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The Regional Municipality of Durham Report

To: Regional Council
From: Commissioner of Finance and Treasurer
Report: #2023-F-6
Date: March 1, 2023

Subject:

Memorandum of Understanding for the Sharing of the Pickering Casino Revenue

Recommendation:

That the Finance and Administrative Committee recommends to Regional Council:

- A) That the attached Memorandum of Understanding for the Sharing of the Pickering Casino Revenues with Durham Region be approved subject to any minor revisions acceptable to the Chief Administrative Officer with the Chair and Clerk authorized to execute the agreement;
 - B) That a new Reserve Fund "Pickering Casino Revenues Reserve Fund" be established for the new Regional share of the Pickering Casino funds with the use of the reserve fund for the provision of Regional services impacted by casino operations, subject to Regional Council approval, anticipated to be through the annual Business Planning and Budget process; and,
 - C) That the Regional Solicitor be directed to prepare the necessary by-law to establish the recommended reserve fund.
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Report:

1. Purpose

- 1.1 This report is to secure Regional Council's approval to execute a Memorandum of Understanding (MOU) with the City of Pickering for the Region to receive a share of the new Pickering Casino revenues (Durham Live Pickering Casino Resort) commencing in 2023 and to establish a new Reserve Fund called the "Pickering Casino Revenues Reserve Fund".

2. Background

- 2.1 The Pickering Casino Resort sits on approximately 40 acres of a larger 200 plus acre Durham Live project site, which does or will include a five-star hotel (just completed), multiple entertainment/recreation amenities and retail and office space. Phase 1 was originally anticipated to open in early 2020, including the casino resort, gaming, and dining options. Due to the Covid pandemic, this timeline was delayed. The Pickering Casino, with limited dining options, opened on July 26, 2021. Gaming sites in Ontario were then again subject to public health restrictions through most of the fourth quarter of 2021, including 26 days of closures. Subsequently casinos were closed again between January 5th and 26th, 2022. Closures, restrictions, and client apprehension impacted gaming revenues as well as quarterly municipal host payments (made by Ontario Lottery and Gaming Corporation (OLG) to 27 municipal host communities across Ontario). Casinos opened at full capacity by February 17, 2022, and all remaining public health restrictions were lifted by March 21, 2022.
- 2.2 Staff of Durham Region and the City of Pickering, led by the CAOs, negotiated the attached Memorandum of Understanding (MOU) over the fall and winter of 2022. Pickering has proceeded with a similar report to Pickering Council on February 27, 2023.
- 2.3 Host municipalities, including Pickering, receive a share of gaming revenues from OLG under a formula outlined in their standardized Municipal Contribution Agreements (MCAs).
- 2.4 Ontario Regulations, under the *Ontario Lottery and Gaming Corporation Act*, do not currently recognize two-tiered municipal structures or the upper-tier for OLG revenue payments. However, Casino revenue sharing is not without precedent and the Region currently receives quarterly funding under a services agreement with Ontario Lottery and Gaming Corporation for the Great Blue Heron Casino with an initial term of January 1, 2018, to March 31, 2023. A MOU also exists with Durham Regional Police Services (DRPS) to provide payment to DRPS for police services to the Great Blue Heron Casino.

3. Previous Reports and Decisions

- 3.1 Previous Report 2017-COW-292, "Services Agreement with Ontario Lottery and Gaming Corporation for the Great Blue Heron Casino" recommended and led to the Council decision to authorize execution of both a services agreement for the provision of Regional services to the Great Blue Heron Casino, for an initial term of January 1, 2018 to March 31, 2023 (and subsequent additional five-year terms) as well as a Memorandum of Understanding (MOU) with Durham Regional Police Services for recovery of police services costs.
- 3.2 The Great Blue Heron Casino in Port Perry is situated on the reserve lands of the Mississaugas of Scugog Island First Nation (MSIFN). On September 8th, 2016, OLG purchased various assets from the Baagwating Community Association and entered into various agreements regarding the Great Blue Heron Casino. OLG's land-based gaming modernization plan created the GTA Gaming Bundle, which is a

collection of OLG-defined Gaming Zones, including OLG Slots at Woodbine, OLG Slots at Ajax Downs and the Great Blue Heron Casino.

4. MOU for the Sharing of the Pickering Casino Revenues

4.1 It is recommended that Regional Council approve the attached Memorandum of Understanding for the Sharing of the Pickering Casino Revenues with Durham Region to enable commencement of revenue sharing retro-active to January 1, 2023, and including the following key terms:

- a. The first \$10 million in casino revenues be allocated to the City of Pickering and the remaining balance be shared 50 percent/50percent with Durham Region up to a cap of \$6 million per year, with the Region subsequently reporting annually to the City on how the funds were utilized on behalf of Regional taxpayers.
- b. The Regional and Pickering CAOs will establish at least semi-annual update meetings.
- c. Pickering and Durham Region will solely retain their respective responsibilities for establishing the policies, budgets and service levels for programs and services within each of their jurisdictions and the agreement does not preclude the Region or Pickering from imposing any fees, charges, conditions and levies on OLG and/or any operator which would otherwise be applicable.
- d. The agreement term expires December 31, 2026. It can be extended with the mutual written agreement of both the Region and City of Pickering.

5. Regional Financial Implications

5.1 The approved 2022 Pickering Budget (March 28, 2022), noted anticipated total 2022 revenues from OLG for the Pickering Casino of approximately \$8.3 million, with 2021 total estimated actuals at \$4.3 million (the Pickering casino opened at the end of July 2021). Cumulative to December 31, 2022 the City has received approximately \$20,253,780 from the commencement of their agreement with OLG.

5.2 There are significant direct and indirect economic development benefits related to the Durham Live Complex in Pickering anticipated for both the Region and the eight local municipalities.

5.3 A dedicated Reserve Fund for Pickering Casino Revenues will assist in managing contributions received and to be budgeted annually. Given uncertainties related both to the magnitude of potential revenues each year, cash flow timing, actual impacts of the Pickering Casino Resort on Regional programs and services, and that there is no guarantee that the Region's revenue share will continue beyond the current four-year term of the agreement, recommendations to apply the funds will be provided through the annual Business Plan and Budget process and subject to Regional Council approvals. It is anticipated that the funds will be fully utilized each year.

6. Relationship to Strategic Plan

6.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:

a. Under the goal of service excellence:

To provide exceptional value to Durham taxpayers through responsive, effective, and fiscally sustainable service delivery by optimizing resources and partnerships to deliver exceptional quality services and value.

7. Conclusion

7.1 Durham Regional Council and Pickering Council approval of the attached MOU will allow Durham Region to receive up to \$6 million in annual revenues from the Pickering Casino revenues from OLG under Pickering's Municipal Contribution Agreement, subject to the terms of the agreement.

7.2 This report has been prepared with the assistance of the CAO's Office, Regional Legal Division.

8. Attachments

Attachment #1: Memorandum of Understanding for the Sharing of the Pickering Casino Revenues between the Corporation of the City of Pickering (the "City") & The Regional Municipality of Durham (the "Region").

Respectfully submitted,

Original Signed By

Nancy Taylor
Commissioner of Finance & Treasurer

Recommended for Presentation to Council

Original Signed By

Elaine C. Baxter-Trahair
Chief Administrative Officer



Memorandum of Understanding for the Sharing of the Pickering Casino Revenues between the Corporation of the City of Pickering (the “City”) and The Regional Municipality of Durham (the “Region)

WHEREAS:

- a. The City has entered into a Municipal Contribution Agreement (the “MCA”) with the Ontario Lottery and Gaming Commission (“OLG”), in order for the City to receive a share of revenue from the Pickering Casino (the “Casino”);
- b. The City has agreed to share a portion of the revenue from the Municipal Contribution Agreement with the Region; and
- c. The Parties wish to reduce their agreement on the revenue sharing to writing;

NOW THEREFORE for the following consideration, the parties agree that:

1. This agreement, will commence in Q1, 2023, and revenue sharing will be retro-active to January 1, 2023, it being understood that payments from OLG in respect of any time prior to December 31, 2022 will not be shared even if such payments are received by the City after that date.
2. Annually, the first \$10 million in casino revenues from the MCA be allocated to the City and the remaining balance of casino revenues from the MCA be shared 50%-50% with the Region, provided that the Region’s share shall be capped at \$6,000,000 per year. The City shall make the payment to the Region in one annual payment annually, within sixty (60) calendar days of December 31. Commencing the year after the first payment is received, the Region shall provide the City annually by March 31st with annual reports which account for the Region’s use of funds it receives under this agreement.
3. Both municipalities agree that the partnership between the City and the Region will enable open and timely sharing of information to assist program areas of both municipalities. Semi-annual update meetings between the Parties respective CAO’s will be scheduled to plan for issues and needs which may arise.

4. Pickering and Durham Region will solely retain their respective responsibilities for establishing the policies, budgets and service levels for programs and services within each of their jurisdictions.
5. This Revenue sharing Agreement will survive any change in the gaming operator. This agreement does not preclude the Region or the City from imposing any fees, charges, conditions, levies etc. on OLG and/or any operator which would otherwise be applicable to the operation of the Casino, hotel or any other amenity associated with the Casino.
6. The City is recognized as the host municipality in accordance with the MCA.
7. The term of this agreement shall expire on December 31, 2026. Notwithstanding this term limit, the final payment from the City to the Region for 2026 will be due 60 days from December 31, 2026. In the event that the Province implements any substantial reduction of the Region's jurisdiction over health and social services, policing or emergency response, the City and the Region will renegotiate the revenue sharing specified in this MOU for the balance of the term. The term can be extended on the mutual written agreement of both the City and the Region.

THIS AGREEMENT made this ____ day of February, 2023

The Regional Municipality of Durham

Per: _____
John Henry, Regional Chair & CEO

Per: _____
Alexander, Harras, Regional Clerk

We have the authority to bind the Corporation

The Corporation of the City of Pickering

Per: _____
Kevin Ashe, Mayor

Per: _____
Susan Cassel, City Clerk

We have the authority to bind the Corporation

DRAFT