



Administrative Report

Office of the County Solicitor

To: Warden MacDonald and Members of Essex County Council

From: David Sundin, BA (Hons), LL.B.
County Solicitor

Date: Wednesday, January 17, 2024

Subject: Road User Agreement with XPLORE Communications Inc.

Report #: 2024-0117-LCS-R02-DMS

Purpose

The purpose of this Administrative Report (the "**Report**") is to provide the necessary background information for County Council to render a decision regarding a proposed Road User Agreement with XPLORE Communications Inc. ("**XPLORE**") for the installation and ongoing maintenance of certain infrastructure for the provision of high-speed internet service throughout the County of Essex (the "**Project**").

Background

Since in or about 2019, the County has had in place a policy of entering into formal Road User Agreements with any user of the County's road network and the associated rights-of-way. In 2023 the version of the Road User Agreement in place for telecommunications companies was updated to reflect the particular obligations the County has pursuant to the *Telecommunications Act*.

The purpose of requiring a formal Road User Agreement is to attempt to ensure that the rights and responsibilities of the County and any third-party user of the County road's rights-of-way are as clear as possible. This has become more important as many of the rights-of-ways of the County's road network are becoming overly crowded, with various third-party's competing for space for various pieces of key infrastructure.

Discussion

There are a number of ongoing provincial and federal government initiatives to encourage the expansion of the high speed fibre optic broadband internet network ("**High-Speed Internet**"). One of these programs is the Accelerated High-Speed Internet Program ("**AHSIP**") provided through Infrastructure Ontario.

XPLORE, through AHSIP, has agreed to install High-Speed Internet throughout the County of Essex, using the County's road network and the associated rights-of-way. XPLORE's plans for High-Speed Internet in the County is ambitious and will have to be accomplished over a number of years. The proposed areas requiring installation of XPLORE equipment are depicted on **Appendix "A"** attached to this Report.

The County has negotiated a Road User Agreement for the Project in accordance with the standard Road User Agreement used for telecommunications projects that was completed in 2023. Attached to this Report as **Appendix "B"** is a copy of the draft Road User Agreement negotiated with respect to this Project.

Financial Implications

The costs of the Project are being borne by XPLORE with no financial contribution from the County. The only potential financial implication to the County is related to the possibility that the County is exposed to all or a portion of the relocation costs of XPLORE's equipment, as per the Table found at Schedule "C" of the Agreement. However, the County's intention is to approve installation of equipment only in areas that the County does not anticipate relocation being required. As such, the risk of any financial impact is low.

Consultations

In preparing this Report and in finalizing the terms of the Agreement with XPLORE, the County's Infrastructure Services Department was consulted.

Recommendation

That Essex County Council authorize the Warden and the Clerk to execute the Road User Agreement between the County and XPLORE, substantially in the form appended to this Report, with that authorization being formally approved by the adoption of a By-law.

Approvals

Respectfully Submitted,

David M. Sundin

David Sundin, BA (Hons), LL.B., County Solicitor

Concurred With,

Sandra Zwiers

Sandra Zwiers, MAcc, CPA, CA, Chief Administrative Officer

Appendix	Title
A	Map Depicting Planned Installations
B	Draft Road User Agreement