

THIS AMENDING WATER SUPPLY AGREEMENT made with effect as of the ____th day of _____, 2021 **BETWEEN:**

CITY OF HAMILTON

(hereinafter called "**Hamilton**")

- and -

THE REGIONAL MUNICIPALITY OF HALTON

(hereinafter called "**Halton**")

RECITALS

- a. Halton and Hamilton entered into an agreement dated November 17, 2011 for the supply of water to Halton Communities (the "**2011 Water Supply Agreement**"). Subsequently, the 2011 Water Supply Agreement was renewed in accordance with the renewal terms of that Agreement for the term of November 17, 2021 to November 16, 2031 on the same terms and conditions.
- b. Halton Regional Council has endorsed the recommendations in LPS94-20/PW-31-20 directing the Commissioner of Public Works to enter the necessary agreements with the City of Hamilton.
- c. Halton and Hamilton have, in accordance with the terms and conditions of that agreement, agreed to amend the 2011 Water Supply Agreement as hereinafter set out.
- d. The 2011 Water Supply Agreement as amended by this Amending Water Supply Agreement is hereinafter referred to as the "**Water Supply Agreement.**"

NOW THEREFORE, in consideration of the mutual covenants and obligations contained herein and subject to the terms and conditions hereinafter set out, Hamilton and Halton agree as follows:

1. The Water Supply Agreement shall be amended by deleting the following recital on page 1:

AND WHEREAS pursuant to the provisions of section 20 of the Municipal Act, 2001 S.O. 2001, c. 25, Halton and Hamilton are permitted to enter into this Agreement for the supply of water to an adjoining municipality

The deleted recital shall be replaced with:

AND WHEREAS pursuant to the provisions of sections 19 and 20 of the Municipal Act, 2001 S.O. 2001, c. 25, Halton and Hamilton are permitted to enter into this Agreement for the supply of water to an adjoining municipality

2. The Water Supply Agreement shall be amended by adding the following recitals at the end of page 1:

AND WHEREAS Halton and Hamilton intend that Hamilton would service the properties at 720, 768 and 780 Mountain Brow Road West (the "**New Mountain Brow Properties**") with a secure supply of water and no future main pipeline is required to service the properties at 720, 768 and 780 Mountain Brow Road West, subject to Halton or the owners of the New Mountain Brow Properties paying Hamilton for all costs for any service line and connection between the main pipeline and the New Mountain Brow Properties.

AND WHEREAS Halton and Hamilton acknowledge that Hamilton has and intends to continue to service the properties at 8, 24, 38 Mountain Brow Road West (the "**Existing Mountain Brow Properties**") with a secure supply of water and Hamilton constructed the necessary infrastructure to provide water service to 8, 24, 38 Mountain Brow Road West.

AND WHEREAS the Water Supply Agreement was renewed in accordance with the renewal terms of that Agreement for the term of November 17, 2021 to November 16, 2031 on the same terms and conditions.

3. The Water Supply Agreement shall be amended by deleting section 1.01 on page 2:

1.01 Pipeline

All water provided by Hamilton to the Bridgeview, North Aldershot and Snake Road communities (the "**Communities**") with respect to this Agreement shall be provided through pipelines constructed by Halton (the "**Pipelines**").

The deleted section shall be replaced with:

1.01 Pipeline & Services

All water provided by Hamilton to the Bridgeview, North Aldershot, Snake Road communities (the "**Communities**") with respect to this Agreement shall be provided through pipelines that have been constructed by Halton (the "**Pipelines**").

All water provided by Hamilton to the New Mountain Brow Properties and the Existing Mountain Brow Properties (collectively the "**Mountain Brow Properties**") with respect to this Agreement shall be provided through water service pipes, which for the Existing Mountain Brow Properties, have already been constructed by Hamilton, and for the New Mountain Brow Properties, shall be constructed by Halton, the benefitting property owners or their agents (the "**Mountain Brow Services**").

Notwithstanding anything else in this Agreement, neither party shall be obligated to provide any water, unless a water service pipe is in place, meeting all applicable laws, regulations, standards, codes and other rules. For clarity, Hamilton shall not be obligated to provide any service to the New Mountain Brow Properties, unless and until a service line and connection between the pipeline and the New Mountain Brow Properties has been installed. Halton or the owners of the New Mountain Brow Properties shall be responsible for the cost of any such service line and/or connection.

4. The Water Supply Agreement shall be amended by deleting section 1.02 on page 2:

1.02 Ownership of the Pipeline

All right, title and interest in the Pipelines and any related infrastructure located within Hamilton, together with any water meters supplied by Hamilton, shall be and remain vested in Hamilton. The chamber and valves related to each water meter shall be owned and maintained by Halton. The water meter shall be owned and maintained by Hamilton.

The deleted section shall be replaced with:

1.02 Pipeline & Mountain Brow Services

All right, title and interest in the Pipelines, all infrastructure located solely within Hamilton, and any water meters supplied by Hamilton shall be owned by Hamilton. All right, title and interest in the Pipelines located within a boundary road shall be owned by Hamilton.

All right, title and interest in the Mountain Brow Services and any related infrastructure located within a boundary road shall be owned by Hamilton. Any service lines to Halton Residents within the boundary road, any chamber and any valves related to each water meter shall be owned and maintained by Halton.

The delivery point for the Communities is agreed to be the water meter that adjoins the Hamilton drinking water system to the Halton Pipeline. The delivery point for the Mountain Brow Properties is agreed to be the Mountain Brow Service connection to the Hamilton drinking water system, subject to Section 1.01.

Hamilton and Halton acknowledge and agree that water pressures are expected to be near or above 100 psi in some Hamilton pipelines, including near the New Mountain Brow Properties. Where such water pressures are measured or discovered, Halton shall ensure that a residential pressure reduction management valve, or similar equipment, is installed and maintained, and Hamilton shall not be responsible for any damage caused by any pressure within a Hamilton pipeline in excess of 100 psi. Additionally, Halton shall include a clause in its agreements with the Mountain Brow Properties for the supply of water that gives Hamilton third-party beneficiary rights to defend, release, indemnify and hold harmless Hamilton on the same basis as Halton.

Hamilton and Halton agree to exchange, free of any fee or charge, any and all designs, drawings, manuals, warranties, agreements or other documents for the Pipelines arising from the normal course of construction within a reasonable amount of time, upon request of the other party. The parties further agree to denote all delivery points on any drawing.

5. The Water Supply Agreement shall be amended by deleting section 2.03 on page 3:

2.03 Maintenance

Halton covenants and agrees to be fully responsible for: (a) all water meter chambers; and (b) the maintenance of all works and/or infrastructure associated with the said water supply which are located within Halton. Hamilton hereby agrees to provide access within a reasonable period of time to Halton for the said maintenance and Halton agrees to defend, indemnify and save harmless Hamilton from and against all claims, actions, losses, expenses, costs or damages of every nature and kind whatsoever arising as a result of such maintenance by Halton.

The deleted section shall be replaced with:

2.03 Maintenance

Halton covenants and agrees to be fully responsible for: (a) all water meter chambers and valves; and (b) the maintenance of all works and/or infrastructure associated with the said water supply which are located within Halton. Hamilton hereby agrees to provide access within a reasonable period of time to Halton for the said maintenance and Halton agrees to defend, indemnify and save harmless Hamilton from and against all claims, actions, losses, expenses, costs or damages of every nature and kind whatsoever arising as a result of such maintenance by Halton.

Subject to Sections 1.01 and this 2.03, Hamilton covenants and agrees to be fully responsible for: (a) all water service pipes to the Mountain Brow Properties; and (b) the maintenance of all water service pipe works and/or infrastructure associated with the said Mountain Brow Services that are located within boundary roads. Halton hereby agrees to provide access within a reasonable period of time to Hamilton for the said maintenance, as may be required. Halton shall pay Hamilton for all costs related to the maintenance of Mountain Brow Services within boundary roads.

6. In all other respects, the Water Supply Agreement shall remain in full force and unamended.
7. This Water Supply Agreement may be executed by the parties in separate counterparts each of which when so executed and delivered to all of the parties shall be deemed to be and shall be read as a single agreement among the parties and may be executed and delivered by means of electronic transmission.
8. This Water Supply Agreement shall be binding upon and endure to the benefit of the parties hereto and their respective successors and assigns.

SIGNED, SEALED AND DELIVERED)

this day of , 2021)

at the City of Hamilton,)

Name: Fred Eisenberger

Province of Ontario)

Name: Andrea Holland

Title: City Clerk

this day of _____, 2021)

at the Town of Oakville,)

Name: Andrew Farr

Title: Commissioner of Public Works

Province of Ontario)