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Sent electronically

RE: 23-MPBSD013 – Consultation on a draft regulation proposal to specify large project locate requests under the *Ontario Underground Infrastructure Notification System Act, 2012*

On behalf of our collective construction industry members, we appreciate the opportunity to provide commentary on the proposed regulation. Our organizations have been engaged on this file for over a decade and have provided significant and comprehensive feedback to government as part of countless consultations, regulatory proposals, roundtables, and other consultation avenues.

We are disappointed and disconcerted by the Ministry's proposal to double the time limits for completing locates in Ontario. The proposal represents an egregious step back for locate delivery in the province and makes Ontario's locate delivery timelines, which are already one of the longest in North America at five business days, a significant impediment to getting shovels in the ground on critical infrastructure and housing projects. Rather than address long standing root issues in Ontario's locate delivery system, this proposal admits the system is broken and rewards the consistent failures to meet legislated timelines by utility providers at the expense of the timely delivery of desperately needed housing and infrastructure.

We strongly urge the Ministry and Government of Ontario to consider the below points before implementing this proposed regulation:

1) Predictability and Accountability

Given the significant financial, workforce and social implications of late delivery locates, it is key that industry has predictability. Regardless of what the legislated delivery timeline is, it is imperative that industry can count on locates being issued and available in a predictable and consistent manner. Equally important is that locate providers be held to firm and consistent accountability measures to ensure they are compliant and delivering locates within the legislated timeline.



It is incumbent upon Ontario One Call to ensure that it develops and executes those accountability measures, such as Administrative Monetary Penalties (AMPs), going forward. The spirit of AMPs was to “strengthen Ontario One Call’s enforcement and compliance framework by providing an additional tool for it to use to promote compliance with the *One Call Act*”. Industry is incredibly concerned that Ontario One Call has consistently and repeatedly been on the record over the last year emphatically stating that they never intended to apply AMPs toward their members for late locate delivery but would rather focus on educating members on their responsibilities.

2) Defining “large” infrastructure projects

The current proposal is aimed at “large” infrastructure projects, whose parameters we understand to be excavations or dig projects measuring more than 600m² in area or more than 600 linear metres in length at a single property or multiple contiguous properties. These parameters are too small in scope and will effectively capture the majority of infrastructure projects in Ontario.

We would recommend that the parameters be increased to 1500m² to effectively reflect the spirit of this proposal of capturing “large” infrastructure projects.

3) Locate Request Notice Period

The additional parameter being considered as part of this proposal to require “large” projects provide advance notification of 20-30 business days before digging is unreasonable and at odds with the realities of how construction projects are tendered across Ontario. This would, in effect, increase the locate delivery timeline to 30-40 days for initial locates on large projects, based on other elements of this proposal. Oftentimes, contractors do not get more than a week’s notice from the public owner regarding a project being awarded and the commencement of the project. Thus, this proposal is unworkable and will only serve to enhance the issues around predictable and timely locates for critical infrastructure projects.

4) Reducing the Volume of Locate Requests

One of the principles that industry has consistently been focused on is reducing the overall volume of locates in the system. We have provided the Ministry and Government of Ontario with several key elements of how this can be accomplished, and we are frustrated that there has been lack of momentum on these important initiatives. These include:

A. *Eliminate the need for relocates on non-linear excavation construction sites*

Presently, companies on long-term, vertical excavation projects are required to call and receive relocates every 60 days. However, below a certain depth these relocates are unnecessary. The need for relocates should be eliminated once all utilities have



been exposed and the general depth of excavation is one metre below the invert of the lowest utility.

B. Expand locate validity period

Dedicated locators are permitted to extend locate validity period beyond 60-days. There are many existing, low-risk opportunities where this should be permitted and encouraged (i.e., point 4A with deep excavations). Industry would also recommend that private developers use dedicated locator on appropriate projects and recommend for the extension of validity period where practicable.

C. Utilize and maximize the dedicated locator model

Dedicated locator can help utility companies address some of their operational cost concerns, though most municipalities and private owners do not understand the model fully and how it would be operationalized. The Government of Ontario and Ontario One Call must develop a comprehensive, easy-to-understand communications and outreach campaign to ensure that industry and municipalities can utilise the dedicated locator model to its full extent.

D. Simplify the sharing of locates among multiple contractors for the same job

Although the regulations currently allow for sharing, each contractor's name must be on the locate documents. One Call's current web based locate request system has a field for only one contractor. As such, the program should be updated to add a drop-down field for additional contractors.

E. Create a Certified Locator Training Course

Lead the creation of a certified training program to allow excavation companies to train existing employees to refresh/re-mark/relocate on their own projects safely and legally. It is critical to note that this training program should not be included in the 144 existing skills trade classifications in the province of Ontario. Rather, this should be a training program recognized by utility owners to allow construction companies to train their own workers to locate utilities safely and legally, which will help reduce wait times for locators.

While industry recognizes that this file has its unique complexities, we cannot help but feel frustrated with this proposal and the setback it represents from the positive momentum that government was able to establish through Bill 93. We hope that our concerns and recommendations outlined above are given full considerations.



Implementing the proposed regulation without serious revisions will have devastating practical consequences for critical infrastructure and housing projects across Ontario. It will also serve as a significant optical stain on the province's economic vitality and competitiveness in North America.

Respectfully,

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