




CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Hamilton Water Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	February 5, 2024
SUBJECT/REPORT NO:	Delegated Authority for the Locates Program (PW24008) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Amanda Dubeckyj (905) 546-2424 Ext. 4743
SUBMITTED BY:	Shane McCauley Director, Water & Wastewater Operations Public Works Department
SIGNATURE:	

RECOMMENDATION

That the General Manager, Public Works, or their designate, be authorized and directed to enter into agreements and any ancillary agreements with Dedicated Locators as defined in the *Ontario Underground Infrastructure Notification System Act, 2012, S.O. 2012, c.4.*, in a form satisfactory to the City Solicitor.

EXECUTIVE SUMMARY

Changes in the *Ontario Underground Infrastructure Notification System Act, 2012, S.O. 2012, c.4* (“*OUIINS Act*”) allows for project owners to hire a dedicated locator (at their expense) to expedite the locate process. These changes also require Ontario One Call members (the City is a member as required by the *OUIINS ACT*) and project owners to agree in writing on a dedicated locate service provider (locator). This must be done within 10 business days of being notified of a dedicated locator request through Ontario One Call.

In addition to agreeing upon a locator, the City is required within those 10 business days to provide the locator with mapping and any other additional information that the locator feels is necessary as it relates to the City owned underground infrastructure. As such, although not required by the *OUIINS Act*, it is recommended by Ontario One Call as best practice for the City to enter into an agreement with the locator which outlines the City’s requirements and limits the City’s liability. This agreement should be in place prior to providing the locator with any information. Delegated authority is required to meet the

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OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

10-business day requirement. As of May 1, 2024, failure to meet the 10-business day requirement could result in administrative penalties of \$250 per day late up to a maximum of \$10K. In addition, the City could be held liable for project costs and expenses that result from the delay.

It is being recommended that the General Manager, Public Works or their designate being responsible for the City's underground infrastructure be given delegated authority to enter into the necessary agreements and any ancillary agreements, in order to meet the 10-business day timeline as laid out in the legislation.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: As of May 1, 2024, if the City does not agree to a dedicated locator and provide the necessary information within 10 business days, the City may be faced with administrative financial penalties of \$250 per day late up to a maximum of \$10K for each request. In addition, the City could be held liable for project costs and expenses that result from the delay.

Staffing: N/A

Legal: While it is not a requirement of the *OUINS Act* to have a formal written agreement with the locator it is an Ontario One Call recommended best practice. The purpose of this agreement would be to outline the City's requirements and limit the City's liability.

HISTORICAL BACKGROUND

The *OUINS Act* was amended in November 2022 to include provisions for dedicated locators. Project owners have had to weigh the benefits of having dedicated locators against the cost associated with hiring them. Across the industry underground infrastructure owners are beginning to see more requests from project owners to use dedicated locators.

The City received a request from a project owner on November 24, 2023, to use a dedicated locator. Public Works staff have been working with the City's Legal team to draft an appropriate agreement that can be used for these requests. During that process, it was determined that delegated authority to enter into an agreement with a dedicated locator did not exist and needed to be provided in order to meet the tight timelines. During this time, the City has been working with the project owner to ensure that locates are provided within their required timeframes to avoid project delays.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The *Ontario Underground Infrastructure Notification System Act*, 2012, S.O. 2012, c.4 requires within 10 business days of notification, that the City and the Project Owner agree in writing on a dedicated locator, and for the City to provide mapping and other necessary information to the locator.

RELEVANT CONSULTATION

The following groups have been consulted and are supportive of the recommendation:

- Solicitor for Legal and Risk Management Services Division
- Director, Hamilton Water Division
- Director, Environmental Services Division
- Director, Transportation Division

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Under the dedicated locator provisions of the *OUINS Act* the locator is providing locates using the mapping, information, and guidance the City provides as it relates to City owned underground infrastructure. While the *OUINS Act* does not require a written agreement with the locator it is a recommended Ontario One Call best practice. The agreement will allow the City to set requirements and limitations on how the information is used, and limit City liability.

The *OUINS Act* requires that any agreements and information needed under the dedicated locator provisions be completed and provided within 10 business days of being notified of a request. As of May 1, 2024, failure to meet the time requirements could result in administrative penalties of \$250 per day late to a maximum of \$10K per request. In addition, the City could be found liable for project costs and expenses associated with the delay. The timelines to bring a legal agreement to Council through a staff report is typically a minimum of six weeks. Therefore, to meet the required timeframes as set out in legislation, delegated authority is necessary.

While the City owns the underground infrastructure, the General Manager, Public Works is responsible for the operations and maintenance of it. Therefore, it is being recommended that the authority to enter into agreements as part of the dedicated locator provisions of the *OUINS Act* be delegated to the General Manager, Public works or their delegate.

ALTERNATIVES FOR CONSIDERATION

N/A

APPENDICES AND SCHEDULES ATTACHED

N/A