



The Corporation of the Town of Milton

Report To: Council

From: Andy Scott, Director, Strategic Initiatives and Business Development

Date: May 29, 2023

Report No: ES-006-23

Subject: Halton Digital Access Strategy - Implementation Plan

1. THAT Council takes the following actions regarding the creation and operation of Halton Digital Access Services Corporation ("HDASC"):

(a) Adopt the business case and receive the results of public consultation as described in this report;

(b) Approve the creation of a Municipal Services Corporation ("MSC") to be known as "Halton Digital Access Services Corporation" to operate the businesses as described in this report, and approve the subscription of shares of HDASC by the Municipality;

Recommendation: (c) As required by subsection 7(1) of Ontario Regulation 599/06 (Municipal Services Corporations) as a condition of creating a MSC, adopt the Asset Transfer Policy as described in this report (and included as Appendix A);

(d) Authorize the CAO (or designate) to act as an incorporator of HDASC and the Municipality's representative on the HDASC Board of Directors;

(e) Approve the Municipality entering into the following agreements described in this report:

- i. Unanimous Shareholders Agreement;**
- ii. HDASC Municipal Pole License Agreement; and**
- iii. Any related ancillary agreements the CAO deems are reasonably required for the creation or operation of HDASC,**

(f) Approve the Municipality, as a shareholder of HDASC, to authorize HDASC to enter into:

i. Unanimous Shareholders Agreement;
ii. HDASC Municipal Pole License Agreements; and
iii. Related ancillary agreements the CAO deems are reasonably required for the creation or operation of HDASC,

(g) Delegate to the CAO (or designate) the authority to execute the agreements described above, as a director of HDASC, or as authorized signatory for the Municipality as a shareholder of HDASC, as the case may be, and sign such other documents, agreements or forms and to do such other things as are reasonably required for the creation and operation of HDASC.

2. THAT a copy of this report be sent to the City of Burlington the Towns of Halton Hills and Oakville, and the Regional Municipality of Halton for their information.

EXECUTIVE SUMMARY

- In September 2022 staff received direction from council to ‘*develop a one-window approach to support the implementation of 5G technology across Halton*’ and to ‘*report back to council in early 2023 for final approval*’ (see report ES-013-22). Town of Milton staff have worked in collaboration with staff from each of the municipalities within Halton and the local hydro companies to explore one-window operating models that align with council direction and the Halton Region Digital Access Strategy, endorsed in December 2021.
- Staff are recommending that a single Municipal Services Corporation (**MSC**) be created with the intent that this MSC operate a one-window service to telecommunication companies on behalf of each municipality and hydro company within Halton Region.
- This MSC would be initially funded through a \$500,000 loan from Halton Region. Based on commercial projections, it is anticipated the MSC would begin to generate net revenue in year two of operating. Any net revenue generated would be distributed via annual dividend payment to each of the shareowners of the MSC based on asset ownership (street lights and hydro poles licensed for use by the telecommunication companies (**TELCOS**)).
- Halton Region, the City of Burlington, 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 license agreements to grant the new MSC access to Vertical Assets to allow centralized 5G attachments permitting to Telcos.

- The *Municipal Act, 2001* requires public consultation on the proposed formation of an MSC and this was undertaken in coordination with each Halton Municipality 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 local engagement with over 2000 individuals reviewing the public consultation documentation. 94 comments were received with the primary theme questioning if any health concerns related to cellular technology exist. To that end Health Canada were engaged and based on the best available scientific evidence, there are no health risks from exposure to the low levels of radiofrequency electromagnetic fields emitted by 5G devices.

REPORT

Background

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 into homes, businesses and 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.

On December 15, 2021, Regional Council received Report No. ST-08-21, re: “Digital Access Strategy Report”, 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 licencing 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 ES-013-22, Council directed Town staff to explore “one-window” service models which would permit Telcos to gain access to the Vertical Assets of all the Halton Municipalities and the Hydro Companies through a centralized permitting service. Since this direction Town staff have continued to work with municipal and local hydro company partners to explore one-window operating models which would align with the recommendations set forth within the Halton Digital Access Strategy.

The formation of a Municipal Services Corporation offers the ability of municipalities to streamline and standardize permit intake whilst also allowing for permit application and ongoing licensing fees to be set at rates above cost recovery. If the commercial model is realized this would see the MSC generate an annual revenue from its second year of operating and each year thereafter.

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 of 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. This would necessitate, when the time is appropriate, negotiation of further agreements to facilitate any expansion of the MSC services.

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 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, subject to the next sentence, 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). As described in this report, the Region proposes to make a loan of \$500,000 to HDASC, which would constitute the transfer of assets under the asset transfer policy.

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.

Discussion

Under direction of the Halton CAOs, Halton Region staff, working jointly with the Local Municipalities, 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);
- 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 consider 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.

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.

In the absence of creating a Municipal Services Corporation to provide a “one window” permitting service, the Town of Milton would need to negotiate an independent agreement with each Telco should we wish to license 5G microcells on our poles. An independent review and permit approval process would be necessary as would the ability to collect and process appropriate fees. As such, the proposed model offers potential efficiencies for the benefit of the stakeholders involved.

Public Consultation

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.

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 Internal 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.

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.

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.

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.

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 Town of Milton currently does not have an asset transfer policy in place, it is recommended that the Town of Milton adopt the Asset Transfer Policy included in (*Attachment A*).

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 Town license space on its poles to HDASC, subject to the next sentence, there is no intention that the Town (or any of the pole owners) transfer ownership of their poles to HDASC.

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

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



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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 Impact

As noted in previous sections of this report, there are potential 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.
- 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.
- 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.

Although it is important to acknowledge that these risks exist, Halton Region has agreed to loan \$500,000 to HDAS to cover initial start-up costs anticipating that it will take approximately 24 months before HDAS becomes revenue generating. This loan mitigates any initial financial risk to the Town given there is no expectation any of the local municipalities contribute financially beyond staff time as an interface with HDAS.

In respect to local fiscal impacts. As outlined within the Commercial Modelling, it is anticipated that the telecommunication companies will primarily focus on the deployment of 5G micro cell technology in Burlington and Oakville, with a limited number of deployments occurring within Milton. As a result it is anticipated that limited revenue will be generated in the short the medium term unless HDASC is successful in advocating for expedited or enhanced rollout of 5G microcells within the municipality.

Respectfully submitted,

Andy Scott



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Director, Strategic Initiatives & Business Development

For questions, please contact:

Andy Scott Ext: 2013

Attachments

Appendix A - Asset Transfer Policy

Appendix B - ES-013-22

CAO Approval
Andrew M. Siltala
Chief Administrative Officer

Recognition of Traditional Lands

The Town of Milton resides on the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. We also recognize the traditional territory of the HuronWendat and Haudenosaunee people. The Town of Milton shares this land and the responsibility for the water, food and resources. We stand as allies with the First Nations as stewards of these lands.