

Pension, Payroll & Employee Benefits Division
Metro Hall
55 John Street
13th floor
Toronto, Ontario M5V 3C6

NOTICE OF EMPLOYER SURPLUS WITHDRAWAL APPLICATION

TO: Surplus Sharing Members of the Toronto Civic Employees' Pension and Benefit Plan (Financial Services Regulatory Authority of Ontario Registration No. 0351593) (the "Plan")

FROM: City of Toronto (the "City")

DATE: June 24, 2020

1. As you are aware, the Plan is being wound-up effective November 30, 2019 (the "**Wind Up**") as a result of a transfer of assets and liabilities relating to Plan members' benefits into the Ontario Municipal Employees Retirement System ("**OMERS**") Primary Plan (the "**Merger**"). Only surplus remains in the Plan as of the effective date of Wind Up, November 30, 2019 (the "**Wind Up Date**").
2. The Pension Committee for the Toronto Civic Employees' Pension and Benefit Plan (the "**Committee**") is the legal administrator of the Plan and, therefore, is responsible for completing the Wind Up, including the distribution of remaining assets of the Plan (in this case, the surplus remaining in the Plan). The Committee has appointed the City to assist it in completing the Wind Up. The City also fulfills separate obligations relating to the withdrawal of surplus remaining in the Plan in its capacity as employer under the Plan.
3. The purpose of this notice is to advise you of the City's application to the Chief Executive Officer of the Financial Services Regulatory Authority of Ontario (the "**FSRA CEO**") for his consent, pursuant to Section 78 of the *Pension Benefits Act* (Ontario) (the "**PBA**"), to a refund of a portion of surplus assets remaining in the Plan on Wind Up, as more particularly described in paragraphs 8-13 of this notice (the "**Surplus**"). The City makes the application for the FSRA CEO's consent in its capacity as employer under the Plan.
4. This notice is being provided to each member, former member and retired member of the Plan and any other individual who is receiving payments out of the pension fund, namely, pensioners and spousal pensioners in receipt of a pension as of January 31, 2018 (the "**Agreement in Principle Date**"). These individuals are collectively referred to in this notice as the "**Surplus Sharing Members**".

5. This notice is given in compliance with subsection 78(2) of the PBA and subsection 28(5) of Regulation 909 made under the PBA, as amended, in respect of the Surplus Sharing Members.

A. Wind Up of the Plan

6. The Plan is being wound up, effective on the Wind Up Date. A wind up report, dated June 2020 was prepared by Buck, the actuary for the Plan (the “**Wind Up Report**”). The Wind Up Report estimated that the actuarial Surplus in the Plan as at the Wind Up Date was \$112,413,900. The information provided in this Notice is based on the Wind Up Report. This notice and the Wind Up Report are subject to the FSRA CEO’s approval.
7. The Surplus Sharing Members were each in receipt of a pension paid from the Plan as at the Agreement in Principle Date, as set out in Article 1 of the Surplus Sharing Agreement dated May 11, 2018 (the “**Surplus Sharing Agreement**”). As a result of the Merger, assets were transferred from the Plan into the OMERS Primary Plan on October 7, 2019. Thereafter, pension payments to the Surplus Sharing Members have been made by OMERS; the first pension payments were made by OMERS on November 1, 2019. Accordingly, all benefits to which the Surplus Sharing Members were entitled pursuant to the provisions of the Plan have been paid or distributed from the Plan. All other outstanding benefit entitlements under the Plan will be paid by OMERS.

B. Surplus Sharing Proposal

8. The City proposes to share the Surplus between the City and the Surplus Sharing Members in accordance with the Surplus Sharing Agreement. This will result in a withdrawal of the “City Share” (as defined below) of the Surplus by the City.
9. The formal sharing proposal is set out in the Surplus Sharing Agreement entered into between the City and representatives of the Surplus Sharing Members. Outlined below is a summary description of that proposal and the process by which Surplus Sharing Members consented to the proposal:
 - a. A committee comprising individual Surplus Sharing Members, known as the Pension Committee for the Toronto Civic Employees' Pension Plan Surplus Distribution (the “**Member Committee**”) was established in September 2017 to engage legal counsel to negotiate an agreement with the City with respect to the distribution of Surplus to the Surplus Sharing Members. Koskie Minsky LLP was retained for these purposes.
 - b. Under cover of a letter from the Member Committee dated February 23, 2018, Surplus Sharing Members were provided a notification package which included a detailed description of the proposed terms of the Surplus Sharing Agreement. Surplus Sharing Members were asked to indicate their support for (or objection to) the proposed terms of the Surplus Sharing Agreement via

an authorization and retainer form appended to the notification package. The notification package also contained a letter from the City, a question and answer document relating to the proposed surplus distribution, contact information for City officials and Koskie Minsky LLP, and an invitation to town hall meetings.

- c. In addition to the formal notification package, the representatives of the Committee (in its capacity as administrator of the Plan) liaised and held regular meetings with the Member Committee, and communicated updates to Surplus Sharing Members via information brochures and websites.
 - d. Of the total 868 Surplus Sharing Members to whom the notification package was distributed, 706 (approximately 81% of Surplus Sharing Members) indicated their consent to the proposed Surplus Sharing Agreement. The Surplus Sharing Agreement was executed with the consent of Plan members who retained Koskie Minsky LLP to execute the Surplus Sharing Agreement on their behalf. A copy of the Surplus Sharing Agreement is enclosed.
 - e. The Surplus Sharing Agreement provides for the Surplus remaining in the Plan, less eligible administrative costs and expenses in connection with the administration of the Plan and the Wind Up (the “**Net Surplus**”), to be divided between the Surplus Sharing Members and the City by providing the Surplus Sharing Members with 50% of the Net Surplus (the “**Member Group Share**”) and by providing the City with 50% of the Net Surplus (the “**City Share**”).
 - f. Each Surplus Sharing Member will receive a *pro rata* share of the Member Group Share remaining after payment of applicable expenses of the Member Committee, based on the amount of the Surplus Sharing Member’s pension payable on the Agreement in Principle Date. Notwithstanding the foregoing, each Surplus Sharing Member will receive a minimum surplus allocation of \$2500.
 - g. Each Surplus Sharing Member will receive payment of his or her share of the Member Share in accordance with necessary regulatory approvals and subject to the requirements of the *Income Tax Act* (Canada).
10. The proposal described in this notice and the Surplus Sharing Agreement will not be implemented unless the FSRA CEO consents to the refund of Surplus to the City in accordance with the terms of the Surplus Sharing Agreement and the Application (as defined below).
11. Buck has estimated that the Net Surplus as at the Wind Up Date is approximately \$112,537,400. Using this estimate, the amount of Net Surplus payable under each of the City Share and the Member Group Share would be approximately \$56,268,700, minus surplus expenses. The method for distributing the Member Group Share of the Net Surplus among the Surplus Sharing Members is described in the Wind Up Report and at Article 7 the Surplus Sharing Agreement.

12. The precise amount of the Net Surplus, and hence your share of the Net Surplus, cannot be determined until the date of the distribution of Net Surplus from the Plan. The amount of the Net Surplus available for distribution will depend on several factors, including any income or losses on the investment of Plan assets and the actual expenses incurred in connection with the distribution of the surplus from the Plan.
13. The Application (as defined below) and this notice were prepared by the City. You may wish to seek independent legal advice with respect to the Application. A significant majority of Surplus Sharing Members have already retained Koskie Minsky LLP to represent and advise them in respect of the Application. If you have questions about the Application or wish to consult with Koskie Minsky LLP, you may contact them at 1-855-595-2625 or torontocivcipation@kmlaw.ca.

C. FSRA CEO's Review

14. An application will be made to the FSRA CEO for his consent to the payment to the City of its share of the Net Surplus in accordance with the Surplus Sharing Agreement and applicable regulatory requirements (the "**Application**"). The Application is based on section 77.11(7)2 of the PBA. The date on which the Application will be submitted to the FSRA CEO may be obtained by contacting the City pursuant to paragraph 19 below.
15. This notice is provided in compliance with the provisions of the regulatory requirements referred to in paragraph 5. You are receiving this notice because you have been identified as an individual who may be entitled to a payment of surplus from the Plan. In order to be entitled to a payment of surplus, should regulatory approval be granted, you must have been a person in receipt of a pension from the Plan on January 31, 2018.
16. Copies of the Wind Up Report, the Plan documents from the inception of the Plan, the documents creating and supporting the Plan and fund, and the Surplus Sharing Agreement and related certificates filed with the FSRA CEO in support of the Application, together with any other information to which members are by law (including pursuant to sections 29(1), 29(2) and 30(1) of the PBA, and regulations made under the PBA) entitled to view in relation to the Plan, can be provided to you by contacting Michael Francis at 416-338-5322 or Michael.Francis@toronto.ca.
17. Copies of Plan documents prescribed in subsections 45(2) and 45(6) of Regulation 909 made under the PBA will be provided by mail or electronically, if requested from the FSRA CEO in writing or by contacting Michael Francis at 416-338-5322 or Michael.Francis@toronto.ca.

18. Submissions in respect of the Application may be made in writing to the FSRA CEO within 30 days after you receive this notice. Such submissions should be made to the Chief Executive Officer, Financial Services Regulatory Authority of Ontario, 5160 Yonge Street, 16th Floor, Toronto, Ontario M2N 6L9 or by e-mail to pensioninquiries@fsrao.ca. We are required to notify you that the FSRA CEO will provide copies of all submissions to the City. The FSRA CEO will advise the City and any person that makes submissions of his decision regarding payment of Surplus to the City through issuing a Notice of Intended Decision (“**NOID**”). Persons who receive a copy of the NOID from the FSRA CEO are entitled to a hearing if they object to the NOID.

If you have any questions relating to this notice or the Application, you are advised to contact **Michael Francis** at **416-338-5322** or Michael.Francis@toronto.ca

Yours truly,



Hatem Belhi
Director, Pension, Payroll & Employee Benefits