGRAPHY provided by © First Base Solutions Inc.

GIS Data: Produced by Durham Region GIS Services, 2012.

This map has been produced from a variety of sources. The Region of Durham does not make any representations concerning the accuracy, likely results, or reliability of the use of the materials. The Region hereby disclaims all representations and warranties.

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Date: 4/1/2019



## The Regional Municipality of Durham Report

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To: Works Committee  
From: Commissioner of Works  
Report: [#2019-W-30](#)  
Date: May 8, 2019

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### Subject:

Report on Tenders and Additional Financing for The Regional Municipality of Durham Contract T-1008-2018 for the Lake Simcoe Water Pollution Control Plant Air Handling Unit Replacement and Drainage Improvements, in the Township of Brock

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### Recommendations:

The Works Committee recommends to Regional Council:

- a) That the low compliant bid of Mapleridge Mechanical Contracting Inc., in the amount of \$245,000\*, be awarded for Regional Municipality of Durham Contract T-1008-2018 resulting in a total estimated project cost of \$339,497;
- b) That the previously approved project budget of \$180,000 be increased by \$159,497 to a revised total project budget of \$339,497;
- c) That the funding for the additional project commitments in the amount of \$159,497 be provided from the following completed 2018 Tangible Capital Asset projects:
  - i) Item #R283: Jodrel Sewage Pumping Station  
(SPS) Repaving project: \$122,000
  - ii) Item #N286: Lakeshore Sewage Pumping Station  
(SPS) Repaving project: 37,497
  - Total Reallocated User Revenue Financing \$159,497
- d) That the Regional Chair and Clerk be authorized to execute Regional Municipality of Durham Contract T-1008-2018.

**Report:****1. Purpose**

- 1.1 The purpose of this report is to obtain approval for additional financing and to award Regional Municipality of Durham (Region) Contract T-1008-2018 for the Lake Simcoe Water Pollution Control Plant (WPCP) Air Handling Unit (AHU) Replacement and Drainage Improvements in the Township of Brock (Brock). Dollar amounts followed by an asterisk (\*) are before applicable taxes.

**2. Project Background**

- 2.1 The existing air handling unit at Lake Simcoe Water WPCP is over 20 years old, is at end of life and needs replacement. The AHU sits on top of deteriorated curb supports which have allowed water to infiltrate the building below causing damage to the mechanical pumps, electrical conduits and ducting.
- 2.2 The Region retained a consultant and completed detailed design for the replacement AHU. The proposed work includes the installation of a new air handling unit, replacement of the supporting curb, installation of watertight membrane, new electrical ducting, regrading the surrounding area and asphalt work. The proposed modifications are necessary to improve the drainage around the new AHU to prevent future water ingress and damage to the building and treatment process. It is anticipated that construction will commence in the summer of 2019.

**3. Tender Information**

- 3.1 Tenders were received for Regional Contract T-1008-2018 for Lake Simcoe WPCP AHU Replacement and Drainage Improvements on February 12, 2019, as follows:

<b><u>Bidder</u></b>	<b><u>Total Tender Amount*</u></b>
Mapleridge Mechanical Contracting Inc.	\$245,000
Canadian Tech Air Systems.	\$286,946
Velco Plumbers Ltd.	\$311,600
Snyder Construction Ltd.	\$328,700
J. Hoover Ltd.	\$363,500

GMP Contracting Ltd.

\$797,910

- 3.2 The difference between the tendered amount and the budget estimate budget amount is a result of inflationary construction cost increases in the industry and increases in the scope of work during the detailed design stage.
- 3.3 The scope of the project increased during the detailed design phase to address code compliance issues. To improve operability and comply with code requirements, the equipment size was increased for the basement space and a separate ventilation system was designed for the electrical room to accomplish separate ventilation systems. Modifications to the interior of the building had to be undertaken to all bidders for this contract submitted pricing based on this updated scope of work.
- 3.4 It is recommended that the low compliant bidder, Mapleridge Mechanical Contracting Inc., be awarded Regional Contract T-1008-2018.

#### 4. Financial Implications

- 4.1 Section 9.4 of the Region's Budget Management Policy requires approval of the applicable Standing Committee and Regional Council for approval of additional financing prior to the award of the contract.
- 4.2 The proposed changes to the project costs are as follows:

Project Component	Approved Project Budget (D1732)	Proposed Change	Recommended Revised Project Budget (D1732)
Tender (excluding taxes)	\$124,007	\$120,993	\$245,000
Net HST	2,183	2,129	4,312
Engineering	53,810	0	53,810
Contingencies	0	36,375	36,375
Total Costs	\$180,000	\$159,497	\$339,497

- 4.3 A reallocation of funds to address this unbudgeted capital work in the amount of \$180,000 was approved in Committee of the Whole Report #2017-COW-110 based on the scope of work identified prior to the detailed design was completed.



- 4.4 The reallocation of financing totaling \$159,497 is available from surplus funds within completed 2018 Tangible Capital Asset projects as follows:

Previously Approved Financing    \$180,000

Reallocations:

Item #R283: Jodrel Sewage Pumping Station  
(SPS) Repaving project: \$122,000

**Item #N286: Lakeshore Sewage Pumping Station**  
(SPS) Repaving project: 37,497

Total Reallocated User Revenue Financing \$159,497

Total Project Financing: \$339,497

**5. Conclusion**

- 5.1 It is recommended that the low compliant bidder, Mapleridge Mechanical Contracting Inc., be awarded Regional Contract T-1008-2018 for the Lake Simcoe Water Pollution Control Plant (WPCP) Air Handling Unit Replacement and Drainage Improvements in the Township of Brock.
- 5.2 It is also recommended that the additional financing required for the award of this tender be provided by the reallocation of funds as detailed in this report.
- 5.3 This report has been reviewed by the Finance Department and the Commissioner of Finance concurs with the financial recommendations.

- 5.4 For additional information, please contact Dave Nagy, Manager, Facility Design, Construction & Asset Management at 905-668-7711, extension 2202.

Respectfully submitted,

**Original signed by John Presta for**

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Susan Siopis, P.Eng.  
Commissioner of Works

Recommended for Presentation to Committee

**Original signed by**

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Elaine C. Baxter-Trahair  
Chief Administrative Officer



## The Regional Municipality of Durham Report

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To: Works Committee  
From: Commissioner of Works  
Report: [#2019-W-31](#)  
Date: May 8, 2019

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**Subject:**

Award of Request for Proposal #1063-2018 for Consulting Services for the Completion of a Rationalization Study Report and Production of Overall Facility Master Plans for the Ajax-Pickering, Oshawa-Whitby and Sunderland Depots

---

**Recommendations:**

That the Works Committee recommends to Regional Council:

- a) That Request for Proposal #1063-2018 be awarded to Stirling Rothesay Consulting Inc. to provide consulting services for the completion of a rationalization study report and production of overall facility master plans for the Ajax-Pickering, Oshawa-Whitby and Sunderland Depots, at a total upset limit not to exceed \$199,890\* to be funded from the approved project budget:
- b) That the previously approved project budget of \$165,000 be increased by \$55,000 to a revised total project budget of \$220,000, and
- c) That the additional financing in the amount of \$55,000, be provided through a reallocation of funds from the following source:

Seaton Facility Site Master Plan (Project F1860):

Sanitary Sewerage System Capital Budget- User Revenue	\$18,333
Water Supply System Capital Budget- User Revenue	18,333
General Tax Capital Budget- Property Tax	<u>18,334</u>
Total Reallocated Financing	<u>\$55,000</u>

- d) That the Commissioner of Finance be authorized to execute the consulting services agreement.
- 

**Report:****1. Purpose**

- 1.1 The purpose of this report is to provide details and seek authorization to award Request for Proposal (RFP) #1063-2018 to Stirling Rothesay Consulting Inc. to provide consulting services for the completion of a rationalization study report and production of overall facility master plans for the Ajax-Pickering, Oshawa-Whitby and Sunderland Depots (Depots). Dollar amounts followed by an asterisk (\*) include disbursements and are before applicable taxes.

**2. Background**

- 2.1 The Works Department has five Depots from which all maintenance and operations services are delivered for Regional roads/sewers and watermain across the Region.
- 2.2 The approved 2018 Works Department Operating Budget included funds for the preparation of master plans for the three Depots that do not have updated master plans – the Ajax-Pickering Depot, the Oshawa-Whitby Depot and the Sunderland Depot.
- 2.3 Prior to developing updated master plans for the three specific Depots, staff concluded that it would be prudent to first conduct a rationalization study for all five Depots to provide for the most effective long-term strategy for efficient delivery of those services and to plan for future needs.
- 2.4 The scope of the RFP is to engage a consultant to update a strategic plan report prepared in 2009. The update will determine current and projected infrastructure and assets to be maintained across the Region to the year 2041, and develop longer-term plans for delivery of Depot services. The study will also review the current overall state of repair of the Depot facilities and identify potential for future co-location with other Regional operations groups including Traffic Operations, Facilities Maintenance and Operations and Durham Region Transit to further enhance efficiencies. The study results will allow staff to make well-informed decisions on all future plans for facilities at the Depots.

### **3. Assignment for Consulting Services**

- 3.1 RFP #1063-2018 to provide consulting services for the completion of a rationalization study report and production of overall facility master plans for the Ajax-Pickering, Oshawa-Whitby and Sunderland Depots was issued and advertised publicly on December 7, 2018, through Durham's website. The RFP included, but was not limited to, the scope of work, description of the services to be provided, submission instructions and evaluation criteria that would be applied during the evaluation of proposals submitted.
- 3.2 The RFP closed on January 17, 2019. The RFP resulted in the submission of three compliant proposals from the following firms:
- AECOM Canada Limited
  - Colliers Project Leaders
  - Stirling Rothesay Consulting Inc.
- 3.3 Evaluations of the proposed information received were carried out by the project evaluation committee made up of Works Department staff. Durham's Purchasing Section of the Finance Department oversaw the evaluation process.
- 3.4 The proposals were evaluated against the following evaluation criteria:
- Understanding of Project Requirements (10%);
  - Company Background, Qualifications and Experience (10%);
  - Work Team Background, Qualifications and Experience (20%);
  - Technical Solution – Methodology, Resources / Innovation and Quality Management (30%);
  - Financial Pricing (30%); and
  - References (pass/Fail).
- 3.5 Based on an overall technical and financial evaluation of the proposals by the evaluation committee, it is recommended that the highest scoring proponent, Stirling Rothesay Consulting Inc. be awarded the consulting services for the completion of a rationalization study report and production of overall facility master plans for the Ajax-Pickering, Oshawa-Whitby and Sunderland Depots at an upset limit not to exceed \$199,890\*.

#### 4. Financial Implications

4.1 Section 9.4.1 of the Region's Purchasing By-Law 68-2000 (Amended) requires where the project or annual value of a consulting or professional service assignment is expected to be more than \$60,000, the approval of Regional Council is required for the award of the assignment when proposals are obtained.

4.2 Financing for the additional project commitments related to consulting services for the completion of a rationalization study and report and production of overall facility master plans for the Ajax-Pickering, Oshawa-Whitby and Sunderland Depots can be reallocated as follows:

Seaton Facility Site Master Plan (Project F1860):

Sanitary Sewerage System Capital Budget	\$18,333
Water Supply System Capital Budget	18,333
General Tax Capital Budget	<u>18,334</u>
Total Reallocated Financing	<u>\$55,000</u>

4.3 The proposed changes to the project costs are as follows:

Project Component	Approval Project Budget (F1801)	Proposed Changes	Revised Project Budget (F1801)
Consulting	\$150,000	\$49,890	\$199,890
Net HST	2,640	878	3,518
Contingencies	12,360	4,232	16,592
Total Costs	\$165,000	\$55,000	\$220,000

4.4 The recommended revised project budget can be financed as follows:

Year	Total Financing	User Revenue	General Tax
2018	165,000	104,610	60,390
2019 Reallocation from F1860	55,000	36,666	18,334
Total Proposed Funding F1801	220,000	141,276	78,724

## 5. Conclusion

- 5.1 It is recommended that Request for Proposal #1063-2018 be awarded to Stirling Rothesay Consulting Inc. to provide consulting services for the completion of a rationalization study and report and production of overall facility master plans for the Ajax-Pickering, Oshawa-Whitby and Sunderland Depots, at an upset limit not to exceed \$199,890\*.
- 5.2 This report has been reviewed by the Finance Department and the Commissioner of Finance concurs with the financial recommendations.
- 5.3 For additional information, please contact Dave Nagy, Manager, Facility Design, Construction & Asset Management, at 905-668-7711, extension 2202.

Respectfully submitted,

**Original signed by John Presta for**

Susan Siopis, P.Eng.  
Commissioner of Works

Recommended for Presentation to Committee

**Original signed by**

Elaine C. Baxter-Trahair  
Chief Administrative Officer



## The Regional Municipality of Durham Report

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To: Works Committee  
From: Commissioner of Works  
Report: [#2019-W-32](#)  
Date: May 8, 2019

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### **Subject:**

Lake Ontario Collaborative Group – Memorandum of Understanding – Source Protection Plan

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### **Recommendation:**

That the Works Committee recommends to Regional Council:

- a) That the Regional Municipality of Durham be authorized to enter into a Memorandum of Understanding with the Regional Municipality of Peel and the City of Toronto outlining the governance structure and cost sharing for the implementation of the Credit Valley-Toronto and Region-Central Lake Ontario (CTC) Source Protection Plan to the satisfaction of the Director of Legal Services; and
  - b) That the Regional Chair and Clerk be authorized to execute any necessary documents or agreements.
- 

### **Report:**

#### **1. Purpose**

- 1.1 The purpose of this report is to seek approval to enter into a Memorandum of Understanding (MOU) with the Regional Municipality of Peel (Peel) and the City of Toronto (Toronto) outlining the governance structure and cost sharing for the implementation of the Credit Valley-Toronto and Region-Central Lake Ontario (CTC) Source Protection Plan (SPP).



## **2. Background**

- 2.1 In 2006, the Ontario government passed the Clean Water Act (the “Act”). The Act established watershed-based source protection areas and created local multi-stakeholder source water protection committees tasked with the responsibility for developing source protection plans to protect current and future sources of municipal drinking water from contamination and overuse. Source protection plans safeguard both groundwater and surface water sources and contain policies to address identified drinking water threats within delineated municipal wellhead protection areas for groundwater systems and intake protection zones for surface water supply plants.
- 2.2 In 2014, the CTC SPC fulfilled its legislated mandate and filed a SPP for the CTC Source Protection Region (SPR) with the Ministry of the Environment, Conservation and Parks (MECP). The plan represented intensive collaboration among municipalities, including the Regional Municipality of Durham (Durham), Toronto and Peel, Conservation Authorities, First Nations, representatives from industry and non-governmental organizations. In-depth and wide-ranging public consultation was beneficial prior to submission. The CTC SPP came into effect in 2015. The efforts of the CTC SPC are now focused on the implementation of the approved plan, monitoring the plan and fulfilling other legislated duties. In general, provincial and municipal levels of government are responsible for implementing source protection plans.

## **3. Lake Ontario Protection Policies**

- 3.1 For municipalities within the CTC SPR which have Lake Ontario based water supply (Peel, Toronto and Durham), the CTC Source Protection Plan Lake Ontario Policies focus on developing contingency plans for significant drinking water threats and enhancing contingency plans for spills which could be carried by lake currents towards water supply plant intakes. These municipalities are fortunate to have an abundant, high quality source of drinking water in Lake Ontario. However, the water quality in Lake Ontario is dynamic and affected by large scale processes such as large storm events and unplanned releases from the many industrial and municipal facilities along the lakeshore and up the major tributaries within watersheds feeding into Lake Ontario. The ability to respond in real time to the changes which can occur over the period of hours is essential to maintaining public health and safety to ensure confidence in the drinking water supply. Currently, municipalities have limited information and tools to monitor the travel path and proximity of water quality threats to their drinking water intakes. As a

result, the ability to make timely and informed decisions to reduce the risks associated with these potential threats is limited.

- 3.2 Durham, Toronto and Peel worked together with the MECP and other shareholders to develop a program that, once implemented and maintained, would provide municipal drinking water plant operators with the necessary information about ongoing water quality in Lake Ontario to ensure that their drinking water can meet a high level of safety. The CTC municipalities and the MECP developed a Terms of Reference in March 2017 which established the Lake Ontario Collaborative Group (LOCG) and set out terms related to how the partnership will work together to implement the actions and policies specified in the Source Protection Plan.
- 3.3 Through the development of predictive simulation models which incorporate historical and real-time dynamic water quality conditions in Lake Ontario, the LOCG will be better prepared to respond to emergencies such as spills, assess potential impacts of new infrastructure and help adapt to climate change. The requirement to implement this enhanced monitoring and modelling program by the LOCG is a requirement within the CTC SPP policies approved by the MECP. This program will support both reactive and proactive decision-making actions by the municipalities to manage their drinking water source, especially in the event of contaminant spills or other environmental issues.
- 3.4 The approved SPP requires that a continuing function involving the MECP and CTC municipalities be established and funded, to support the implementation of the policies to protect the western basin of Lake Ontario as a source of drinking water by ensuring that tools and information are available to all partners to help them manage or mitigate threats to drinking water sources.
- 3.5 The implementation process is a joint undertaking through a multi-agency collaborative approach for collecting, analyzing and sharing water quality data and computer simulation modelling of lake circulation and water quality impacts. Coordination of these responsibilities is essential to achieve the desired source protection and to achieve economic and operational efficiency. By working collaboratively, the costs to the individual municipalities are minimized compared to acting alone and more extensive information can be gathered to better predict the movement of potential water quality threats. This collaboration is also essential as Lake Ontario is a shared resource and actions require the involvement of many government agencies.

#### **4. Implementation Work Plan**

- 4.1 Staff from the three participating municipalities forming the LOCG have developed a work plan for the implementation of the source protection policies including conceptual estimates for capital, operating and maintenance costs. The major work plan tasks include:
- a. Installation, operation and maintenance of circulation and water quality monitoring instrumentation and associated infrastructure at municipal water supply plant intakes to provide real-time monitoring for use with a 3-D hydrodynamic circulation model for future forecasting of spills impact assessment and assessing spill prevention strategies.
  - b. Procurement of decision support system services for the development, maintenance and updating of a 3-D hydrodynamic circulation model and/or other models to:
    - Track in real-time and predict lake water currents and the transport of pollutants
    - Determine potential for a spill to significantly impact Lake Ontario based water treatment plant intakes and become a drinking water threat.
  - c. Management and sharing of monitoring data amongst CTC municipalities and the MECP.
  - d. Development of appropriate notifications and spills response activities that can be activated in the event of a spill.
  - e. Recognizing that on-going dedicated resources are required to fulfil the CTC SPP policy requirements, staff reviewed options for program delivery including jointly outsourcing to a third party.
- 4.2 Peel will take the lead in program administration and procurement for the common program services for the LOCG work plan. Based on Peel's existing agreements with the Ontario Clean Water Agency (OCWA) and Thorpe Associates, the program can be implemented by an experienced team. OCWA will support the municipalities in the procurement of qualified vendor(s) to provide a real-time model and decision support system service. Thorpe Associates will provide project management services for LOCG and coordination between LOCG and CTC Manager – Source Water Protection.

- 4.3 The intent in the MOU is that the municipalities will work together to reach consensus on decisions and actions to be undertaken for meeting the CTC Source Protection Plan policy deliverables. Each municipality will follow their respective administrative processes governing the acquisition of supplies and services where they are assigned lead responsibility for such supplies and services. Where one of the municipalities is acting as lead on a project, the other partner municipalities will be responsible for their share to the lead municipality as invoiced in accordance with the approved budget and their respective share of costs.
- 4.4 A MOU between the three municipalities is being developed to establish an effective governance structure on how the municipalities will work together within the LOCG. The MOU will also outline the municipalities' responsibilities to secure funding for their individual capital expenditures and their shared responsibilities to implement and maintain on-going activities outlined in the work plan as updated from time to time. For instrumentation which will reside on the property of or under the control of a specific municipality, that municipality will fund the related capital, operating and maintenance costs and will have ownership of equipment and data. Cost sharing of individual items, such as on-going program delivery, data management and decision support system services, will be predicated on the objective of achieving equitable cost sharing amongst the municipalities over the duration of the MOU.

## **5. Capital Plan for LOCG**

- 5.1 Toronto is proceeding with a proof of concept with the first installation of the lake current and water quality real-time monitoring instruments at the water intakes of two of its water treatment plant facilities by 2022.
- 5.2 Instruments are also planned at Peel's Lorne Park water treatment plant by 2027.
- 5.3 In Durham, instrumentation may be planned in conjunction with the proposed Whitby Water Supply Plant (WSP) expansion project by 2026.
- 5.4 The capital cost and on-going operating and maintenance at the four water supply plants will be the sole responsibility of the of each individual municipality.
- 5.5 The LOCG costs that will be shared amongst the three municipalities include:
- The initial upfront costs for the selection of a decision support service provider and for the development of the simulation model estimated at \$500,000, and

- The annual costs associated with the on-going model maintenance, data management and program management estimated at \$150,000 per year.
- 5.6 The capital and program costs will be reviewed on an annual basis as the LOCG Implementation Plan is further developed.

## **6. Financial Implications**

- 6.1 Durham's 2019 Water Supply and Sanitary Sewerage Servicing and Financing Study, Report #2018-COW-177 identified the Region's regulatory requirements under the Clean Water Act.
- 6.2 One of the funding requirements for the Region is to fund a share of the Lake Ontario Collaborative to undertake a water quality monitoring and 3-D hydraulic modelling program.
- 6.3 An allowance of \$300,000 was approved in the 2018 Water Supply Budget and the \$5.6 million is reflected in the 2019 Nine- Year Capital Forecast (Project D1718).

## **7. Conclusion**

- 7.1 It is recommended that the Regional Municipality of Durham enter into a Memorandum of Understanding with the Regional Municipality of Peel and the City of Toronto outlining the governance structure and cost sharing for the implementation of the Credit Valley-Toronto and Region -Central Lake Ontario Source Protection Plan to the satisfaction of the Director of Legal Services.
- 7.2 This report has been reviewed by the Finance Department and by the Legal Services Division of the Corporate Services Department.

7.3 For additional information, please contact John Presta, Environmental Services, at 905-668-7711, extension 3520.

Respectfully submitted,

**Original signed by John Presta for**

Susan Siopis, P.Eng.  
Commissioner of Works

Recommended for Presentation to Committee

**Original signed by**

Elaine C. Baxter-Trahair  
Chief Administrative Officer



## The Regional Municipality of Durham Report

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To: Works Committee  
From: Commissioner of Works  
Report: [#2019-W-33](#)  
Date: May 8, 2019

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### **Subject:**

Regional Municipality of Durham Nomination to the Credit Valley/Toronto and Region/Central Lake Ontario Source Protection Committee

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### **Recommendation:**

That the Works Committee recommends to Regional Council:

- a) That in response to the call for nomination of municipal members from the Toronto and Region Source Protection Authority (TRSPA), The Regional Municipality of Durham's Director of Environmental Services (currently Mr. John Presta), be nominated as the Durham municipal member of the Credit Valley/Toronto and Region/Central Lake Ontario Region Source Protection Committee; and
  - b) That a copy of this report be forwarded to Mr. John Mackenzie, Toronto and Region Source Protection Authority and Local Municipalities within the Regional Municipality of Durham.
- 

### **Report:**

#### **1. Purpose**

- 1.1 The purpose of this report is to nominate a municipal member for the Credit Valley – Toronto and Region/Central Lake Ontario (CTC) Source Protection Committee (SPC).

#### **2. Background**

- 2.1 On July 3, 2007, the Clean Water Act (CWA) and the first phase of related regulations came into effect.

- 2.2 For administrative purposes, the regulations establish source protection regions that, in most cases, include several Conservation Authority (CA) areas. There are three Source Protection Regions (SPRs) and associated Committees (SPCs) that apply to Durham Region:
- a. The Trent Source Protection Region that implements the Trent and Ganaraska Source Protection Plans;
  - b. The South Georgian Bay Lake Simcoe (SGBLS) Source Protection Region; and
  - c. The Credit Valley, Toronto and Region and Central Lake Ontario (CTC) Source Protection Region.
- 2.3 The majority of the City of Pickering, Town of Ajax, Town of Whitby, City of Oshawa and part of the Municipality of Clarington are within the CTCSPR..
- 2.4 The source protection committees have been responsible for overseeing the creation of source protection plans for Ontario watersheds. This report deals with the nomination of a Regional municipal member to the CTC SPC.

### **3. Summary of Nomination Process**

- 3.1 Regulation 288/07 outlines the process for appointing members to the SPC in a SPR. Each source protection region affecting the Region will have a SPC comprised of a Chair and 21 members.
- 3.2 One third of the CTC SPC members (7 members) must be:
- “persons appointed to reflect the interests of the municipalities that are located in whole or in part in the .... source protection region.”
- 3.3 As required by the regulations, The Toronto and Region Source Protection Authority (TRSPA) have advertised for SPC members in area newspapers. The municipal clerks within the CTC region were notified of the Call for Nominations of municipal members on the CTC SPC. See the correspondence from CTC SPR dated April 3, 2019 provided as Attachment 1.
- 3.4 The April 3, 2019 correspondence from the CTC Source Protection Region indicates that the Region’s local area municipalities in the CTC SPR (7 area municipalities and the Region) will nominate one municipal representative to sit on the SPC.



- 3.5 Accordingly, the CTC requests the receipt of the nomination of a single SPC municipal member in the Region by May 29, 2019.
- 3.6 In the absence of a consensus on a nominee among municipalities within the group or failure to receive all endorsements from all municipalities, the regulation allows the TRSPA to select an SPC member for the municipal group.

#### **4. Role and Responsibilities of Municipal Representatives on the SPC**

- 4.1 The Call for Nominations letter from the TRSPA explains:
- The functions of the SPC include review and development of policy and initiatives in support of the Terms of Reference (work plan), oversee updates to the Assessment Report and develop the Source Protection Plan to address threats to drinking water sources.
  - The eligibility, roles and responsibilities of the SPC members.
  - An expected time commitment for committee work of three five hour committee meetings per year with additional time as required.
  - The duration of the appointment for the source protection committee is five years from the date of the appointment.
  - Members will receive a per diem of \$200 and mileage as set through the Provincial guidelines.

#### **5. Current Status**

- 5.1 The current municipal member for the CTC Source Protection Committee is John Presta, Director of Environmental Services for the Region of Durham's Works Department.
- 5.2 The Regional Clerk received the formal notification of the Call for Nomination to the CTC SPC from the Toronto Region Source Protection Authority dated April 3, 2019 (Attachment #1). In the Call for Nominations letter, the TRSPA requested the Region and associated local municipalities meet to jointly nominate a representative to sit on the CTC Source Protection Committee.
- 5.3 The Regional Clerk notified each local municipality by email of the Region's intent to nominate the Region's Director of Environmental Services within the Works Department (currently Mr. John Presta).
- 5.4 A request for a meeting or concurrence with the Region's intent was communicated to each local area municipal clerk on April 10, 2019.

- 5.5 On April 23, 2019, the Region's Legislative Services – Corporate Services confirmed that the required local municipalities concur with the Region's plan to nominate the Region's Director of Environmental Services.

## **6. Consideration**

- 6.1 The Clean Water Act focuses on protecting municipal drinking water sources. The Region is responsible for providing municipal drinking water to 95 per cent of the Region's residents. The CTC SPA covers the vast majority of the Region's population served by the Region's water supply systems, so it is vital that the Region be represented on the CTC SPC.
- 6.2 The regulation states that members of Conservation Authority (CA) boards within the SPR may not serve on that SPC. Thus, a majority of Regional Councillors in the Region currently are ineligible to sit on a SPC that relates to their area municipality. By virtue of their involvement on CA Boards, which are the source protection authorities, Councillors should be kept well apprised of the Source Protection process.
- 6.3 Regional staff is eligible to sit on a Source Protection Committee and would bring valuable professional expertise, as well as the desired continuity, to the process. The work of the source protection committee is to be fairly technical in nature and the source protection plan will have major policy and operation impacts on the Region. Regional staff have a formal accountability relationship to Regional Council. Existing reporting mechanisms can be used to ensure that Council is kept up to date on SPC activities.
- 6.4 Based on discussions with the TRSPA, in the CTC source protection region, a high degree of participation by expert staff at a senior level is expected for the SPC. It appears that the other CTC municipalities intend to appoint their senior water management officials to the SPC.
- 6.5 Senior water management staff from the City of Toronto and Region of Peel who are current members of the CTC Source Protection Committee are planning the implementation of policies within the CTC SPP related to Lake Ontario.

**7. Conclusion**

- 7.1 The primary focus of the Clean Water Act and the source protection program is on protecting municipal drinking water resources. The CTC Region includes the vast majority of the population of the Regional Municipality of Durham that is served by the Regional water supply system. The Regional Municipality of Durham is chiefly responsible for implementing the drinking water source protection policies resulting from the Source Protection Plan.
- 7.2 The Regional Municipality of Durham's Works Department, Director of Environmental Services has the functional responsibility for the Region's water supply and fulfils the qualifications outlined for SPC members. He has the required professional expertise, in depth knowledge of the Region's water systems, and direct accountability to Regional Council, as well as working relationships with area municipal staff.
- 7.3 It is therefore recommended that the Regional Municipality of Durham's Director of Environmental Services, Mr. John Presta, P. Eng., be endorsed by Regional Council to represent the Durham group of municipalities on the CTC SPC.
- 7.4 This report has been reviewed by the Planning & Economic Development and Health Departments.
- 7.5 For additional information, please contact Greg Lymer, Risk Management Official – Source Water Protection at 905-668-7711, extension 3500.

**8. Attachments**

Attachment #1: Correspondence from CTC SPR dated April 3, 2019

Respectfully submitted,

**Original signed by**

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Susan Siopis, P.Eng.  
Commissioner of Works

Recommended for Presentation to Committee

**Original signed by**

---

Elaine C. Baxter-Trahair  
Chief Administrative Officer



5 Shoreham Drive, Downsview, ON M3N 1S4  
T. 416-661-6600 | [info@trca.on.ca](mailto:info@trca.on.ca)

**CTC Source Protection Region**

Toronto and Region Source Protection Authority

**SENT VIA E-MAIL**

Wednesday, April 3, 2019

Durham Region  
**Attention: Ralph Walton, Regional Clerk**  
605 Rossland Road East  
Whitby, ON  
L1N 6A3  
Email: [clerks@durham.ca](mailto:clerks@durham.ca)

City of Pickering  
**Attention: Debbie Shields, City Clerk**  
Pickering Civic Complex  
One The Esplanade  
Pickering, ON  
L1V 6K7  
Email: [clerks@pickering.ca](mailto:clerks@pickering.ca)

Township of Uxbridge  
**Attention: Debbie Leroux, Director of Legislative Services/Clerk**  
51 Toronto Street South  
P.O. Box 190  
Uxbridge, ON  
L9P 1T1  
Email: [dleroux@town.uxbridge.on.ca](mailto:dleroux@town.uxbridge.on.ca)

Town of Ajax  
**Attention: Nicole Cooper, Director of Legislative & Information Services/Clerk**  
65 Harwood Ave. South  
Ajax, ON  
L1S 2H9  
Email: [Nicole.Cooper@ajax.ca](mailto:Nicole.Cooper@ajax.ca)

City of Oshawa  
**Attention: Andrew Brouwer, Clerk**  
5th Floor, Rundle Tower, City Hall  
50 Centre Street South  
Oshawa, ON  
L1H 3Z7  
Email: [service@oshawa.ca](mailto:service@oshawa.ca)

Municipality of Clarington  
**Attention: Anne Greentree, Clerk**  
40 Temperance Street, 2nd Floor  
Bowmanville, ON  
L1C 3A6  
Email: [clerks@clarington.net](mailto:clerks@clarington.net)

Town of Scugog  
**Attention: JP Newman, Clerk**  
181 Perry Street,  
Port Perry, ON  
L9L 1A7

Town of Whitby  
**Attention: Town Clerk**  
575 Rossland Rd. East  
Whitby, ON  
L1N 2M8  
Email: [clerks@whitby.ca](mailto:clerks@whitby.ca)

**RE: REQUEST JOINT NOMINATION OF ONE REPRESENTATIVE TO THE CTC SOURCE  
PROTECTION COMMITTEE**

**DUE BY 4:00 P.M. WEDNESDAY, MAY 29, 2019**

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Ontario Regulation 288/07 under the *Clean Water Act, 2006* outlines the terms and conditions of appointments to source protection committees. On June 1, 2019, the term of the member representing Durham Region; the Cities of Pickering and Oshawa; the Towns of Whitby, Scugog, and Ajax; the Municipality of Clarington; and the Township of Uxbridge on the CTC Source Protection Committee is set to expire. John Presta is the current member fulfilling this role and has ably represented the interests of your municipality since the CTC Source Protection Committee was formed in 2007.

Replacement members to the Committee must be appointed by the Toronto and Region Source Protection Authority (TRSPA) in accordance with Section 3 of Ontario Regulation 288/07. Your municipalities are asked to jointly nominate an elected official, staff member, or citizen representative that complies with the eligibility requirements as listed in Attachment 1. **Council resolutions are not required to accompany the nomination, but all municipalities must confirm that they are in agreement as to the candidate to fill this role.** It is suggested that municipalities meet over the next couple of months to discuss and make decisions with respect to their preferred representative. Our Program Manager, Jennifer Stephens, is available to attend meetings as a resource.

The term of this Municipal member will be five (5) years from the date of appointment. The time commitment for CTC SPC members varies with work load. As we are now implementing and updating the CTC Source Protection Plan, we anticipate the need for three five-hour committee meetings per calendar year with periodic communications in-between. Members are provided with a per diem of \$200 and mileage as set through the provincial guidelines.

Pursuant to [Ontario Regulation 288/07](#), please submit the name of the person to represent your municipality **by Wednesday, May 29, 2019** to the attention of:

**Jennifer Stephens, Program Manager, CTC Source Protection Region**

Via mail to: 101 Exchange Avenue, Vaughan, ON, L4K 5R6  
Via courier to: 101 Exchange Avenue, Vaughan, ON, L4K 5R6  
Via email to: [sourcewater@trca.on.ca](mailto:sourcewater@trca.on.ca) OR  
Via fax to: 416-661-6898

Should you wish further information on the nomination of members, their duties or other information, please contact Jennifer Stephens, Program Manager, CTC Source Protection Region via email at [jstephens@trca.on.ca](mailto:jstephens@trca.on.ca) or by telephone at 416-892-9634.

Thank you for your municipality's efforts as we jointly work to protect our sources of drinking water.

Sincerely,



John Mackenzie,  
Chief Executive Officer  
Toronto and Region Source Protection Authority

cc. John Presta, Municipal Member, CTC Source Protection Committee  
Jennifer Stephens, Program Manager, CTC Source Protection Region  
Rod Wilmot, Lead – Source Protection, Central Lake Ontario Conservation Authority  
Greg Lymer, Risk Management Official, Durham Region  
Colin Hall, Risk Management Inspector, Durham Region

**ATTACHMENT 1: Source Protection Committee Membership Eligibility**



ATTACHMENT 1:



**SOURCE PROTECTION COMMITTEE MEMBERSHIP ELIGIBILITY REQUIREMENTS**

**SPC MEMBER SKILLS AND QUALIFICATIONS**

- Hold relevant knowledge of the applicable watersheds, communities, and local issues;
- Demonstrated ability to understand source protection planning related science, concepts and technical reports;
- Proven ability to act as liaison to bring forward common concerns from their knowledge and experience in the municipal sector to the Committee and assist in communicating the Committee's work to municipal councils and staff;
- Solid problem-solving, analytical, communication and organizational skills;
- Demonstrated ability to work with group dynamics and team environments;
- Willingness and ability to travel within the CTC Source Protection Region for public consultation meetings and information sessions;
- Has, or is capable of having direct contact with residents and landowners; and
- Provide constructive, collaborative, and science-based input on local source protection planning issues.

**SPC MEMBER ELIGIBILITY REQUIREMENTS**

- Reside in, own or rent property within the CTC Source Protection Region; or
- Be employed or operate a business within the CTC Source Protection Region; or
- Be employed by a municipality that is in the CTC Source Protection Region; and
- Not be a member or employee of Credit Valley Conservation, Toronto and Region Conservation Authority, or Central Lake Ontario Conservation Authority.

**REGULATORY CONDITIONS OF APPOINTMENT**

- The appointee must regularly attend meetings of the source protection committee.
- The appointee must comply with the source protection committee's Code of Conduct and Conflict of Interest policy, as well as the Rules of Procedure.



## The Regional Municipality of Durham Report

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To: Works Committee  
From: Commissioner of Works  
Report: [#2019-W-34](#)  
Date: May 8, 2019

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### **Subject:**

Construction of Regional Contract D2012-2 for the Port Darlington Water Pollution Control Plant (WPCP) Phase 2 Expansion, in the Municipality of Clarington

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### **Recommendations:**

That the Works Committee recommends to Regional Council:

- a) That additional commitments be assigned to WSP Canada Inc. (WSP) for services required to analyze and assist the Regional Solicitor in defence of claims submitted by Torbear Contracting Inc. related to the construction of Regional Contract D2012-2 for the Port Darlington Water Pollution Control Plant (WPCP) Phase 2 Expansion, in the Municipality of Clarington and provide additional construction contract administrative services until the contract is complete;
- b) That a sole source consulting agreement be executed with CIMA Canada Inc (CIMA) for services required to analyze and assist the Regional Solicitor in defence of Claims submitted by Torbear Contracting Inc. (Torbear) related to the construction of Regional Contract D2012-2 for the Port Darlington Water Pollution Control Plant (WPCP) Phase 2 Expansion, in the Municipality of Clarington;
- c) That a sole source consulting agreement be executed with a third party expert for services required in relation to the analysis and evaluation of contract entitlement, cause and effect analysis and claim qualification;



- d) That the funding for additional commitments be financed at the discretion of the Commissioner of Finance; and
- e) That the Commissioner of Finance be authorized to execute the necessary consulting services agreements and amendment to the existing agreement.

## **1. Purpose**

- 1.1 The purpose of this report is to obtain approval for additional commitments with consultants for services required to analyze and assist the Regional Solicitor in defence of Claims submitted by Torbear related to the construction of Regional Contract D2012-2 for the Port Darlington Water Pollution Control Plant (WPCP) Phase 2 Expansion, in the Municipality of Clarington and provide additional construction contract administrative services until the contract is complete. Dollar amounts followed by an asterisk (\*) below are before applicable taxes.

## **2. Project Background**

- 2.1 The Contract D2012-002, Phase 2 Expansion of the Port Darlington WPCP includes the construction of a second conventional activated sludge plant parallel to the existing plant in order to double the current capacity from 13,638 m<sup>3</sup>/d to 27,276 m<sup>3</sup>/d. Works included a new head works facility, primary and secondary clarifiers, aeration tanks, chlorine contact tank, standby power facilities, new chemical building and digester. The existing plant was also being modified including upgrades to the existing digesters, raw sewage pumping station, return and waste activated sludge pumping systems and Supervisory Control and Data Acquisition (SCADA).
- 2.2 The commence work order for the project was issued on August 7, 2012. Productive work began on site in the fall of 2012 with the first stage consisting of the excavation and construction of the new plant facilities south of the existing plant located at 93 Port Darlington Road in Bowmanville. It was agreed in 2013 that Torbear would provide the requisite resources in order to accelerate their schedule. The second phase of the work followed and involved upgrades to the raw lift building, process piping and digester facilities to allow sanitary sewage treatment to continue at both the existing and new plant. Conditions outlined in the contract documents require the project to be substantially performed by April 25, 2015 and completed in its entirety by June 26, 2015. Substantial performance was ultimately achieved on November 14, 2017, although the project remains unfinished.

- 2.3 Torbear has submitted a claim to the Region in the order of \$14,000,000 alleging delay and disruption.

### **3. Additional Commitments to WSP Canada Inc.**

- 3.1 On September 23, 2015 Council approved additional commitments of \$980,000\* to WSP to provide additional engineering and contract administrative services for the estimated 16 months of additional construction. Unfortunately, as noted above the contractor did not adequately improve production and resources and construction took longer than revised estimates at the time of the previous report. In addition to the delayed completion of work, Torbear has submitted a claim to the Region in the order of \$14,000,000 for alleged delay and disruption. Additional commitments of \$200,000 to WSP was required for services necessary to analyze claims submitted by Torbear and provide additional construction contract administrative services until the contract is complete. The matter is proceeding to mediation and WSP is required to provide support to the Region in defending against the allegations and claims of Torbear and in advancing liquidated damages claims by the Region against Torbear.

### **4. Sole Source Agreement with CIMA**

- 4.1 In 2018 (June 12) the project manager for WSP providing contract administration services on this project accepted a position to work for CIMA. CIMA is required to be engaged in order to access the project manager who is very familiar with the project.

### **5. Sole Source Agreement with a Delay Expert**

- 5.1 As this matter is proceeding to mediation, the services of a third party expert in the analysis and evaluation of contract entitlement, cause and effect analysis and claim quantification is essential. Further details in respect of this issue are provided in the attached confidential memorandum.

### **6. Financial Implications**

- 6.1 The Budget Management Policy, Section 10.0, requires that the applicable Standing Committee and Regional Council approve amendments to consulting engagements that exceed ten percent of the original value, up to a maximum of \$50,000 per consulting engagement.
- 6.2 Section 9.4.2 of the Region's Purchasing By-Law 68-2000 (Amended) requires

that where the project or annual value of a consulting or professional service assignment is expected to be more than \$60,000, the approval of the appropriate Standing Committee and Regional Council is required to obtain approval to acquire the service through a sole source negotiation.

- 6.3 The financing for the additional commitments to WSP, CIMA and third party expert will be provided at the discretion of the Commissioner of Finance.

## **7. Conclusion**

- 7.1 It is recommended that staff be authorized to assign additional commitments to WSP for services required to analyze and assist the Regional Solicitor in defence of claims submitted by Torbear Contracting Inc. related to the construction of Regional Contract D2012-2 for the Port Darlington Water Pollution Control Plant (WPCP) Phase 2 Expansion, in the Municipality of Clarington and provide additional construction contract administrative services until the contract is complete.
- 7.2 In addition, this report seeks approval to execute a sole source consulting agreements to both CIMA and a third party expert for services required to analyze and assist the Regional Solicitor in defense of claims submitted by Torbear.
- 7.3 This report has been reviewed by the Finance Department and Corporate Services – Legal Services. The Commissioner of Finance and the Commissioner of Corporate Services concur with the recommendations in this report.

**8. Attachments**

Attachment #1: Provided separately is a Confidential Memorandum to Committee and Council dated April 3, 2019 outlining the elements of this report covered by Solicitor Client Privilege.

Respectfully submitted,

**Original signed by John Presta for** \_\_\_\_\_

Susan Siopis, P.Eng.  
Commissioner of Works

**Original signed by** \_\_\_\_\_

Jason D.D. Hunt, LL.B.  
Director of Legal Services

Recommended for Presentation to Committee

**Original signed by** \_\_\_\_\_

Elaine C. Baxter-Trahair  
Chief Administrative Officer



## The Regional Municipality of Durham Report

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To: Works Committee  
From: Commissioner of Works  
Report: [#2019-W-35](#)  
Date: May 8, 2019

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### **Subject:**

Supplemental Report on Water Quality and Quantity Concerns with Private Wells  
Servicing Residents on Fielding Court in the Town of Ajax

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### **Recommendation:**

That the Works Committee recommends to Regional Council that this report be received for information.

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### **Report:**

#### **1. Purpose**

- 1.1 On February 6, 2019, Works Committee Report #2019-W-11 (Attachment #1) was presented regarding private wells on Fielding Court, in the Town of Ajax. Regional staff were directed to report back to Works Committee on a go forward plan to extend the municipal water supply to the residents. In addition, Regional staff were directed to investigate the quality and quantity of water from the private drilled and dug wells servicing the residents of Fielding Court to determine whether there is a health risk.

#### **2. Background**

- 2.1 In 2002, the Regional Municipality of Durham (Region) completed a Class Environmental Assessment (EA) for a water storage facility to service the Ajax Zone 2 water pressure district. During the public consultation process for the Class EA, a number of residents near the proposed water storage facility, including residents at Fielding Court expressed an interest in obtaining municipal

water supply from the Ajax Zone 2 water supply system because of water quality and quantity issues at their private wells.

- 2.2 The residents from Fielding Court had petitioned to obtain municipal water connection in November 2002 as well as October 2003 and enquired again in August 2018 (Attachment #1).

### **3. Previous Studies**

- 3.1 As part of the Class EA process, technical studies were undertaken by AMEC Earth & Environmental Limited (AMEC) including a hydrogeologic study to assess potential impact on groundwater in private wells. A geotechnical study was undertaken and boreholes were drilled to assess soil and groundwater conditions, including whether there was a need for dewatering during construction. As part of the hydrogeologic study, AMEC completed site visits with interested residents, collected information on existing wells and obtained water quality samples for bacteriological and inorganic parameters. AMEC identified information from 13 of 15 properties on Fielding Court, of which 11 dwellings are serviced by drilled wells and two by shallow dug wells. Wells exist in both shallow and deep overburden with sand being the dominant aquifer. The sand aquifer was determined to be discontinuous. Numerous wells also exist in bedrock, implying insufficient water supply in the overburden. AMEC also commented that the bedrock wells tend to yield less water due to inability of the shales to transmit water.
- 3.2 In 2001, AMEC collected groundwater samples from 13 of 15 wells servicing dwellings on Fielding Court for bacteriological and inorganic water quality analysis. Results from the water quality analysis were compared to the Ontario Drinking Water Standards (ODWS), published in 2000. In 2002, AMEC reported that "The water quality exceedances recorded are not restricted to a particular well type, (dug or drilled) or depth. With exception of turbidity, all of the parameters that were above the ODWS are listed in the MOE Table 4, which does not contain health related parameters".
- 3.3 Jagger Hims Limited (JHL) completed a groundwater monitoring program from 2002 to 2004 at selected neighbouring private wells near the Zone 2 reservoir, including seven wells on five properties on Fielding Court prior to, during and after construction of the Zone 2 reservoir. The results of the monitoring program completed for the Zone 2 reservoir construction project concluded that "the local groundwater levels in the surficial aquifer were not adversely affected as a result of construction."

- 3.4 The staff from the Ministry of the Environment, Conservation and Parks (MECP) assessed well complaints from 5 Fielding Court and 2620 McNamara Court in the summer of 2017. Overall, MECP concluded “that groundwater-based water supplies in the area appear to be marginal, or poor” and that “a number of other properties in the area have had multiple wells drilled over short periods of time, indicating difficulties in obtaining an adequate water supply.”

#### **4. Physical Setting, Geology and Hydrogeology**

- 4.1 Overburden deposits in the northern part of Ajax are the results of extensive glacial activities over the last 135 thousand years. Fielding Court lies near the border of two physiographic regions, namely the South Slope and Iroquois Plain, just north of the abandoned shoreline of the glacial Lake Iroquois (Chapman and Putnam, 1984). The South Slope physiographic region is characterized by very dense and hard glacial till deposits, also known as Newmarket Till. The soil conditions of silty clay and silt till reported by AMEC corresponds with the surficial geology and physiographic mapping for the Fielding Court area. The hard, dense till or “hardpan” above bedrock is also reported in numerous well records.
- 4.2 Two aquifers supplying wells at Fielding Court are interpreted to be sand and gravel above bedrock and the shale bedrock. The sand and gravel aquifer is not very productive for water supply as it is thin and not continuous. The shale bedrock aquifer is less transmissive and produces less water, as shales do not transmit water. Two shallow dug/bored wells are obtaining their water supply from slowly seeping water stored in large casings.
- 4.3 Fielding Court is located within the Duffins Creek Watershed. Based on [York-Peel-Durham-Toronto Conservation Authorities Oak Ridges Moraine Coalition \(YPDT-CAMC\) website](#) groundwater flow direction is interpreted to be from north-west to south-east.

#### **5. Ministry of Environment, Conservation and Parks Well Records**

- 5.1 Regional staff have reviewed the available well records for Fielding Court on the MECP and YPDT-CAMC website. A total of 24 well records were identified for 15 properties. Three properties have multiple well records suggesting difficulty in finding adequate water supply. Four well records were identified for 5, 7 and 14 Fielding Court, each. Information from 24 well records indicated that 10 wells are completed in bedrock and 13 wells are completed in overburden. The drilled wells vary in depth from 19.5 metres (m) to 60 m, bored wells vary in depth from 3.5 m to 7.3 m. Three well records reported “gas” and five wells reported “cloudy” water.

Recommended pumping rates vary from “dry” to 36 L/min and averaged at 9.5 L/min. Four well records had no information on the recommended pumping rates.

- 5.2 The MECP “Technical Guidelines for Private Wells, Water Supply Assessment (Procedure D- 5-5), 1996” provides information on calculating the minimum pumping test rate and well yield for a single-family residence within a proposed development. For a new well a well yield should consider 450 litres per person per day, equivalent to 3.75 litres per minute per person, based on peak demand for a period of 120 minutes per day. “The basic minimum pumping test rate is this rate multiplied by the likely number of person per well which, for a single family residence, shall be the number of bedroom plus one”. Nevertheless, “the Ministry recommends that this rate shall be not less than 13.7 litres per minute”. Since peak demand occurs for a period of 120 minutes, MECP allows for a lower rate if the well is supported by storage sized to compensated peak daily use.

## **6. Water Quality**

- 6.1 Several parameters tested by AMEC at thirteen wells on Fielding Court in 2001 did not meet the Technical Support Document for Ontario Drinking Water Standards, Objectives and Guidelines (ODWSOG), published in 2003 and revised in 2006 including dissolved solids, colour, alkalinity, hardness, iron, manganese, and sodium. These parameters are aesthetic objectives in the ODWSOG and are not health related standards. However, the water parameters may impair taste, have odour or colour, and may interfere with good water quality control practices. The exceedances of these parameters can be common in areas located in southern Ontario. Total coliforms did not meet health related standards in the ODWSOG in six wells. Letters to property owners were sent to notify them about health standard exceedances with a recommendation to re-test. Elevated levels of turbidity are likely related to cloudy water reported on the well records.

## **7. Water Supply Questionnaire**

- 7.1 Regional staff sent a questionnaire to the residents on Fielding Court in December 2018, to obtain updated information regarding their private water supply systems. Two residents did not participate in the survey. From a total of 15 wells, 10 wells are drilled, two wells are dug wells, and there is no information on three wells. It was reported that estate homes on Fielding Court have three to nine bedrooms, and two to 11 persons living in these residences. Eleven properties have an on-site water reservoir to supplement their water demands and 11 reported that they are required to supplement their water supply with water that is trucked in. Three



residents reported that they have sufficient water supply. Most residents indicated that they are unhappy with both the quantity and quality of water available from local aquifers. Most residents indicated that they have water treatment for their wells.

- 7.2 The water quality at the Fielding Court wells is poor, but it may be improved by various treatment technologies to meet the criteria set out in the Technical Support Document for ODWSOG. In addition, residents on Fielding Court have marginal water quantity from their wells to sustain their needs. The majority of residents have holding tanks and supplement their water supply with trucked water.
- 7.3 It is important to note that residents will need to manage water use to be compatible with their individual private sewage disposal systems, should municipal water service be established.

## **8. Municipal Servicing**

- 8.1 As noted in previous correspondence and reports, municipal water service for properties on Fielding Court is not planned due to Provincial and Regional policies on the extension of municipal services outside of the designated urban areas. Fielding Court is outside of the Ajax urban area and within the Provincial Greenbelt Plan area. The Provincial Greenbelt Plan indicates that the extension of municipal or private communal sewage or water services outside of a settlement area boundary shall only be permitted in the case of health issues or to service existing uses and the expansion thereof adjacent to the settlement area.
- 8.2 The Health Department's review of the historical well water quality information does not support the existence of a health issue. While there were exceedances of some aesthetic or operational objectives and Total Coliforms under the ODWSOG, the quality of the water may be improved by available treatment technologies. In addition, private wells have been supplemented by trucking in water to on site water holding tanks.
- 8.3 Under the current circumstances, if municipal water services are to be provided for Fielding Court, a determination must be made that there is a health issue with the private wells on Fielding Court based on the related water quality and quantity information.
- 8.4 If direction is provided as noted above, Regional staff can initiate the petition process under the Municipal Act, 2001 to obtain approval to construct water

service on Fielding Court based on full cost recovery.

- 8.5 The preliminary conceptual cost estimate for a watermain extension to service the properties on Fielding Court is in the order of \$600,000, subject to detailed engineering for site specific conditions. Residents may require an individual booster pump in order to meet water pressure needs of each property.

## **9. Conclusion**

- 9.1 Regional staff have summarized the water quality and quantity concerns related to private wells servicing residents living on Fielding Court in the Town of Ajax.
- 9.2 The plan to move forward with municipal water services is noted in Section 8 within this report.
- 9.3 This report has been reviewed by the Health, Planning and Economic Development and Legal Services - Corporate Services Departments.
- 9.4 For additional information, please contact Beata Golas, Project Hydrogeologist at 905-668-7711, extension 3447.

## **10. Attachments**

Attachment #1: Works Committee Report #2019-W-11, Report on Private Wells on Fielding Court in the Town of Ajax

Respectfully submitted,

**Original signed by John Presta**

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Susan Siopis, P.Eng.  
Commissioner of Works

Recommended for Presentation to Committee

**Original signed by**

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Elaine C. Baxter-Trahair  
Chief Administrative Officer

If this information is required in an accessible format, please contact 1-800-372-1102 ext. 3540.



## The Regional Municipality of Durham Report

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To: Works Committee  
From: Commissioner of Works  
Report: #2019-W-11  
Date: February 6, 2019

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**Subject:**

Report on Private Wells on Fielding Court in the Town of Ajax

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**Recommendation:**

That the Works Committee recommends to Regional Council that this report be received for information.

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**Report:**

**1. Purpose**

- 1.1 The purpose of this report is to provide an update on community concerns regarding water quantity and quality in private wells for homes on Fielding Court, in the Town of Ajax (Ajax).

**2. Background**

- 2.1 Fielding Court is located in the northern portion of Ajax, on the east side of Westney Road (Attachment #1). The subdivision was approved based on private wells and private waste disposal systems in November 1985. The subdivision contains 15 rural residential dwellings that were constructed in the late 1980's. Each dwelling has since been serviced with a private water supply (well or holding tank) and a private sewage disposal system.
- 2.2 The subdivision is located approximately 1 km north of the Ajax Urban Area as designated in the Durham Regional Official Plan.

- 2.3 The properties on Fielding Court are identified as a Country Residential Subdivision within the Durham Regional Official Plan. Policy 9B.2.18 of the Durham Regional Official Plan indicates that “country residential subdivisions shall be individually serviced with drilled wells and private sewage systems which comply with the standards of the Region and the Ministry of Environment and Climate Change.”
- 2.4 The subdivision is also within the Provincial Greenbelt Plan Area. The Greenbelt Plan requires that for properties within the Greenbelt seeking to be connected to municipal services, that such connections would only be permitted if a health issue exists.
- 2.5 Local residents have raised water quantity and quality concerns with their private wells dating back to 2001. The main concern at that time focused on the adequacy of the quantity of water in local aquifers to support private wells. In addition, well water sampling results on certain wells showed that there were parameters that exceeded Ontario Drinking Water Quality Standards (ODWQS) at times.
- 2.6 On December 9, 2003, Regional staff presented Works Committee Report #2003-W-165 (Attachment #2) regarding resident concerns about private wells in this area following a petition for water supply.
- 2.7 On December 16, 2003 the province introduced Bill 27 establishing a Greenbelt Study Area across the Greater Golden Horseshoe. The same day, a Minister's Zoning Order was passed that placed a one-year moratorium on the construction of new buildings within the Greenbelt Study Area. On December 16, 2004, the provincial Greenbelt Plan came into effect.

### **3. Residents' Correspondence of August 26, 2018**

- 3.1 The most recent correspondence from the residents indicates that the quantity and quality of water in the private wells for the residences on Fielding Court has not improved since the information report was brought to Works Committee in 2003 (Attachment #3).
- 3.2 Regional staff sent a questionnaire to the residents on Fielding Court in December 2018, to obtain additional information regarding their private water supply systems. Most residents indicated that they are unhappy with both the quantity and quality of water available from local aquifers. Most residents also indicated that they are required to supplement their water supply with water that is trucked in.

#### **4. Municipal Servicing**

- 4.1 The Fielding Court subdivision is situated outside of the Ajax Urban Area and is within the Greenbelt. Both the Provincial Greenbelt Plan and the Regional Official Plan restrict the extension of municipal services outside of the Urban Area Boundary, unless a health issue exists.
- 4.2 While the quality of the water may be improved by various treatment technologies to meet the criteria set out in the ODWQS, the residents have advised that there is not enough water produced in local wells to sustain the needs of the residents on Fielding Court even if an advanced treatment unit is used.
- 4.3 In order to provide municipal water supply to the residents on Fielding Court, watermain construction would be required from the trunk feedermain on Westney Road that services the Westney Road Zone 2 Reservoir, located on the west side of Westney Road north of Fielding Court. Due to the elevation of the area and the operating water elevation in the Westney Road Zone 2 reservoir, the minimum acceptable water pressure could be provided to these residences without the need for a pumping station. Residents may require an individual booster pump in order to meet the water pressure needs of each property.
- 4.4 The preliminary conceptual cost estimate for a watermain extension to service the properties on Fielding Court is in the order of \$600,000, subject to detailed engineering for site specific conditions.

#### **5. Conclusion**

- 5.1 Residents living on Fielding Court continue to express concerns related to private well water quantity and quality. The subdivision is outside of the Ajax Urban Area, and within the Provincial Greenbelt Plan Area. Municipal water supply cannot be extended to this area unless a health issue exists.
- 5.2 This report has been reviewed by the Health and Planning & Economic Development Departments. The Medical Officer of Health and the Commissioner of Planning & Economic Development concur with the information within this report.

5.3 For additional information, please contact John Presta, Director of Environmental Services at 905-668-7711, extension 3520.

**6. Attachments**

Attachment #1: Site map of properties on Fielding Court

Attachment #2: Works Committee Information Report #2003-W-165

Attachment #3: Correspondence, dated August 26, 2018, regarding Well Water Conditions

Respectfully submitted,

**Original signed by:**

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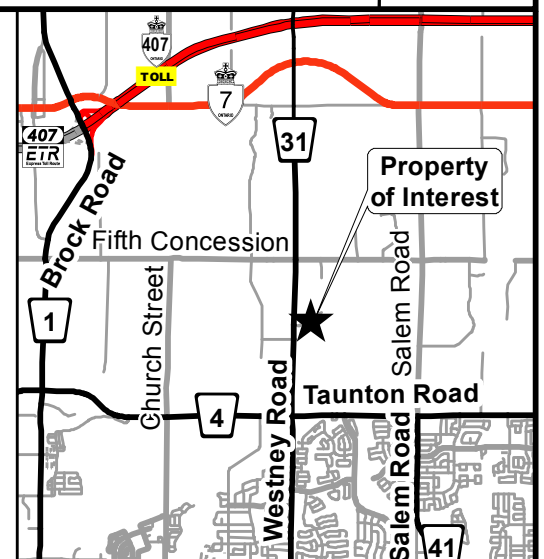
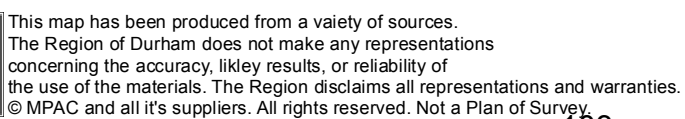
Susan Siopis, P.Eng.  
Commissioner of Works

Recommended for Presentation to Committee

**Original signed by:**

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Elaine C. Baxter-Trahair  
Chief Administrative Officer





**Regional Municipality of Durham**

**To: The Works Committee**  
**From: Commissioner of Works**  
**Report: 2003-W-165**  
**Date: December 9, 2003**

Attachment #1 to Report #2019-W-35

**SUBJECT:**

Water Supply in North Ajax – Petition from Residents on Fielding Court and Greenwood Road - Update

**RECOMMENDATIONS:**

- a) THAT this report be received for information; and
- b) THAT a copy of this report be sent to the following: Mr. Colin Charles, Mr. B. Roy Choudhury, the Town of Ajax and the Ministry of the Environment.

**REPORT:**

**Attachment No. 1: Works Committee Report No. 2002-W-70**  
**Attachment No. 2: Works Correspondence WC-72-2003 - Petition from Residents on Fielding Court and Greenwood Road**  
**Attachment No. 3: Plan for Local Water Supply System**

**1. BACKGROUND**

On August 28, 2002, Report No. 2002-W-70 (Attachment No. 1) was presented to Works Committee regarding water supply servicing in North Ajax. Residents on Fielding Court and Greenwood Road had expressed an interest in obtaining municipal water supply from the Ajax Zone 2 water supply system. The report concluded that due to the high capital costs and operational concerns, the creation of a small local water supply system to service this area was not recommended.

On October 21, 2003, Regional staff met with the residents on Fielding Court who presented a second petition with respect to obtaining municipal water supply. Regional staff were asked to review options for providing municipal water supply on Fielding Court. The residents identified in Attachment No. 2 expressed their concerns with respect to existing water quality and quantity problems related to their private wells.



**2. SERVICING IMPLICATIONS**

In reviewing the technical feasibility of providing municipal water to the residents on Fielding Court, staff wanted to ensure that adequate water pressure and fire flow could be provided in accordance with Regional standards. In order to service Fielding Court, water must be obtained from the proposed Ajax Zone 2 reservoir and associated feedermain on Westney Road.

A revision in the Top Water Level (TWL) for the Ajax Zone 2 reservoir during detailed design has revised the topographic servicing elevation for the lands within the Ajax Zone 2 water pressure district. The design of the Ajax Zone 2 reservoir raised the storage facility by 5 m in order to reduce project costs for earthworks. The revision of the TWL will allow lands with a topographic elevation of approximately 138 m to be serviced by the Ajax Zone 2 water pressure district. Lands on Fielding Court are at a topographic elevation of 138 m. It is important to note that if the properties on Fielding Court were serviced by the Ajax Zone 2 water supply system, they would receive the minimum design water pressure of 40 psi (275 Kpa). Other residents which may potentially be serviced by the Ajax Zone 2 water pressure district include the east/west portion of Greenwood Road, west of Westney Road (Attachment No. 3). Lands which are located above the 138 m topographic elevation on Greenwood Road, Westney Road, McNamara Court and the 5<sup>th</sup> Concession would require a water pumping station.

The preliminary estimated cost to construct water supply in the above noted area is:

<u>Street</u>	<u>Cost</u>
Fielding Court	\$290,000
Greenwood Road (East/West Portion)	<u>260,000</u>
<b>Total</b>	<b><u>\$550,000</u></b>

**3. APPROVALS**

The properties in question are outside the urban area boundary of the Regional and Local Official Plans. In order to obtain municipal water supply servicing, a Regional Official Plan Amendment (OPA) would be required and the residents would be financially responsible for construction of the entire local water distribution system. It is important in consideration of a Regional OPA to recognize that the number of other properties that may wish to obtain water supply servicing from a local water supply system may be extensive. This may result in additional costs and operating considerations in order to properly size the required infrastructure.

**4. SUMMARY**

The potential water supply servicing from the Ajax Zone 2 water pressure district for Fielding Court and a portion of Greenwood Road is feasible, however, it is subject to the approval of a Regional Official Plan Amendment (OPA) and financial plan acceptable to the Region and the affected residents. This process would be initiated by the residents.

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Clifford Curtis, P. Eng., MBA  
Commissioner of Works

EPS1/ps



**Regional Municipality of Durham**  
**To: The Works Committee**  
**From: Commissioner of Works**  
**Report: 2002-W-70**  
**Date: August 28, 2002**

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**SUBJECT:**

Water Supply in North Ajax - Petition from Residents on Fielding Court and Greenwood Road

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**RECOMMENDATIONS:**

- a) THAT this report be received for information; and
  - b) THAT a copy of this report be sent to the following: Mrs. S.M. Herring, Mr. Colin Charles, Mr. Edward Fromm, the Town of Ajax and the Ministry of Environment.
- 

**REPORT:**

**Attachment No. 1 -** Correspondence WC-21-2002  
Correspondence WC-31-2002  
Correspondence WC-32-2002

**Attachment No. 2 -** Ajax Zone 2 Reservoir Location Plan

**Attachment No. 3 -** Conceptual Servicing Plan for Local Water Supply System

**1. BACKGROUND**

In November 2000, the Region of Durham initiated a Class Environmental Assessment (EA) in order to plan for a water storage facility to service the Ajax Zone 2 water pressure district. The Ajax Zone 2 water pressure district generally consists of lands within the urban area boundary between Audley Road to the east, Brock Road to the west, Rossland Road to the south and Taunton Road to the north. During the public consultation process for the Class Environmental Assessment, a number of residents in the vicinity of the preferred location of the proposed water storage facility expressed an interest in obtaining municipal water supply from the Ajax Zone 2 water supply system.

Generally, these residents occupy country residential developments along McNamara and Fielding Courts and receive water supply from private wells and/or water holding tank systems. Based on the Class EA, the preferred inground water storage reservoir site is 200m south of Fifth Concession Road and along the west side of Westney Road (refer to Attachment No. 2).

Separate meetings were held with these residents in order to explain the Class EA Process and Regional Policy on Services. The residents expressed concern with respect to water quality and quantity issues. Following the meetings, the Region of Durham conducted a groundwater impact assessment to determine if the proposed construction of the Ajax Zone 2 reservoir would impact the surrounding wells. The findings of the groundwater impact assessment concluded that there would not likely be impacts on private water supplies from the construction. Subsequently, the residents were provided with individual water quality results from the sampling program, and a copy of the Groundwater Impact Assessment Report was provided to the residents' representatives.

On March 27, 2002, the Region of Durham filed the Environmental Screening Report for the Ajax Zone 2 water storage facility for the mandatory 30-day public review period. There were no requests to the Minister of the Environment to issue a Part 2 order (formerly a "bump-up" request) for the project; however, based on the correspondence received by the Region, the surrounding residents near the proposed reservoir site are petitioning to be serviced by the proposed Zone 2 water supply system.

## **2. GENERAL LOCATION AND SERVICING**

The residents who have petitioned for water supply from the proposed Ajax Zone 2 water supply system reside on Fielding Court and Greenwood Road. This area is outside the urban area boundary and municipal water supply is not planned to be extended to this area. The proposed Ajax Zone 2 reservoir is to be located on the west side of Westney Road, approximately 200m south of Fifth Concession Road (refer to Attachment No. 2). The location of the reservoir has been chosen in order to achieve a top water level elevation of 165m to service the Zone 2 water pressure district within the urban area of the Regional and local Official Plans.

Report No.: 2002-W-70

Page No.: 3

Attachment #1 to Report #2019-W-35

**2.1 Servicing Implications**

The Ajax Zone 2 water pressure district can service lands with a topographic elevation not exceeding approximately 130m. Lands above the 130m elevation cannot be serviced by the proposed Zone 2 water pressure system with the Region's minimum design water pressure. In order to service the properties on Fielding Court and Greenwood Road, a pumping station would be required to provide adequate water pressure and fire flow. A local water distribution system would be required as shown conceptually on Attachment No. 3. The Region's practice and policy does not allow individual service connections from large feeder mains in order to maintain the integrity of the major components of a water supply system.

The preliminary estimated cost to construct a communal water supply system and water pumping station is approximately \$1.6 million in order to service Fielding Court, Greenwood Road up to Fifth Concession Road and a portion of Westney Road. The creation of two single feed, dead end water mains may result in operational difficulties in maintaining chlorine residuals within the local system.

The properties in question are outside the urban area boundary of the Regional and local Official Plans. In order to obtain municipal water supply servicing, a Regional Official Plan Amendment would be required and the residents would be financially responsible for construction of the entire local water distribution system. It is important in consideration of a Regional Official Plan amendment as noted above, to note that the number of other properties that may wish to obtain water supply servicing from a local water supply system which may result in additional costs and operating considerations in order to properly size infrastructure.

**2.2 Subdivision Approval**

The residents on Fielding Court have also expressed a concern regarding the approval process for their country residential subdivision in 1986 and are requesting free water supply service. It is noted that, at the time when the Fielding Court subdivision was approved, the Ministry of the Environment was responsible for the review and approval of private water supply systems.

With respect to the approval of the existing estate lot subdivision for Fielding Court, the responsibility of identifying and reviewing the target aquifer for private water supply was with the Ministry of the Environment in 1986. The Region of Durham's Drilled Well Policy came into effect in 1990.

**Report No.: 2002-W-70**

**Page No.: 4**

**3. SUMMARY**

**Attachment #1 to Report #2019-W-35**

**Based on the high capital costs and operational concerns, Regional staff do not recommend proceeding with creating a local water supply system to service this area.**

J.R. McCorkell, P. Eng.  
Commissioner of Works

EPS1/ra

### **Attachment #3 to Report #2019-W-11**

Attachments to this August 26, 2018 correspondence regarding Water on Fielding Court are available upon request.

August 26, 2018

To: Shaun Collier  
Regional Councillor Wards 1 & 2  
Town of Ajax  
65 Harwood Avenue South  
Ajax ON L1S 2H9  
shaun.collier@ajax.ca

### **Attachment #1 to Report #2019-W-35**

From: Joseph & Barbara Ruddy  
11 Fielding Court  
Ajax ON L1T 4W5  
905-686-2193  
barbararuddy@gmail.com

### **Re: Water on Fielding Court**

Further to our recent discussions, please see attached and below, the information we have respecting our efforts to obtain municipal water services on Fielding Court. These communications date from June 2001 to December 2004.

1. Minutes of a meeting held June 25, 2001 at the Durham Region Works Department Main Boardroom respecting the Regional Ajax Zone 2 Water Storage Facility and a Class Environmental Assessment. Attendees included residents of Fielding Court, John Presta, P.Eng., representing Durham Region and Eric Tuson, P.Eng., representing engineering consulting firm, KMK Consultants Limited.
2. Letter dated October 25, 2001 from Beata Golas, Hydrogeologist at Durham Region re water quality at 11 Fielding Court. The letter states, "*The results of the water sample indicate that the water is **unsafe** for drinking unless boiled or treated.*"
3. Letter dated April 24, 2002 from Colin Charles, resident at 5 Fielding Court, addressed to the Minister of the Environment and copied to the Regional Clerk and John Presta, P.Eng. The letter relates to the installation of the Ajax Zone 2 Water Storage Facility and the circumstances of the approval of the subdivision in 1986.
4. Letter dated June 11, 2002 from John Presta, P.Eng., Durham Region, attaching Commissioner's Report No. 2002-W-70 regarding water supply in north Ajax. The report's summary states, "*Based on the high capital costs and operational concerns, Regional staff do not recommend proceeding with creating a local water supply system to service this area.*"
5. Report dated July 9, 2002 from Brian Ruddy, P.Eng., and former Commissioner of Works, City of North York. This report was provided after Mr. Ruddy's meeting with John Presta, P.Eng. In it, among other things, he states, "*The approvals necessary to have municipal water provided along Fielding Court appears to be a difficult undertaking and if successful, may be more because of political decisions than technical recommendations.*"

**Attachment #1 to Report #2019-W-35**

6. Email dated December 8, 2003 from Colin Charles to Fielding Court residents. The email advises that Durham Region, as a cost-saving measure, would be raising the level of the reservoir by approximately five meters which would put Fielding Court sufficiently below the reservoir level to enable adequate water pressure on the street without the need for a pumping station.
7. Letter dated February 12, 2004 from Colin Charles to Durham Region Planning Dept. requesting changes to the Official Plan regarding municipal water on the street.
8. Email dated December 7, 2004 from Colin Charles providing an update of our application to Durham Region. In it he states, *"Now that they have deliberated, I am advised that, in their infinite wisdom they have decided that they had too much material to review and have, in effect, delegated such issues to another committee."*

In conclusion, after approximately 3-1/2 years of fruitless effort, most residents of the street just gave up on the hope that this would come to a favourable end. In retrospect, our efforts would have been better served if we had focussed on the engineering aspects instead of focussing on receiving municipal water at no cost. At this point in time, we understand that we must bear our share the cost for the servicing of the street.





## The Regional Municipality of Durham Report

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To: Works Committee  
From: Commissioner of Works  
Report: [#2019-W-36](#)  
Date: May 8, 2019

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**Subject:**

Approval of Request for Pre-Qualification RFPQ#-1100-2019 of General Contractors for for the Construction of the Newcastle Water Supply Plant and the Port of Newcastle Sanitary Sewage Pumping Station, in the Municipality of Clarington

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**Recommendations:**

That the Works Committee recommends to Regional Council:

- a) That in accordance with Request for Pre-Qualification RFPQ#-1100-2019, the following general contractors be pre-qualified for the tendering of the construction of the Newcastle Water Supply Plant (WSP) and the Port of Newcastle Sanitary Sewage Pumping Station (SSPS), in the Municipality of Clarington:
- Graham Construction and Engineering LP
  - Kenaidan Contracting Ltd.
  - Maple Reinders Constructors Ltd.
  - Matheson Constructors Limited
  - North America Construction (1993) Ltd.
- b) That the tender documents for the construction of the Newcastle Water Supply Plant and the Port of Newcastle Sanitary Sewage Pumping Station Regional Tender (D2019-009) be issued only to the above noted general contractors.

- c) That the construction of the Newcastle Water Supply Plant and the Port of Newcastle Sanitary Sewerage Pumping Station, in the Municipality of Clarington be approved in the amount of \$55,540,000 with funding to be provided from the following sources:

Residential Development Charges	\$23,652,780
Commercial Development Charges	2,845,680
Industrial Development Charges	1,400,000
User Revenue	10,061,348
Debentures:	
Development Charges	5,857,400
User Revenue	11,722,792
Total Financing	<u>\$55,540,000</u>

## Report:

### 1. Purpose

- 1.1 The purpose of this report is to obtain approval for the pre-qualification of general contractors for the tendering of the construction of the Newcastle Water Supply Plant (WSP) and the Port of Newcastle Sanitary Sewerage Pumping Station (SSPS) in the Municipality of Clarington.

### 2. Pre-Qualification of General Contractors

- 2.1 The Request for Pre-Qualification (RFPQ) #1100-2019 for general contractors was issued on January 11, 2019 and closed on February 5, 2019.
- 2.2 Ten (10) responses were received from the following firms:
- Graham Construction and Engineering LP
  - H.I.R.A. Ltd.
  - Kenaidan Contracting Ltd.
  - Maple Reinders Constructors Ltd.
  - Matheson Constructors Limited
  - North America Construction (1993) Ltd.

- Peak Engineering and Construction Ltd.
  - Romag Contracting Ltd.
  - Torbear Contracting Inc.
  - Varcon Construction Corporation
- 2.3 The Evaluation Committee was comprised of staff from different divisions of the Regional Municipality of Durham's (Durham) Works Department. The Purchasing Section of the Finance Department oversaw the evaluation process.
- 2.4 The evaluation of the responses was based on criteria contained within the RFPQ, including:
- Experience and Qualifications (35%);
  - Project Management, Organization and Administration Methodology (45%);
  - Quality Management (20%); and
  - References (pass/fail criterion)
- 2.5 All respondents were required to meet the minimum threshold score of 65 percent to be pre-qualified.
- 2.6 The results of the evaluation process generated the following list of five (5) general contractors that met the minimum threshold score and are recommended for the tendering of the construction of the Newcastle WSP and the Port of Newcastle SSPS:
- Graham Construction and Engineering LP
  - Kenaidan Contracting Ltd.
  - Maple Reinders Constructors Ltd.
  - Matheson Constructors Limited
  - North America Construction (1993) Ltd.

### 3. Financial Implications

- 3.1 Section 14.3 of the Purchasing By-law #68-2000 (Amended) requires that where the value of work exceeds \$125,000, the approval of the applicable Standing Committee and Regional Council is required when the pre-qualification process is used.
- 3.2 Final project approval is being sought as required by Sections 9.3 and 9.4 of the Budget Management Policy with funding of \$55,540,000 for the construction of the Newcastle WSP and Port of Newcastle SSPS, Regional Tender D-2019-009, having been approved in previous Water Supply System and Sanitary Sewerage System Business Plans and Budgets.

Financing is detailed as follows:

Contract D2019- 009	Total Financing \$	Residential DC's \$	Commercial DC's \$	Industrial DC's \$	User Revenue \$	Debentures \$
D1107	54,140,000	23,652,780	2,845,680	1,400,000	8,661,348	17,580,192
D1411	1,400,000	0	0		1,400,000	0
Total	55,540,000	23,652,780	2,845,680	1,400,000	10,061,348	17,580,192

### 4. Conclusion

- 4.1 It is recommended that Regional Council approve the list of pre-qualified general contractors to receive tender documents and submit bids for the construction of the Newcastle WSP and the Port of Newcastle SSPS, in the Municipality of Clarington (Regional Tender D-2019-009).
- 4.2 For additional information, please contact Jim McGilton, Manager, Environmental Services Design at 905-668-7711, extension 3485.

- 4.3 This report has been reviewed by the Finance Department and the Commissioner of Finance concurs with the recommendations.

Respectfully submitted,

**Original signed by John Presta for**

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Susan Siopis, P.Eng.  
Commissioner of Works

Recommended for Presentation to Committee

**Original signed by**

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Elaine C. Baxter-Trahair  
Chief Administrative Officer



## The Regional Municipality of Durham Report

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To: Works Committee  
From: Commissioner of Works  
Report: [#2019-W-37](#)  
Date: May 8, 2019

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### **Subject:**

Report on Tenders and Additional Financing for Regional Municipality of Durham Contract D2019-026 for Simcoe Street (Regional Road 2) and Reach Street (Regional Road 8) Road Rehabilitation and Intersection Modifications in the Township of Scugog

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### **Recommendations:**

The Works Committee recommends to Regional Council:

- a) That the low compliant bid of Blackstone Paving and Construction Ltd., in the amount of \$2,327,751\*, be awarded for Regional Municipality of Durham Contract D2019-026 resulting in a total estimated project cost of \$3,402,000;
- b) That the previously approved project budget of \$2,850,000 be increased by \$552,000 to a revised total project budget of \$3,402,000;
- c) That the funding for the additional project commitments in the amount of \$552,000 be provided from the following sources:

Reallocation from Contingencies within Project R1512  
Road Rehabilitation at Various Locations  
Throughout the Region of Durham:

Roads Rehabilitation Reserve Fund	\$417,000
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2019 Water Supply Capital Budget Item No.: 74  
(Project S1903) Watermain Replacement on  
Kellett Street from Bigelow Street to 100 m north

Asset Management Reserve Fund \$ 60,000

Reallocation from 2019 Water Supply Capital Budget  
Item No.: 73 (Project S1902) Watermain Replacement on  
Bigelow Street from North of Kellett Street to east of Kent Street

Asset Management Reserve Fund \$ 75,000

Total Reallocated Financing \$552,000

- d) That the Regional Chair and Clerk be authorized to execute Regional Municipality of Durham Contract D2019-026.

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## Report:

### 1. Purpose

- 1.1 The purpose of this report is to obtain approval for additional financing and to award Regional Municipality of Durham (Region) Contract D2019-026 for Simcoe Street (Regional Road 2) and Reach Street (Regional Road 8) Road Rehabilitation and Intersection Modifications in the Township of Scugog (Scugog). Dollar amounts followed by an asterisk (\*) are before applicable taxes.

### 2. Project Background

- 2.1 The Region completed detailed design for road rehabilitation and intersection modifications at Simcoe Street (Regional Road 2) and Reach Street (Regional Road 8) in Scugog. The proposed work will include a new southbound right turn lane onto Reach Street, a new advanced left for northbound traffic onto Reach Street, new traffic signals, road rehabilitation on Reach Street from Simcoe Street to Bigelow Street and road rehabilitation on Simcoe Street from Kellett Street to Riverview Drive. The proposed modifications are necessary to improve the traffic operations of the intersection and to improve the road. In addition, a section of new watermain was added to replace the existing deficient watermain at the intersection of Simcoe Street and Kellett Street. It is anticipated that construction will start in the summer of 2019.

### 3. Tender Information

- 3.1 Tenders were received for Regional Contract D2019-026 for Simcoe Street (Regional Road 2) and Reach Street (Regional Road 8) Road Rehabilitation and Intersection Modifications in Scugog on February 26, 2019, as follows:

<b><u>Bidder</u></b>	<b><u>Total Tender Amount*</u></b>
Blackstone Paving & Construction Ltd.	\$2,327,751
Rafat General Contractor Inc.	\$2,354,385
Dagmar Construction Inc.	\$2,423,728
Coco Paving Inc.	\$2,427,725
Mar-King Construction Company Ltd.	\$2,432,217
KAPP Infrastructure Inc.	\$2,820,340
Elirpa Construction & Materials Ltd.	\$3,096,444
Brennan Paving & Construction Ltd.	\$3,375,248

- 3.2 The difference between the tendered and budget amount is a result of \$417,000 in inflationary construction cost increases within the Greater Toronto area, and \$135,000 for the addition of a new section of watermain at the intersection of Simcoe Street and Kellett Street.
- 3.3 It is recommended that the low compliant bidder, Blackstone Paving & Construction Ltd., be awarded Regional Contract D2019-026.

### 4. Financial Implications

- 4.1 Section 9.4 of the Region's Budget Management Policy requires approval of the applicable Standing Committee and Regional Council for approval of additional financing prior to the award of the contract.



4.2 The proposed changes to the project costs are as follows:

<b>Project Component</b>	<b>Approved Project Budget R1602</b>	<b>Proposed Change</b>	<b>Recommended Revised Project Budget R1602</b>
Tender (excluding taxes)	\$1,711,442	\$616,309	\$2,327,751
Net HST	30,121	10,847	40,968
Engineering	370,645	7,487	378,132
Utility Relocations	237,401	0	237,401
Pre-tender Tree Removal and Dig-Ups	60,000	2,138	62,138
Sundry and Miscellaneous	56,338	(11,327)	45,011
Contingencies	384,053	(73,454)	310,599
<b>Total Costs</b>	<b>\$2,850,000</b>	<b>\$552,000</b>	<b>\$3,402,000</b>

- 4.3 Approved funding in the amount of \$2,850,000 (Project R1602) includes \$100,000 cost share for a sidewalk and multi-use path from Scugog. The recommended revised project budget of \$3,402,000 can be financed as follows:

Year	Total Financing \$	General Tax \$	Roads Rehab Reserve Fund \$	Water Asset Management Reserve \$	Township of Scugog \$
2016	100,000	100,000	0	0	0
2017	150,000	150,000	0	0	0
2018	2,600,000	0	2,500,000	0	100,000
Proposed Reallocations:					
Project R1512	417,000	0	417,000	0	0
Project S1903	60,000	0	0	60,000	0
Project S1902	75,000	0	0	75,000	0
<b>Total Proposed Funding for R1602</b>	<b><u>3,402,000</u></b>	<b><u>250,000</u></b>	<b><u>2,917,000</u></b>	<b><u>135,000</u></b>	<b><u>100,000</u></b>

## 5. Conclusion

- 5.1 It is recommended that the low compliant bidder, Blackstone Paving & Construction Ltd., be awarded Regional Contract D2019-026 for Simcoe Street (Regional Road 2) and Reach Street (Regional Road 8) Road Rehabilitation and Intersection Modifications in the Township of Scugog.
- 5.2 It is also recommended that the additional financing, in the amount of \$552,000, be provided by the reallocation of funds as detailed in this report.
- 5.3 This report has been reviewed by the Finance Department and the Commissioner of Finance concurs with the financial recommendations.

5.4 For additional information, please contact Dan Waechter, Manager, Construction Management at 905-668-7711, extension 3550.

Respectfully submitted,

**Original signed by John Presta for**

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Susan Siopis, P.Eng.  
Commissioner of Works

Recommended for Presentation to Committee

**Original signed by**

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Elaine C. Baxter-Trahair  
Chief Administrative Officer



## The Regional Municipality of Durham Report

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To: Works Committee  
From: Commissioner of Works  
Report: [#2019-W-38](#)  
Date: May 8, 2019

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### Subject:

Report on Tenders and Additional Financing for Regional Municipality of Durham Contract D2019-043 for Watermain Replacement on Adelaide Avenue East (Regional Road 58) from Oshawa Boulevard North to Juliana Drive and from Mary Street North to French Street in the City of Oshawa

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### Recommendations:

The Works Committee recommends to Regional Council:

- a) That the low compliant bid of FDM Contracting Co Ltd., in the amount of \$1,955,000\*, be awarded for Regional Municipality of Durham Contract D2019-043 resulting in a total estimated project cost of \$2,589,976;
- b) That the previously approved project budgets of \$1,970,000 be increased by \$619,976 to a revised total project budget of \$2,589,976;
- c) That the funding for the additional project commitments in the amount of \$619,976 be provided from the following source:

Reallocation from within Project D1848 Watermain  
Replacement on Kingston Road:

User Revenues	<u>\$619,976</u>
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<b>Total Reallocated Financing</b>	<b><u>\$619,976</u></b>
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- d) That the Regional Chair and Clerk be authorized to execute Regional Municipality of Durham Contract D2019-043.

**Report:****1. Purpose**

- 1.1 The purpose of this report is to obtain approval for additional financing and to award Regional Municipality of Durham (Region) Contract D2019-043 for Watermain Replacement on Adelaide Avenue East (Regional Road 58) from Oshawa Boulevard North to Juliana Drive and from Mary Street North to French Street in the City of Oshawa. Dollar amounts followed by an asterisk (\*) are before applicable taxes.

**2. Project Background**

- 2.1 The Region completed detail design for Watermain Replacement on Adelaide Avenue East (Regional Road 58) from Oshawa Boulevard North to Juliana Drive and from Mary Street North to French Street in the City of Oshawa. The existing watermain is being replaced due to its age, condition, size and susceptibility to breaking. It is anticipated that construction will start in the summer of 2019.

**3. Tender Information**

- 3.1 Tenders were received for Regional Contract D2019-043 Watermain Replacement on Adelaide Avenue East (Regional Road 58) from Oshawa Boulevard North to Juliana Drive and from Mary Street North to French Street in the City of Oshawa on March 28, 2019, as follows:

<b><u>Bidder</u></b>	<b><u>Total Tender Amount*</u></b>
FDM Contracting Co. Ltd.	\$1,955,000
Coco Paving Inc.	\$1,984,516
Atlantis Underground Services Ltd.	\$2,215,860
Blackstone Paving & Construction Ltd.	\$2,299,882
KAPP Infrastructure Inc.	\$2,359,339
Pachino Construction Co. Ltd.	\$2,362,793
Sam Rabito Construction Ltd.	\$2,983,280

- 3.2 The difference between the tendered and budget amount is partly a result of tender items for main stops and temporary water supply being significantly higher than the estimated prices. It is also expected that high traffic volumes along this Regional road resulted in higher unit prices for watermain installation due to the challenges of traffic control and protection of workers and pedestrians. In addition, based on the test hole information completed during tendering, a provisional item for removal of contaminated soil was added.
- 3.3 It is recommended that the low compliant bidder, FDM Contracting Co. Ltd., be awarded Regional Contract D2019-043.

#### 4. Financial Implications

- 4.1 Section 9.4 of the Region's Budget Management Policy requires approval of the applicable Standing Committee and Regional Council for approval of additional financing prior to the award of the contract.
- 4.2 The proposed changes to the project costs are as follows:

<b>Project Component</b>	<b>Approved Project Budget (O1403 &amp; O1509)</b>	<b>Proposed Change</b>	<b>Recommended Revised Project Budgets (O1403 &amp; O1509)</b>
Tender (excluding taxes)	\$1,350,960	\$604,040	\$1,955,000
Net HST	23,780	10,632	34,412
Engineering	378,602	19,070	397,672
Sundry and Miscellaneous	37,055	(26,019)	11,036
Contingencies	179,603	12,253	191,856
Total Costs	\$1,970,000	\$619,976	\$2,589,976

- 4.3 Funding in the amount of \$1,970,000 was approved in the 2018 and prior years Water Supply Capital Budget (Projects O1403 and O1509). The recommended revised project budget of \$2,589,976 including the reallocation of \$619,976 from the Project D1848, Watermain Replacement on Kingston Road, can be financed as follows:

<b>Year</b>	<b>Total Financing \$</b>	<b>Asset Mgmt Reserve Fund (O1403) \$</b>	<b>Asset Mgmt Reserve Fund (O1509) \$</b>	<b>User Revenues (O1403) \$</b>	<b>User Revenues (D1848) \$</b>
2014	50,000			50,000	
2015	670,000		670,000		
2017	720,000	720,000			
2018	530,000		530,000		
Proposed Reallocation (D1848)	619,976				619,976
<b>Total Proposed Funding</b>	<b>2,589,976</b>	<b>720,000</b>	<b>1,200,000</b>	<b>50,000</b>	<b>619,976</b>

## 5. Conclusion

- 5.1 It is recommended that the low compliant bidder, FDM Contracting Co. Ltd., be awarded Regional Contract D2019-043 for Watermain Replacement on Adelaide Avenue East (Regional Road 58) from Oshawa Boulevard North to Juliana Drive and from Mary Street North to French Street in the City of Oshawa.
- 5.2 It is also recommended that the additional financing, in the amount of \$619,976 be provided by the reallocation of funds as detailed in this report.
- 5.3 This report has been reviewed by the Finance Department and the Commissioner of Finance concurs with the financial recommendations.

- 5.4 For additional information, please contact Dan Waechter, Manager, Construction Management, at 905-668-7711, extension 3550.

Respectfully submitted,

**Original signed by John Presta for**

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Susan Siopis, P.Eng.  
Commissioner of Works

Recommended for Presentation to Committee

**Original signed by**

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Elaine C. Baxter-Trahair  
Chief Administrative Officer





## The Regional Municipality of Durham Report

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To: Works Committee  
From: Commissioner of Works  
Report: [#2019-W-39](#)  
Date: May 8, 2019

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### **Subject:**

Waste Collection at Regional Facilities and Waste Reduction Initiatives at Regional Headquarters

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### **Recommendations:**

That the Works Committee recommends to Regional Council that this report be received for information.

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### **Report:**

#### **1. Purpose**

- 1.1 This report provides an overview of waste collection practices at Regional Municipality of Durham (Region) facilities, along with various initiatives underway to improve diversion and reduce single use plastics at Regional Headquarters.

#### **2. Background**

- 2.1 Waste collection services at approximately 80 Regional facilities are provided through a mix of commercial contracted services, landlord provided services and utilization of municipal curbside pickup programs. Waste collection services for Regional facilities are managed by the Works Department - Facilities Maintenance and Operations Division (FMO).
- 2.2 For facilities generating low volumes of waste, such as sanitary sewerage pumping stations, water supply pumping stations, reservoirs and standpipes, FMO staff collect the waste and deliver it to another Regional facility for disposal via one of the four contracted services methods appropriate for the specific waste stream.

- 2.3 A small number of facilities located in residential areas utilize existing municipal curbside pickup services for all waste streams. These include the childcare centres in Clarington, Pickering, Oshawa and Whitby. Management and disposal of waste streams at leased locations is provided through the lease agreement, typically by the landlord for each property. Some locations have implemented voluntary “boomerang programs”, where waste generated by staff from lunches and breaks is taken home by staff for appropriate source separation.
- 2.4 Contract services for the collection of waste are managed by FMO. Contracts are issued for the collection of materials under four waste streams, with service frequency based on the volume of material generated at each location. All waste streams are transferred and processed at Ontario based facilities. The contracted specification document calls for all waste material to be disposed of at Ministry of the Environment, Conservation and Parks (MECP) approved and licensed sites, carrying the necessary Certificate of Authorization and Environmental Compliance Approvals. The types of waste acceptable for each waste stream in the contracted services align with that of the Region’s residential programs.
- 2.5 The following contracts have been established, with their terms ending November 30, 2020:
- a. Recyclable materials: Waste Management of Canada  
  
Recycling is sorted at Waste Management’s Pickering facility and transferred to either Volpe’s processing facility in Concord, or Canada Fibers in North York where the materials are bulked for sale.
  - b. Cardboard: Waste Connections  
  
Cardboard is bulked and sold to firms that process the material into pulp for reuse.
  - c. Organics: Planet Earth Recycling  
  
Contracted commercial organic waste collection services are provided to all long-term care facilities, Regional Headquarters, the Ajax Childcare facility and Durham Regional Police Service facilities which generate sufficient volumes for individual collection. The organic waste is delivered for processing at Seaclyff Energy Corporation’s commercial facility in Leamington.

d. Garbage: Waste Management of Canada

Garbage collected at Regional facilities is delivered to Waste Management of Canada's Twin Creeks Landfill in Watford. Landfill gas at this location is collected and used to power the Twin Creeks Greenhouse facility, reducing its reliance on natural gas by 65 percent.

**3. Waste Reduction Initiatives at Regional Headquarters**

3.1 Staff and visitors at Regional Headquarters are provided with waste sorting stations throughout the building to encourage proper source separation and diversion efforts. Both the upper and lower gallerias have sorting stations for waste, recyclables and paper. Staff serveries located on each floor in the building have blue and green bins available for proper source separation. The cafeteria has a large sorting station for customers to sort their waste at the end of their visit. Meeting rooms are provided with a garbage receptacle and a blue box, except for the lower level committee room which has a waste sorting station including organics.

3.2 Regional Headquarters is currently the only facility with a contracted cafeteria service provider, Brown's Fine Foods (Brown's). Brown's fully participates in the recycling, cardboard and organics programs at Regional Headquarters, and had already implemented measures to improve diversion and reduce waste generated from their operations including:

- a. Coffee cups provided at the Market Street Café are certified as compostable in an industrial or commercial composting facility and labelled to reflect this accordingly. Tim Hortons cups are not compostable and as a franchise, Brown's is not offered flexibility to change the cups used in this portion of their operation. To mitigate this, there is a program that offers a discount of \$0.10 to customers that reuse the paper cups or bring their own reusable cup to either Tim Horton's or the Market Street Café. In addition, Brown's will stock refillable mugs for purchase by patrons as an alternative.
- b. The bowls and lids provided by the Market Street Café for takeout soup items are also compostable in an industrial or commercial composting facility and labelled to reflect this.
- c. The foam "To Go" containers at the Market Street Grill have been replaced with containers that are suitable for both industrial and commercial composting. These containers are not labelled.

- d. As part of the renewed contract in 2015, Brown's installed a water bottle filling station in the cafeteria space to encourage the use of refillable containers. Brown's is no longer selling bottled water at the Market Street Café and are in the process of removing bottled water from their catering operations at Regional Headquarters, replaced with pitchers of water and glasses with a service fee to cover the cost of delivery and sanitation of items. Carbonated water will still be available for purchase.
  - e. To further promote the use of the water bottle filling station in the cafeteria space, the Region has provided Brown's with a supply of "Durham on Tap" refillable water bottles for customers that wish to take water with them to their desk, meeting or another location and do not have a reusable container. This initiative will aid in discouraging the use of bottled water outside of Regional Headquarters as well. Brown's will also provide compostable paper cups for visitors that prefer this option. During the first week, Brown's distributed over 50 reusable water bottles to customers at the Market Street Café.
  - f. Plastic straws have been replaced with single serve paper straws. The paper straws are made from high quality Forest Stewardship Council certified paper with no inner lining.
- 3.3 Facilities staff have confirmed through the organics collection service provider, Planet Earth Recycling, and directly with Seaclyff Energy Corporation, the end processor, that the above noted products are acceptable in their facilities for processing.
- 3.4 Despite these efforts, both the Region and Brown's recognize that more can be done to improve diversion and reduce waste through the cafeteria operation. The following action plan has been developed with the goal of improving diversion at Regional Headquarters:
- a. Brown's and the Region are currently exploring the potential implementation of a reusable container program for takeout food items. Under this program, the clients at the cafeteria counter will purchase an Eco Card provided by Brown's which can be redeemed for a reusable container when ordering a takeout meal. Guests can then enjoy the meal in the cafeteria, back at their desk or take their food home with them. When the container is returned to the Market Street Café, the guest will receive an Eco Card to use at their next visit. The cost of the card is estimated at \$5, with program participants receiving a \$0.50 discount from their food purchase. Brown's has indicated concern with staff and visitors bringing their own reusable containers due to

the risk of cross contamination and prefer the Eco Container program as an alternative.

- b. To implement this program, some equipment in the kitchen must be upgraded. A dishwasher that uses water heated to 180 degrees Fahrenheit is necessary to properly sanitize the containers. A commercial dishwasher with this capability will cost approximately \$12,000 excluding taxes and installation.
- c. For patrons dining in the cafeteria, china and silverware will continue to be provided as an alternative. China, silverware and glassware are provided as part of the catering packages.
- d. Brown's will source a replacement for plastic cutlery offered for takeout items. Take out cutlery is now only available upon request. Facilities Operations staff are reviewing options to collect cafeteria silverware from work areas to return to the cafeteria to reduce costs associated with lost cutlery incurred by Brown's.
- e. Brown's will continue to source compostable/recyclable takeout containers for deli sandwiches and grab and go products.

3.5 In addition to the initiatives listed above, Brown's and the Region will be implementing promotional activities targeting waste reduction and diversion including the following:

- a. Cafeteria managers will monitor the actions of customers and the Brown's team and whenever a sustainable action is made, a coupon for a discount on their next food purchase, free item or a gift such as a reusable mug will be offered. These actions can include sorting waste into the appropriate receptacles, returning silverware for reuse or using a reusable mug.
- b. Communications and promotion of waste diversion initiatives including:
  - Messaging in newsletters and on the Region's Intranet page, the Insider, promoting the waste reduction initiatives;
  - Menu board messaging in the Market Street Café;
  - Brown's campaign focused towards the move to compostable items titled "Change Starts with You"; and
  - Table tents and signage to promote diversion and reduction initiatives

#### **4. Provincial and Industry Initiatives**

- 4.1 Both the waste sector and municipalities have been working collaboratively to bring a common understanding to the policy makers and the public of what recyclable and compostable materials are. It has been the waste industry's position that any packaging claiming to be recyclable must be used to make a new product. The same definition is being used by the industry to define compostable packaging, it must be compostable in standard commercial composting systems. This position can be challenging as many industries claim that their product should be included in Blue Box or Green Bin diversion programs.
- 4.2 Any diversion program implemented by municipalities should be based on the key guiding principle that anything separated for recycling/composting must have a well-established and sustainable market (recycling or composting) and be good for the environment and taxpayer. The Ontario Waste Management Association (OWMA), comprised of private and municipal waste management sector experts has developed a working group with Industry and the MECP to develop recycling and composting verification and certification. The Region continues to participate as a member.

#### **5. Conclusion**

- 5.1 The Regional Municipality of Durham promotes diversion and source separation at each of its facilities. Waste collection services vary depending on the volume of waste generated at each location.
- 5.2 Staff continue to explore opportunities to improve diversion activities. Specifically, at Regional Headquarters, staff and the cafeteria services provider, Brown's Fine Foods, continue to investigate opportunities and implement initiatives to reduce waste and increase waste diversion. Staff work with Brown's Fine Foods on a regular basis to explore operational improvements, including these diversion activities. Staff also work closely with the contracted waste collection companies to validate the acceptability of items in the waste processing streams.

5.3 For additional information, please contact Robert Adamsz, Manager, Facilities Maintenance and Operations, at 905-668-0250, extension 227.

Respectfully submitted,

**Original signed by John Presta for**

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Susan Siopis, P.Eng.  
Commissioner of Works

Recommended for Presentation to Committee

**Original signed by**

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Elaine C. Baxter-Trahair  
Chief Administrative Officer



## The Regional Municipality of Durham Report

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To: Works Committee  
From: Commissioner of Works  
Report: [#2019-W-40](#)  
Date: May 8, 2019

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### **Subject:**

Affordable Housing Development-1505 Bowmanville Avenue in the Municipality of Clarington

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### **Recommendations:**

The Works Committee recommends to Regional Council:

- a) That the Council approved Region Share Policy in the Regional Development Charges By-law #28-2018 be applied to the development at 1505 Bowmanville Avenue in the Municipality of Clarington under construction by New View Holdings Inc. and that no additional Regional funding be provided for this development project.
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### **Report:**

#### **1. Purpose**

- 1.1 This report provides an overview of options and implications related to the following motion referred to staff at Regional Municipality of Durham (Region) Council's meeting on April 24, 2019:
  - a) Motion re: Delegation Request from D. O'Connell, Project Manager, Independent Project Manager, re: an affordable housing project being constructed at 1505 Bowmanville Avenue, in the Municipality of Clarington.



- That the Region accept the Developer's offer to pay the Region \$224,000 (less design costs) and that the Region performs the temporary road work, as requested by D. O'Connell as part of a delegation provided to the Work Committee on April 3, 2019.

## **2. Background**

- 2.1 The Region's Share Policy has been consistently applied to all Regional development applications.
- 2.2 As Council is aware, several improvements were made to the DC By-law in its last update to assist with affordable housing initiatives such as the deferral of the Regional Development Charges payments for up to 18 months.
- 2.3 At the April 3, 2019 Works Committee meeting, the project manager for New View Holdings Inc., the applicant of a development at 1505 Bowmanville Avenue, included the following requests in their delegation seeking relief for the cost to implement roadwork required to support the development:
  - Option 1: Move the permanent road work up to the summer of 2019; or
  - Option 2: Accept the Developer's offer to pay the Region \$225,000 (less design costs) and the Region performs the temporary road work.
- 2.4 The Works Committee recognized that the Region was not in a position to advance the planned reconstruction of Bowmanville Avenue to accommodate Option 1 as presented. The Committee did proceed to approve a motion to cap the applicant's construction costs for the temporary road work related to the development of affordable housing at 1505 Bowmanville Avenue as presented by the Applicant as Option 2 in their delegation.
- 2.5 The current estimated cost of the required road work less design costs incurred by the applicant is \$172,500 (\$225,000 in estimated construction costs less \$52,500 for design costs). As part of their proposed Option 2, the Applicant was prepared to fund the cost of the work at this capped level of \$172,500, with the balance of actual construction costs being financed by the Region.

**3. 1505 Bowmanville Avenue Development – New View Holdings Inc.**

- 3.1 The applicant competed through a Regional RFP process to access Provincial and Federal funding available for affordable housing through RFP #1091-2016. The RFP process had two phases. The first phase considered financial viability. A minimum score of 70 per cent in Phase 1 was required to proceed to Phase 2. Proposals with a passing score in Phase 1 were reviewed by the Evaluation Committee in Phase 2 for overall value and fulfillment of the identified needs.
- 3.2 The proposal submitted by New View Holdings Inc. was ranked the highest. The proposal fully utilized available 2016 Social Infrastructure Funding – rental Housing Component for both Years 1 and 2 and was recommended to Regional Council for submission to the Province. The applicant requested approximately \$140,000 per unit through this process. New View Holdings Inc. is eligible to receive \$10.5 million in federal-provincial funding for this project and the funding is being flowed in occurrence with the construction milestones as indicated in RFP #1091-2016.
- 3.3 On April 26, 2017, Regional staff met with the applicant's representative. At this meeting the need for signals was explained and an overview of the road improvements required by the applicant was provided. The Region agreed to provide the applicant with a cost estimate for the works at their request and acknowledged that the estimate was being provided without any detailed design information.
- 3.4 Based on previous construction projects, an estimated cost for the construction work required of \$305,000 was provided, with \$160,000 of that amount related to the road works and \$145,000 related to the signals.
- 3.5 Regional roadworks required to support this development include the installation of signals and the construction of a left turn lane into the development and a left turn recovery lane, which will also serve as a left turn lane into Hartwell Avenue on the west side of Bowmanville Avenue. The turn lane and recovery lane are required to ensure safe access to and egress from the development.
- 3.6 The Region deemed that the signals will meet the traffic warrants test once the building is fully occupied and, therefore, the Region agreed to install the signals to facilitate this development.

- 3.7 Between April 2017 and March 2018, three separate site plan applications were submitted by the Applicant, each without road improvement engineering drawings. For all three applications the Region provided comments that included a statement that the Site Plan package was incomplete as detailed design drawings for the road improvements on Bowmanville Avenue were not provided.
- 3.8 The first detailed engineering drawings were provided for the improvements to Bowmanville Avenue on April 10, 2018. There was no pre-consultation undertaken by the applicant's consultant and the Region's design standards were not followed. The drawings submitted included a full depth restoration of Bowmanville Avenue which was not required and would have resulted in significant and unnecessary additional costs to the applicant. This resulted in additional design work to correct the drawings, removing these unnecessary works and to incorporate the Region's design standards. Staff conveyed this information to the applicant and explained that this would result in significant construction savings to the applicant. The applicant also asked the Region to cap their contribution to the roadwork at \$160,000, which included \$40,000 in design costs incurred at that time, leaving \$120,000 for the actual road construction. A response to the applicant's representative was provided indicating that the Region Share Policy as approved in Regional Development Charges By-law #28-2018 must be followed, and that the applicant would be responsible for the actual cost of the improvements, excluding the costs of the traffic signals.

#### **4. Options Under Consideration**

##### **Applicant's costs are capped at \$172,500 and the Region constructs the roadworks versus following the Region's Share Policy**

- 4.1 As reflected in the Privileged and Confidential Memorandum from Corporate Services – Legal Services, adopting the motion from the Works Committee meeting of April 3, 2019 is not without risk.
- 4.2 In addition to what was noted in the memorandum, implementing the infrastructure improvements project requested by the applicant is in contradiction of the Region's Share Policy which requires that the developer pay for all costs that are a direct result of the construction of their project. This policy has been applied consistently across the Region for all development proposals and has been approved by Council as part of the Regional Development Charges review. As Council is aware, there is a comprehensive process involved in amending Development Charges By-laws.

- 4.3 During the delegation at Works Committee, the project manager noted that occupancy of the newly constructed facility is planned for October 2019. The motion not only asks the Region to finance the cost of the road work over and above the proposed cap of \$172,500, it requests that the Region deliver the construction work. Under this scenario, the total costs will likely be higher for the project as the tender must follow a public procurement process including associated Regional conditions. The requirement of this process cannot be undertaken and the road works completed for the planned occupancy under this method. The applicant can deliver the project noted above expeditiously by using a private tender process or a direct negotiation between a contractor.
- 4.4 Implementing the motion also requires that the Region assume the risk of any additional project costs rather than the developer. The Region would need to approve funds for servicing this developer's site as there are no approved budget funds for this project.
- 4.5 Under RFP #1091-2016, the applicant had to achieve a minimum score of 70 per cent in Phase 1 (e.g. financial capacity/sustainability) in order to proceed to Phase 2. Four applicants passed Phase 1. It is possible that three unsuccessful bidders had properly included all servicing costs, in keeping with Region Share Policy. Any additional funding may be seen as unfairly benefitting one of the applicants.
- 4.6 Based on information available to staff, the following table estimates the costs under the scenario of upholding the Region's Share Policy versus implementing Option 2 from the presentation made by the project manager:

Costs based on September 24, 2018 submission	Total Cost Estimate * Based on Region Share Policy	Applicant*	Region*	Total Cost Estimate* based on Option 2	Applicant*	Region*
Roads	\$247,887	\$247,887	-	\$247,887	\$172,500	\$75,387
Entrance	27,543	27,543	-	27,543	27,543	-
Storm Sewers	12,075	12,075	-	12,075	12,075	-
Sanitary Connections	20,800	20,800	-	20,800	20,800	-
Water Connections	32,160	32,160	-	32,160	32,160	-
Signals	145,000	-	145,000	145,000	-	145,000
Tender, Contract Administration, Engineering, Permits, Legal, Admin Fees & Inspections	63,007	63,007	-	136,190		136,190
Design Costs	52,500	52,500	-	52,500	52,500	-
<b>Total</b>	<b>\$600,972</b>	<b>\$455,972</b>	<b>\$145,000</b>	<b>\$674,155</b>	<b>\$317,578</b>	<b>\$356,577</b>

\* Note: Dollar amounts followed by an asterisk (\*) exclude applicable taxes.

\*\* Note: All costs are estimates based on engineering design.

- 4.7 To tender and construct the road works as proposed by the project manager, additional tasks will be required which add both time and cost to the overall work for the following reasons:
- a) The Region would have to redo the Developer's engineering drawings and contract documents to conform to Regional requirements for tendering;
  - b) A public tender process will need to be undertaken by the Region, whereas the developer can negotiate directly with a contractor to expedite the work;
  - c) As part of tendering for roadworks, the Region conducts test holes and produces a geotechnical brief for contractors as standard practice;
  - d) The Region would need to provide full time inspection to the project as per standard construction practice; and

- e) Contract administration would be required on the part of the Region to verify submissions and issue payments.
- 4.8 It is important to note that the risk of construction would be transferred to the Region versus the applicant. The cost of this risk is unknown and the established practice within the development industry resides with site specific developer and not the Region.
- 5. Conclusion**
- 5.1 The Region's Share Policy has been consistently applied to all Regional development applications.
- 5.2 Before deviating from this approved policy, a comprehensive review and policy for affordable housing projects as proposed in the motion approved by Regional Council on April 24, 2019 is recommended to ensure a fair and consistent process is available for all proponents.
- 5.3 Amendments to the Region's Share Policy with respect to affordable housing projects will be considered as part of this review with any recommended changes to be addressed as part of the next review of the Regional Development Charges By-law update or through an official amendment to the By-law as appropriate.
- 5.4 As Council is aware, several improvements were made to the DC By-law in its last update to assist with affordable housing initiatives such as the deferral of the Regional Development Charges payments for up to 18 months.
- 5.5 This report has been reviewed by the Finance, Housing and Legal Services- Corporate Services Departments.
- 5.6 For additional information, please contact Jenni Demanuele, Director, Business Services at 905-668-7711, extension 3456.

**6. Attachments**

Attachment #1: Provided separately is a Confidential Memorandum from Jason Hunt, Director of Legal Services, dated April 30, 2019, providing advice that is subject to solicitor-client privilege re: New View Holdings Inc.

Respectfully submitted,

**Original signed by John Presta for**

Susan Siopis, P.Eng.  
Commissioner of Works

Recommended for Presentation to Committee

**Original signed by**

Elaine C. Baxter-Trahair  
Chief Administrative Officer