

Committee of the Whole (2) Report

DATE: Tuesday, June 18, 2024

WARD(S): ALL

TITLE: DEDICATED LOCATOR AGREEMENTS FOR UNDERGROUND INFRASTRUCTURE

FROM:

Zoran Postic, Deputy City Manager, Public Works

ACTION: DECISION

Purpose

This report seeks Council authorization for the Deputy City Manager, Public Works, or designate, to enter, renew and/or amend Dedicated Locator Services Agreements as requests for such agreements are received from time to time under the *Ontario Underground Infrastructure Notification System Act, 2012*.

Report Highlights

- Ontario legislation requires Municipalities to provide utility locate services for underground infrastructure to promote safe digging, and to reduce damage to infrastructure.
- The *Ontario Underground Infrastructure Notification System Act, 2012*, as amended, requires Municipalities to enter into Dedicated Locator agreements with certain project owners who are installing underground infrastructure.
- Municipalities are required to enter into an agreement for Dedicated Locator services, and provide mapping of underground infrastructure, within 10 business days of the project owners' request.
- Having authority for Dedicated Locator Service provider agreements helps ensure the City can achieve compliance with legislative requirements.

Recommendations

1. That the Deputy City Manager, Public Works, or designate, be authorized to negotiate, and execute Dedicated Locator agreements (including extensions and amendments) as requests for such agreements are received from time to time under the *Ontario Underground Infrastructure Notification System Act, 2012*, in a form acceptable to Legal Services; and
2. That the Deputy City Manager, Public Works, or designate be authorized to execute any documents associated with these agreements that are in a form satisfactory to Legal Services.

Background

Ontario legislation requires Municipalities to provide timely utility locate services, called for by Ontario One Call, to promote safe digging and to protect underground infrastructure.

Ontario legislation requires Municipalities to provide utility locate services for City owned underground infrastructure. Municipalities are required by law to provide utility locate services through Ontario One Call. Ontario One Call administers and enforces the *Ontario Underground Infrastructure Notification System Act, 2012*, to promote safe digging and the timely delivery of locates by underground infrastructure owners. Ontario One Call must be notified before any underground construction takes place. Ontario One Call will notify buried infrastructure owners to mark the underground infrastructure (e.g., streetlight cables, gas lines, watermains, sewers). This promotes safe digging and the timely delivery of locates to protect underground infrastructure.

The *Ontario Underground Infrastructure Notification System Act, 2012*, as amended, requires underground utility owners, such as Municipalities, to enter into Dedicated Locator agreements, when requested by a project owner, who will also cover the costs for the locate services.

As a result of amendments made to the [Ontario Underground Infrastructure Notification System Act, 2012](#) under Bill 93, passed in April 2022, a third-party Dedicated Locator (DL) may now be requested by either a private project owner for their development project, by the owner of a designated broadband project, or by a project as designated by the Minister.

DL agreements are tri-party agreements executed between the City, a project owner, and a dedicated locator. The agreements outline the obligations, terms, and conditions of the parties for the purpose of conducting underground infrastructure locates within the City. Dedicated Locators help project owners streamline their workflow, thus

improving the efficiency of their project. All costs for the DL will be borne by the project owner which equates to a cost savings to the City.

When a DL is requested by a project owner, the City is required to enter into the agreement within 10 business days of receiving the request or as agreed on by both parties.

Outside of the legislated DL agreements, the City will continue to provide utility locate services for all calls submitted by Ontario One Call, as done in the past.

Previous Reports/Authority

Request for Authority to Amend and Renew “Fibre to the Home” Agreement with Bell Canada, Extract from Council meeting of March 10, 2021 (Item 5, Report No. 8): [filestream.ashx \(escribemeetings.com\)](filestream.ashx (escribemeetings.com))

Analysis and Options

Amendments to *Ontario Underground Infrastructure Notification System Act, 2012* imposes penalties for delayed locate services and non-compliance of locate requests.

All projects involving underground construction are required by law to call for utility locates. The penalty for each delayed locate can be up to \$1,000 and each DL project can call for hundreds of locates.

DL agreements between project owners and Municipalities help streamline locate services to project owner(s), enhance locate response timelines for project owner(s), and reduce the risk of financial penalties for the City.

Bell Canada has Dedicated Locator agreements with the City under the Bell Fibre To The Home (FTTH) network program.

The City currently has DL agreements between Bell Canada and locate service providers for Bell Canada’s Fibre To The Home (FTTH) network program. The DL agreement structure has been implemented successfully with Bell Canada.

Having delegated authority for Dedicated Locator Service provider agreements helps ensure the City can achieve compliance with legislative requirements.

As the City grows and construction activities increase, demand for utility locates will correspondingly increase. Entering into these DL agreements relieves the City from having to meet increasing utility locate demands and assist in ensuring the City can continue to meet the legislated deadlines as the City grows.

Financial Impact

Dedicated Locator agreements will result in a cost avoidance for the City.

There are no financial impacts as a result of the City entering into DL Agreements. The cost of the DL service is paid by the project owner, in accordance with the *Ontario Underground Infrastructure Notification System Act, 2012*.

DL agreements between project owners and the City equates to a cost avoidance for projects associated with DL Agreements. The agreements also eliminate the possibility of being penalized for delays and non-compliance of locate requests. The City will continue to provide utility locate services for all calls submitted by Ontario One Call, as done in the past, where DL agreements are not in place and/or not applicable.

Operational Impact

Transportation and Fleet Management Services consulted with Environmental Services and Legal Services on the establishment of these agreements in preparation of this report.

Broader Regional Impacts/Considerations

DL Agreements between the City and project owners have no expected impacts on other governments/organizations.

Conclusion

Ontario legislation requires Municipalities to provide utility locate services for City owned underground infrastructure to promote safe digging, and to reduce damage to infrastructure. Amendments to the *Ontario Underground Infrastructure Notification System Act, 2012*, permit project proponents to request the City to enter into agreements for DL services. The City is required to enter into DL service provider agreements when requested by project proponents. To ensure the City is able to comply with its legislative requirements, staff are seeking authority for the Deputy City Manager of Public Works, or designate, in consultation with Legal Services, to negotiate and execute required documents for DL agreements.

For more information, please contact:

Steven Fantin, Director, Transportation and Fleet Management Services, ext. 6141.

Prepared by

Eric Menezes, Project Manager, Traffic Engineering, ext. 6047.

Margie Chung, Manager, Traffic Engineering, ext. 6173.

In consultation with:

Rebecca Hall-McGuire, Legal Counsel, ext. 8475.