



**SUBJECT: Establishment of the Halton Digital Access Services Corporation**

**TO: Environment, Infrastructure & Community Services Cttee.**

**FROM: Environment, Infrastructure and Community Services**

Report Number: EICS-09-23

Wards Affected: All

Date to Committee: June 1, 2023

Date to Council: June 13, 2023

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**Recommendation:**

1. Endorse the following actions:

- (a) Adopt the business case in respect of the creation and operation of a Municipal Services Corporation ("**MSC**") as described in environment, infrastructure and community services report EICS-09-23;
- (b) Receive the results of public consultation in respect of the creation and operation of a MSC as described in environment, infrastructure and community services report EICS-09-23;
- (c) Endorse the creation and operation of a MSC to be known as "Halton Digital Access Services Corporation" ("**HDASC**") as described in environment, infrastructure and community services report EICS-09-23;
- (d) Adopt the Asset Transfer Policy as described in Attachment 1 to environment, infrastructure and community services environment, infrastructure and community services report EICS-09-23;
- (e) Authorize the City Manager to act as an incorporator of HDASC;
- (f) Approve the subscription for shares in the capital of HDASC by the City;
- (g) Nominate and authorize the City Manager to be City's representative on the HDASC Board of Directors;
- (h) Approve the City entering into the following agreements described in environment, infrastructure and community services report EICS-09-23:
  - i. Unanimous Shareholders Agreement;
  - ii. HDASC Municipal Pole License Agreement;

- iii. Any such related agreements, forms or other documents that the City Manager deems are reasonably required for the creation or operation of HDASC,  
All with content satisfactory to the City Manager, and in form satisfactory to the Executive Director of Legal Services and Corporation Counsel.
- (i) Approve the City, as a shareholder of HDASC, to authorize HDASC to enter into, adopt or approve as the case may be the following:
  - i. Unanimous Shareholders Agreement;
  - ii. HDASC Municipal Pole License Agreements; and
  - iii. Loan Agreement and related ancillary documents; and
  - iv. Any such related agreements, resolutions, by-laws, forms or other documents the City Manager deems are reasonably required for the creation or operation of HDASC, all in content satisfactory to the City Manager, and in form satisfactory to the Executive Director of Legal Services and Corporation Counsel.
- (j) Authorize the City Manager, in his capacity as a director of HDASC, to execute any such agreements documents, or forms and to do such other things as are reasonably required as a director of HDASC;
- (k) Authorize the Mayor and City Clerk to execute agreements on behalf of the City including in its capacity as a shareholder of HDASC, and to sign such other documents, agreements or forms as are reasonably required of the City including in its capacity as shareholder for the creation and operation of HDASC; and
2. Direct the City Clerk to send a copy of environment, infrastructure and community services report EICS-09-23 to the Region of Halton and the Towns of Halton Hills, Milton and Oakville for their information.

## **Executive Summary**

- Report EICS-09-23 (Re: Establishment of Halton Digital Access Services Corporation) provides recommendations regarding the creation of a new Municipal Services Corporation to be known as Halton Digital Access Services Corporation (HDASC) to provide a “one-window” Telecommunications permitting service.
- The exponential growth in the demand for mobile services has led to major advancements in wireless network technologies every 10 years, resulting in the emergence of groundbreaking 4G networks in 2010 and now leading to 5G technology which presents significant economic opportunities for the City and Halton Region.
- 5G technology implementation is expected to be a key economic driver over the next decade generating significant economic growth, and it is important that Halton Region be positioned to benefit from that growth.
- The next generation of 5G connectivity will rely on both a comprehensive fibre network as well as a 5G wireless network across all of Halton Region. There are currently significant gaps in the fibre network in Halton Region which will need to be

- addressed to achieve the benefits of 5G technology.
- A 5G network implementation requires the attachment of wireless transmitting devices to poles and buildings (“**Vertical Assets**”) typically along road rights-of-way.

There is a potential opportunity to use municipal street light poles and hydro poles for these 5G device attachments.

- Report No. CM-21-22 re: “Halton Digital Access Strategy Implementation” outlined how the City of Burlington, The Region of Halton, the Town of Halton Hills, the Town of Milton and the Town of Oakville, along with the four local Hydro companies (the “**Hydro Companies**”) could implement a new Municipal Service Corporation (MSC) to coordinate the deployment of 5G technology in Halton with Telecommunications services providers (the “**Telcos**”).
- The purpose of the new MSC would be to provide a “one-window” service to efficiently process the Telcos’ permits to attach their 5G equipment to Vertical Assets owned by the Municipalities and Hydro Companies throughout Halton. Consultations with several Telcos confirm the industry’s support for a “one-window” permitting service.
- The City of Burlington, the Region of Halton, the Town of Halton Hills, the Town of Milton and the Town of Oakville would share ownership of the new MSC and would each have a member on the Board of Directors. The four local Hydro Companies would also each have a representative on the Board of Directors. The Halton Municipalities and Hydro Companies would be required to enter into agreements to grant the new MSC access to Vertical Assets to allow centralized 5G attachments permitting to Telcos.
- As described in Report EICS-09-23, and as required in the *Municipal Act, 2001*, the Halton Municipalities collected feedback on Halton.ca from the public consultation on the proposed Halton Digital Access MSC from November 23 to December 14, 2022. The public consultation was supported by social media, local newspapers and Halton.ca communication.
- The public consultation yielded a significant engagement with approximately 2,000 reviews of the initiative overview on Halton.ca, 171 “yes/no” submissions and 94 comments. Themes within the comments included: Health concerns related to cellular technology, support for accelerating 5G rollout in Halton, and support for broadband and 5G in rural areas. With respect to health concerns, according to Health Canada, based on the available scientific evidence, there are no health risks from exposure to the low levels of radiofrequency electromagnetic fields emitted by 5G devices.
- The creation of HDASC will require the City, the Region and the other Municipal and Hydro partners to enter into several legal agreements, including a “Unanimous Shareholders Agreement” (which governs the relationships between the 9 partners), and a “Pole License Agreement” (which assigns HDASC the rights to license positions on streetlight and hydro poles to the Telcos).

- Based on the estimated rate of 5G microcell installation in Halton, and the estimated operating costs of HDASC, it is projected that HDASC costs will exceed its revenues in the first year of operation, and that revenues will exceed costs in subsequent years. To assist with the start-up costs, and to cover the first year's estimated shortfall,

Halton Region is proposing to advance a \$500,000 start-up loan to HDASC.

## **PURPOSE:**

### **Vision to Focus Alignment:**

- Increase economic prosperity and community responsive city growth
- Support sustainable infrastructure and a resilient environment
- Deliver customer centric services with a focus on efficiency and technology transformation

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## **Background and Discussion:**

Council at their meeting of September 20,2022 passed the following:

Receive and file city manager's office report CM-21-22 providing an update regarding the Halton Digital Access Strategy review; and Approve, in principle, an implementation plan for a one-window plan to support the implementation of 5G technology in Burlington, as part of a region-wide approach, "Halton Digital Access Strategy Implementation Plan"; and Delegate authority to the City Manager to negotiate and present for future Council consideration, the governance framework, associated multiyear financial plan, including incremental net revenue forecast, and related operating and other agreements in consultation with the Executive Director of Legal Services and Corporation Counsel and the Chief Financial Officer.

The long-standing need for reliable broadband connectivity has been amplified during the COVID-19 pandemic as residents and businesses required reliable broadband access in order to work, learn, access health care services, conduct business, and communicate with friends and family.

The experience through the COVID-19 pandemic has further demonstrated that broadband is an essential service. Halton Region continues to advocate to the Provincial and Federal Governments to increase and accelerate broadband connectivity, quality and affordability in Halton's communities. The current CRTC 50Mbps/10Mbps Rural Broadband target, although helpful for minimal viable connectivity in areas without connectivity, is not sufficient to support next-generation technology and applications, such as smart vehicles, remote machinery control and public safety communications.

The next-generation broadband capabilities will rely on new 5G technologies that will transform national and regional economies. These technologies will include a fully integrated fibre-based wire line and 5G wireless network.

To implement 5G wireless technology, network operators such as Bell, Rogers and others need to create a network of small cells (antennas) to deliver the technology to mobile devices. These small cells (or microcells) are essential for 5G network capability as they allow the operators to support more users with faster speeds, without the need to acquire additional wireless spectrum. Small cells are mini cellular towers (antennas), which are roughly the size of a standard laptop and can be installed on top of buildings, streetlights, and hydro poles. In this context, the Local Municipalities and Hydro Companies can leverage their existing Vertical Assets to facilitate faster deployment of 5G network capability.

In the spring of 2021, the Halton CAOs were presented an opportunity from the Hydro Company Chief Operating Officers to utilize Vertical Assets throughout the Region for the deployment of 5G attachments by the Telcos.

On April 19, 2022, City Council received ReportCM-01-22: “Halton Digital Access Strategy Status Update”, which provided an overview of the economic benefits of widespread 5G access. In addition, it provided an overview of Halton Region’s commitment to 5G technology to ensure residents and businesses have access to the internet services required to support both the economy and quality of life. The Digital Access Strategy also calls for a unified broadband service using fibre to the home technology, which ensures that the Halton Municipalities are appropriately positioned to allow residents and businesses to benefit from 5G technology.

The Digital Access Strategy advocates for enhanced broadband services in both the rural and urban areas through a framework in which the Halton Municipalities and Hydro Companies could efficiently service requests from Telcos to deploy wireless 5G device attachments on Vertical Assets throughout Halton.

Amongst the five Halton Municipalities and the four Halton Hydro Companies, ownership of Vertical Assets is diversified. With respect to 5G, if Halton Region, the Hydro Companies and Local Municipalities opted to individually provide permitting for only those Vertical Assets that each party owns, the Telcos would have to approach each of the nine parties separately, facing varying permitting and licensing requirements, as well as varying processes and timelines. A “one-window” permitting service model whereby the Telcos would apply through a centralized permitting service has the potential to help the Telcos expedite their 5G implementation plans across Halton Region

In addition, during the course of this research, staff have determined that several Telcos support a one-window approach which would help support their 5G deployments.

Through Report CM-21-22 Council authorized staff to report back with details of the Hydro Companies’ proposal to provide a “one-window” service whereby Telcos could access the Vertical Assets of the Halton Municipalities and the Hydro Companies through a centralized 5G permitting service through a proposed new Municipal Services Corporation through the provisions of the *Municipal Act, 2001*.

A Municipal Services Corporation can only provide a system, service or thing that a municipality is entitled to provide, which would include the 5G pole attachment permitting service described in this report.

Through the provisions of the *Municipal Act, 2001*, a Municipal Services Corporation, owned

by Halton Region together with each of the Local Municipalities, could be established to operate the “one-window” services consistent with the above key principles. A MSC can provide these centralized 5G permitting and management services, including:

- initial permit application and ongoing access licenses for Telcos’ use of poles for 5G attachments;
- municipal and Hydro Company licenses to manage 5G pole attachment rights to the MSC; and,
- facilitation or coordination services to the Telcos, including engineering, installation, maintenance and removal of cell attachments.

In addition, the proposed structure could allow the MSC to eventually provide additional services beyond 5G, including a “one-window” approach for all non-5G Telecommunications permits, should that be considered desirable by the MSC partners,

Overall, a Municipal Services Corporation approach should create favourable conditions for the rollout of 5G across Halton Region. This will accelerate the delivery of 5G connectivity for local residents and businesses, bringing with it the associated economic and social benefits.

Given the distributed ownership of Vertical Assets (i.e. that no party owns more than 17 percent of the total assets), it will be important to establish the appropriate governance to deliver a “one-window” approach to support 5G deployment. Key principles identified for developing a governance structure for municipal consideration were as follows:

- ownership of the poles is not transferred by the owner to the MSC;
- municipalities and Hydro Companies will license rights to the MSC to manage Telcos’ one-window access to Vertical Assets;
- 5G equipment and maintenance must not interfere with the primary purpose of the Vertical Asset;
- each Vertical Asset owner will take part in the governance of the MSC; and,
- fees charged to Telcos should be based on rates that at a minimum must cover all operating costs associated with one window service and allow for full cost recovery for the owner of the Vertical Asset.

The *Municipal Act, 2001* sets out several statutory requirements that must be met prior to the creation of a Municipal Services Corporation, including the following:

- Business case study - A municipality must adopt a business case study before it establishes a Municipal Services Corporation either alone or with one or more other municipalities.
- Asset transfer policies - A municipality must adopt and maintain policies on asset transfers to corporations, even though, no asset transfers to HDASC are currently contemplated (i.e. the ownership of the pole infrastructure would remain with the

individual municipalities and the Hydro Companies).

- Public participation – a municipality must consult with the public about the proposal to establish the MSC prior to such corporation's establishment. There are no specific rules governing the nature of the public consultation. The Halton Municipalities have met this obligation of the *Municipal Act, 2001* through the process described in the Public participation section of this report.

The remainder of this report describes the work undertaken, and the proposed approach to implementing a Municipal Services Corporation, to be known as Halton Digital Access Services Corporation (HDASC).

### **Strategy/process**

Under direction of the Halton CAOs, staff, working jointly with our Municipal partners, the four local Hydro Companies, consultants, and external legal counsel, have completed the

necessary preparations for consideration of a proposed one-window centralized 5G permitting service through a new MSC. These preparations include meeting the requirements of the *Municipal Act, 2001* described above, as well as completing drafts of the foundational agreements, governance, and planning specific to the purpose of the proposed new MSC, as described in the following sections of this report.

### **Operating Model / Business Case**

In the proposed HDASC, the Region and the four Local Municipalities would each own 20 percent of the shares in HDASC and would each have one representative on its Board of Directors. Each of the four local Hydro Companies would also have a representative on the board.

Each of the nine HDASC partners would license space on their respective Vertical Assets to HDASC, who in turn would be able to license space on these poles for 5G microcell equipment to Telcos (e.g. Bell and Rogers). HDASC would:

- work with the Telcos to understand their business plans for 5G roll-out in Halton;
- accept applications from Telcos for the installation of 5G equipment on poles;
- review these permit applications (in consultation with the pole owners if necessary);
- issue licenses for the equipment installation (with appropriate conditions) to the Telcos; and
- ensure the equipment is installed properly and does not interfere with the primary pole uses.

HDASC is intended to be a very “lean” organization, and to leverage the capabilities and expertise of its nine partners as needed. It would have a very small staff, currently contemplated to consist of a part-time General Manager, a part-time Manager of Permits and Approvals, and a part-time Manager of Finance and Administration. HDASC would enter into service contracts as needed for the provision of support services, legal and technical support, and the creation and ongoing support of digital systems to deliver its services.

HDASC would charge the Telcos a permit application and review fee, which would cover

the costs associated with reviewing applications, issuing permits and conducting inspections (if necessary). Depending on the volume and complexity of permit applications, it is possible that HDASC will contract with one or more consultants or contractors to assist with the permitting process.

HDASC will also charge the Telcos an annual fee for each pole license. This annual fee would be consistent for all poles – regardless of the pole type or owner, and would be based on typical “market rates”. The revenue generated by these fees would be used for several purposes, including:

- distribution to the hydro pole owners (on a market-rate basis) for each pole licensed (less HDASC administration fees charged to the hydro pole owner);
- distribution to the municipal pole owners (on a cost recovery basis) for each pole licensed; and
- covering HDASC operating costs, including maintaining a contingency reserve.

Any additional revenues would be distributed to the municipal shareholders on a pro-rated basis based on the number of municipal Vertical Assets licensed to the Telcos.

A key factor affecting HDASC revenue will be the pace at which 5G equipment is installed on Vertical Assets in Halton. Based on discussions with Telcos, and corresponding estimates of revenues and operating costs, it is estimated that HDASC costs will slightly exceed revenues in the first year of operation, and that revenues will exceed costs in every year thereafter. A confidential Commercial Report has been prepared by NE&S documenting key assumptions and is distributed to Committee and Council under separate cover.

To provide for appropriate funds to cover operating costs during the start-up phase of HDASC, until it reaches a positive cash flow position, it is proposed that Halton Region provide a \$500,000 start-up loan to HDASC. The details of this loan and repayment provisions are described further in the Financial Implications section.

In the absence of creating a Municipal Services Corporation to provide a “one window” permitting service, each of the nine pole owners would need to negotiate a separate agreement with each Telco if they wished to license 5G microcells on their poles. They would also need to establish their own processes to review and approve permits, and to collect the appropriate fees. Establishing nine separate processes would be cumbersome for both the pole owners and the Telcos, and would likely slow the rate of 5G deployment in Halton.

### ***Federal 5G Standards, Approvals and Regulation***

Ontario Municipalities do not have jurisdiction over the provisioning of broadband and cellular services by the Telcos, including 5G technology.

The provision of broadband internet is the responsibility of the Federal Government through the Canadian Radio-Television and Telecommunication Commission (CRTC) which regulates the Telcos, including implementations of 5G networks in Halton.

Cell phone towers and 5G transmitters emit radiofrequency electromagnetic fields similar to

energy used by AM/FM radio and television signals. The equipment is usually installed high above ground level, often on towers and utility poles.

In Canada, Innovation, Science and Economic Development Canada approves the use of 5G and sets stringent standards for radio frequency emissions for all emitting devices including cell phones and towers, which align with those of prominent international organizations such as the Institute of Electrical and Electronics Engineers, the International Telecommunication Union and the Federal Communications Commission. Similarly, Health Canada sets radio frequency standards for devices under its Safety Code 6 within its public health mandate. Innovation, Science and Economic Development Canada tests and approves the use of 5G devices before they can be used in Canada.

According to Health Canada, based on the available scientific evidence, there are no health risks from exposure to the low levels of radiofrequency electromagnetic fields emitted by 5G devices.

In addition, Public Health Ontario continues to study the environmental public health effects of radio frequency exposure in Ontario and in September 2022 published [Focus On: Health Effects of Radiofrequency Electromagnetic Fields, Including 5G](#) which anticipates that with the expanded use of wireless technology, exposures to radio frequencies may increase, but are expected to remain under regulatory limits.

### ***Process to Create and Implement HDASC***

There are a number of legal and practical steps that need to be taken to formally create HDASC as a Municipal Services Corporation, and to get HDASC to an operational state. Some of the key steps and legal agreements include the following:

- All nine partner organizations enter into a Unanimous Shareholders Agreement
- Formation of the Board of Directors
- Filing of Articles of Incorporation
- All nine partner organizations enter into Pole License Agreements with HDASC

Each of these steps is described briefly below.

#### **Unanimous Shareholders Agreement**

The Unanimous Shareholders Agreement describes and governs the relationship between the nine parties to the agreement. It describes the role of the Municipalities as shareholders of HDASC, and the Hydro Companies as participants in HDASC. It includes numerous provisions required by law, such as: the size, composition, and decision-making processes of the Board of Directors; rights of the parties to receive unaudited and audited financial statements; confidentiality; provisions related to the issuing of shares; and provisions related to parties exiting the agreement.

#### **Board of Directors**

It is proposed that each of the nine partners would have one member on the Board of Directors, and that the Chair of the Board would be Halton Region's representative on the Board. It is also proposed that the representative of each partner organization would be the organization's senior staff person (CAO, CEO or COO) or designate. These senior executives have acted as the Steering Committee, which has guided the formation of

HDASC to this point, and they would bring that background and knowledge to their roles on the Board. At some point in the future, once HDASC has achieved an operational “steady state”, they may choose to delegate their role on the Board of Directors to another representative from their organization.

Any matters requiring a Board decision would require a two-thirds majority of Board members casting votes to pass. In addition, there are certain matters (such as amending the Unanimous Shareholders Agreement or winding up the business) which would require a “Special Approval”, which consists of consent of at least all but one of the municipal representatives on the Board of Directors.

### **Articles of Incorporation**

The formal, legal step required to create HDASC as a Corporation is the filing of Articles of Incorporation. The Articles of Incorporation describe the share capital of the corporation. It is proposed that HDASC would issue 100 common shares to each incorporating shareholder municipality, with the shares valued at \$1 each.

### **Pole License Agreements**

The primary focus for HDASC is to provide “one window” access to the Vertical Assets owned by the nine HDASC partners. In order for HDASC to have the ability and authority to license space on these poles to Telcos, each of the pole owners must first grant a “license” to HDASC for space on the poles. It is proposed that each pole owner will enter into a pole license agreement with HDASC, which will grant HDASC the ability to license space on the poles to Telcos. The pole license agreement describes the rights and responsibilities of HDASC and the pole owners, and it ensures that the primary purpose of the poles (for municipal or hydro purposes) is protected. In return for the pole owner granting a license to HDASC, HDASC agrees to share revenues from the Telcos with the respective pole owners, as described in previous sections of this report.

Other key elements of the pole license agreement include the following:

- The agreements will be for an initial term ending December 31, 2032, with automatic successive five-year renewal terms until terminated
- After the initial term any party can terminate the agreement on 12 months’ notice
- HDASC is required to indemnify the municipality for any damages incurred by the municipality that arise out of or are related to HDASC’s performance or non-performance of the agreement

### **Recommendation/Next Steps**

Each of the Local Municipalities and Hydro Companies are taking reports to their Councils/Boards in late May / early June seeking the necessary approvals to proceed with implementing HDASC. Once all of the necessary approvals are in place, then the Articles of Incorporation will be filed, formally creating HDASC as a legal entity. The Board of Directors will then convene for their inaugural meeting, and they will take all the necessary steps to get HDASC “up and running”. Important early activities for the Board will be hiring the initial (part-time) HDASC General Manager, finalizing pole license agreements with the Telcos, and developing the necessary operational systems and processes to process pole permit applications efficiently and effectively. It is expected that licensing and installation of 5G attachments on poles would commence later this year.

## **Financial Matters:**

### ***Asset Transfer Policy***

As noted earlier in this report, one of the requirements of the *Municipal Act, 2001* is that a municipality must have an asset transfer policy in place prior to creating a Municipal Services Corporation, even if there is no intention to transfer assets to the Corporation. Because the City currently does not have an asset transfer policy in place, it is recommended that the City adopt the Asset Transfer Policy included in **Attachment #1**. The proposed Asset Transfer policy permits Council to transfer assets to a Municipal Services Corporation, but requires that “Any Asset transfer must be approved by the Council in advance of the transfer”, and allows Council to attach conditions to such a transfer.

Although it is proposed that the City license space on its poles to HDASC there is no intention that the City (or any of the pole owners) transfer ownership of their poles to HDASC.

### **FINANCIAL/PROGRAM IMPLICATIONS**

Halton Region has engaged legal, consulting and project management services to assist with the implementation of the new MSC and related agreements on behalf of the Halton Municipalities and Hydro Companies.

As noted earlier in this report, HDASC will incur operating costs before it receives any revenues from Telcos. It is anticipated that for the first full year of operation, HDASC costs will exceed its revenues; thereafter, revenues are expected to exceed costs. To provide working capital to support the HDASC start-up, and to offset the expected revenue shortfall in its first year of operation, it is proposed that Halton Region provide a loan to HDASC in the amount of \$500,000. The terms of the loan would be specified in a loan agreement between HDASC and the Region (the “**Loan Agreement**”). Key elements of the proposed Loan Agreement include the following:

- The loan is interest-free
- HDASC will repay the principal amount in equal yearly payments of \$100,000 commencing no later than the 5<sup>th</sup> anniversary of the date the Loan Agreement is executed
- HDASC has the right to pay the loan off earlier without penalty

### **Total Financial Impact**

Although it is premature to comment on projected multi-year net incremental revenues for the City, once agreements are in place with Telcos, staff will be in a better position to provide aggregated information and also will look into include a 10 year forecast in conjunction with the Multiyear Community Investment Plan (MCIP) including recommendations on where any incremental revenue should be allocated to address long term City financial needs. As noted previously in this report a Confidential Commercial Report has been prepared by NE&S detailing 5G small cell installation forecasts calculated in consultation with Telco providers, and forecast costs and revenues over a

ten year period planning period. Due to the commercially sensitive information in this report and yet to be finalized negotiations with the Telco's this report is provided to members of council as further background information as a confidential report under separate cover.

### **Source of Funding**

Halton Region has collaborated with all area municipalities and the four hydro companies in the Region and fully funded the Halton Digital Access Strategy initiative including external consulting work to-date.

The costs associated with the formation of the Municipal Services Corporation have been budgeted by Halton Region. As such, there are no financial implications associated with this report to the City.

### **Other Resource Impacts**

Work in establishing the HDASC has involved staff resources including Legal, Finance, Engineering and Transportation Services. Once established and operational it is anticipated that using the one-window approach to 5G deployment will minimize the requirement for staff involvement in a permitting process.

### **RISKS**

As noted in previous sections of this report, there are many advantages to expediting the roll-out of 5G technology in Halton Region, and HDASC is expected to help facilitate and expedite the roll-out of 5G microcells by the Telcos. However, there are also risks with the proposed approach that are important to acknowledge. Some of these risks include the following:

- Federal or Provincial governments or regulatory agencies could decide to regulate 5G pole attachment fees at a lower rate than currently contemplated in the HDASC business plan. This would reduce HDASC's revenue, which could jeopardize its ability to cover its operating costs, and its ability to pay back the \$500,000 start-up loan from Halton Region.
- The rate of roll-out and installation of 5G microcells by the Telcos could be slower than assumed in the business plan (based on information provided by the Telcos). This would also reduce HDASC's revenue, which could jeopardize its ability to cover its operating costs, and its ability to pay back the start-up loan.
- HDASC costs to deliver its services could be higher than currently budgeted. This would impact HDASC's profitability and potentially affect its ability to distribute the anticipated revenue to the various pole owners, and potentially affect its ability to pay back the start-up loan.

Although it is important to acknowledge that these risks exist, in staff's view none of the risks are significant enough to outweigh the benefits of expedited 5G roll-out that is likely to be achieved through the services that will be provided by HDASC.

## **Climate Implications:**

The experience through the COVID-19 pandemic has further demonstrated that broadband is an essential service enabling many services and activities to be undertaken remotely, reducing the need to commute and the resulting in reduced GHG emissions from transportation sources. New 5G technologies will accelerate this trend transforming economies and the way services across a broad range of sectors are delivered, further reducing travel demand associated with these activities.

## **Engagement Matters:**

As outlined in the *Municipal Act, 2001*, it is a statutory requirement to conduct public consultation prior to establishing a Municipal Services Corporation. The purpose of the Halton Municipalities consultation was to outline the benefits, ownership, governance, operation and purpose of the proposed MSC and to provide an opportunity for the public to provide comments regarding the proposed MSC.

The Halton Municipalities collected feedback from the public on the proposed creation of a Municipal Services Corporation, including the ownership, governance, operation, and purpose, from November 23 to December 14, 2022. The proposed [Halton Digital Access Municipal Services Corporation content on Halton.ca](#) provided an overview of the business case including how the MSC would be owned and operated, and the benefits to Halton. In addition, the Region provided Federal Health information regarding the health implications of 5G in the form of a video. Residents were invited to complete a short survey asking if they support the creation of the proposed MSC and they were given an opportunity to submit comments.

The public consultation was supported by social media, local newspapers and Halton.ca communication campaigns. These communication campaigns resulted in a significant engagement with approximately 2,000 reviews of the initiative overview on Halton.ca which yielded 171 “yes/no” submissions and 94 comments. All feedback was received exclusively through the survey response channel.

Themes within the comments included: Health concerns related to cellular technology, support for accelerating 5G rollout in Halton, and support for broadband and 5G in rural areas. Within the survey results, support was fairly evenly split between those supporting the creation of the Halton Digital Access Municipal Services Corporation to accelerate 5G deployment and those not supporting the acceleration of 5G deployment due to health concerns.

It should be emphasized that the approval of the use of 5G devices is a federal responsibility, outside of the purview of municipal governments or Hydro utilities. The recommendations in this report relate to the creation of a “one window” approach which would facilitate the installation of 5G equipment on Vertical Assets. Should this “one window” approach not proceed, individual municipalities and hydro companies could license the installation of 5G equipment on their own poles, and Telecommunications companies could also install 5G microcells on other vertical assets including buildings, and on their own

poles or towers. Further, Both Innovation, Science and Economic Development Canada and Health Canada have concluded that 5G devices approved for use in Canada are compliant with Safety Code 6 and do not pose a danger to the public.

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### **Conclusion:**

Report EICS-09-23 has provided recommendations for the formation of a Municipal Corporation, Halton Digital Access Strategy Corporation, as a means to efficiently and effectively coordinate the deployment of 5G small cell antenna infrastructure on Municipally owned and Hydro owned vertical assets across Halton Region. The Benefits of this strategy to the Residents and business in the Region include an accelerated deployment of this technology for the social and economic benefit of the Region and providing the municipalities with a commercial return for the utilization of their vertical infrastructure.

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Respectfully submitted,

Allan Magi, P.Eng.,

Executive Director Environment, Infrastructure and Community Services.

### **Appendices:**

Attachment 1: Asset transfer to a Municipal Services Corporation Policy

Attachment 2: Confidential Commercial Report – Municipal Vertical Infrastructure for 5G Deployment, NE&S (distributed under separate cover)

### **Report Approval:**

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Council.

## Attachment 1: Asset transfer to a Municipal Services Corporation Policy

### 1. **Policy Statement**

This policy is intended to address asset transfers to corporations as required under section 7 of Ontario Regulation 599/06 under the Municipal Act, 2001, as amended from time to time.

### 2. **Objectives**

The purpose of this policy is to permit transfers of municipal assets to municipal services corporations incorporated by the Municipality, alone or in partnership with other municipalities, under the authority of the *Municipal Act, 2001*, as amended from time to time.

### 3. **Applicability**

This policy applies to the transfer of any Asset between the Municipality and a Corporation. Assets may be transferred to a Corporation at any time, and from time to time, as authorized by Council, on such terms and conditions as Council may determine.

### 4. **Definitions**

**Act** – *Municipal Act, 2001*, including Regulations made under it, as amended from time to time.

**Asset(s)** – A resource with economic value with an expectation that it will provide a future benefit. An asset can include real and personal property, monies, securities, equipment, intellectual property, and any resource that could deliver a prospective profit and/or benefit.

**Corporation** - a corporation incorporated in accordance with section 203 of the Act and Section 3 of Ontario Regulation 599/06 made under the Act.

**Council** – the Municipal Council of The Corporation of the City of Burlington.

**Municipality** -The Corporation of the City of Burlington.

**Transfer**- A change of ownership from one party to another.

### 5. **Policy**

The Municipality may transfer such Assets as it sees fit to Corporation on the following terms:

5.1. The Municipality shall ensure that all applicable legislation, including but not limited to the Municipal Act, 2001, is adhered to in any Asset transfer;

5.2. Any Asset transfer must be approved by the Council in advance of the transfer;

5.3. Council shall be permitted to attach such terms and conditions to the Asset transfer as it deems necessary, including but not limited to:

- a) Specifying the permitted use of the Assets;
- b) Providing for an obligation on the Corporation to transfer back to the Municipality the Asset upon the happening of an event or events;
- c) Restricting or prohibiting further transfers of the Assets by the Corporation;
- d) Attaching a purchase price of the Asset, to be paid or owed to the Municipality by the Corporation;
- e) Such other terms or conditions as the Council deems advisable and appropriate.