

Bill No. 307  
2014

By-law No. A.- \_\_\_\_\_

A By-law to approve an Alternate Locate Agreement between the Corporation of the City of London and Union Gas Limited and to authorize the Mayor and City Clerk to execute the Agreement.

WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS it is deemed expedient for The Corporation of the City of London (the "City") to enter into an Alternate Locate Agreement with Union Gas Limited ("Union Gas");

AND WHEREAS it is appropriate to authorize the Mayor and City Clerk to execute the Agreement on behalf of the City;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Agreement attached as Appendix "A" to this By-law, being an Alternate Locate Agreement between the City and Union Gas Limited is hereby AUTHORIZED AND APPROVED in substantially the form attached hereto.
2. The Mayor and City Clerk are authorized to execute the Agreement authorized and approved under section 1 of this by-law.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on June 24, 2014.

Mayor

Catherine Saunders  
City Clerk

First Reading - June 24th, 2014  
Second Reading – June 24th, 2014  
Third Reading – June 24th, 2014

**APPENDIX 'A'**

**ALTERNATE LOCATE AGREEMENT (ALA)**

Between: **Union Gas Limited** (hereinafter called "UGL")

50 Keil Drive, Chatham, ON N7M 5M1  
Attention: Plant Damage Prevention Manager  
Phone: 519-436-5366

Contact telephone number in the event UGL underground plant is discovered or encountered:  
1-877-969-0999 24-hour Emergency Response

And: **Corporation of the City of London** (Hereinafter called the "Contractor")

300 Dufferin Ave.  
P.O. Box 5035  
London, ON N6A 4L9

WHEREAS:

1. The Contractor plans to undertake excavation work from time to time as further described in Schedule "A" attached hereto.
2. The Contractor has requested UGL to provide an alternate locate for such work.
3. UGL has agreed to grant an alternate locate, solely for such work, on the terms and conditions as further described in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants contained in this Agreement and other consideration (the receipt and sufficiency of which are acknowledged), UGL and the Contractor agree as follows:

1. The Contractor shall perform the excavation work described in Schedule "A" attached hereto (the "Allowable Work") and use the Ontario One Call Contractor Alternate Locate ID number in accordance with the terms and conditions set forth in this Agreement, including without limitation the additional terms and conditions pertaining to the Allowable Work set out in Schedule "A".
2. The terms and conditions and Schedule "A" attached hereto form part of this Agreement and are binding upon the parties hereto and shall supersede and be unaffected by all other terms and conditions made or issued by the Contractor in relation to the Allowable Work.

Ontario One Call Contractor Alternate Locate ID: \_\_\_\_\_

**In witness whereof the parties hereto have executed this Agreement.**

Dated this \_\_\_ day of \_\_\_\_\_, 2014

**Corporation of the City of London**

**Union Gas Limited**

\_\_\_\_\_  
Joe Fontana  
Mayor

\_\_\_\_\_  
Catherine Saunders  
City Clerk

**I/We have authority to bind the Corporation.**

Expected Number of Alternate Locate Requests to be made during the term of the Agreement: \_\_\_\_\_

## TERMS AND CONDITIONS

1. The term of this Agreement is for two (2) years, commencing on the date set out in this Agreement, subject to earlier termination in accordance with the terms of this Agreement. At UGL's sole option, the term of this Agreement may be renewed by UGL for an additional one (1) year term by UGL by providing Contractor with written notification of such renewal.
2. This Agreement may be terminated at any time by either party upon one day written notice to the other party with no liability for any incurred costs to either party as a result of the termination. Upon termination or expiration of this Agreement, the Contractor shall immediately cease any excavation related to the Allowable Work and shall immediately cease, and cause all of its personnel to cease, any use of the Contractor Alternate Locate ID.
3. The Contractor represents and warrants that the Allowable Work will not have a negative impact on the underground plant or equipment owned by UGL (the "UGL Underground Plant"). This Agreement pertains only to the UGL Underground Plant, and Contractor will be required to obtain locates of all other underground plant.
4. The following terms and conditions apply to the use of the Contractor Alternate Locate ID:
  - a. Locate requests shall be made to Ontario One Call for all excavations by the Contractor.
  - b. The Contractor will be issued a contractor alternate locate ID number (the "Contractor Alternate Locate ID") by Ontario One Call which shall be referenced by the Contractor for locate requests for Allowable Work made through Ontario One Call.
  - c. Contractor will only use a Contractor Alternate Locate ID when making locate requests to Ontario One Call for Allowable Work.
  - d. Contractor shall keep and maintain at the job site a copy of this Agreement and a copy of all Ontario One Call confirmations and communications pertaining to Allowable Work at the job site for which Contractor has used the Contractor Alternate Locate ID.
  - e. Contractor shall ensure that all of its on-site employees are aware of the terms and requirements of this Agreement.
  - f. An Ontario One Call alternate locate confirmation is valid for the lesser of thirty (30) days from the date the request was made to Ontario One Call or as noted on the alternate locate confirmation form. If excavation work is not completed within such timeframe, the Contractor must contact Ontario One Call to register a new alternate locate request.
  - g. UGL retains the right to refuse to honour the alternate locate at any time for any reason, and may also cancel the UGL Contractor Alternate Locate ID at any time upon notice.
5. The Contractor shall request individual regular locates through Ontario One Call for all excavation work done outside the scope of the Allowable Work, or whenever requested by UGL (either directly or through Ontario One Call).
6. The Contractor Alternate Locate ID applies to the Contractor only and not to any of its subcontractors. The Contractor shall not disclose the Contractor Alternate Locate ID to any individual except for its authorized employees who require the Contractor Alternate Locate ID for the purposes of executing the Allowable Work in accordance with the terms of this Agreement.
7. All Allowable Work shall be conducted in accordance with all laws, standards, codes and guidelines applicable to the Contractor and the Allowable Work, including, without limitation, the most recent versions of each of the following:
  - a. Electrical Safety Authority (ESA) and Technical Standards & Safety Authority (TSSA) Guidelines for Excavation in the Vicinity of Utility Lines;
  - b. The Occupational Health and Safety Act (Ontario) and all regulations made there under including, without limitation, O. Regulation 213/91 (Construction Projects) (as

- each of the foregoing is amended from time to time, the "OHSA"); and
- c. The Technical Standards and Safety Authority Act 2000 and reg.21 0/01.

In the event of any conflict among any of the foregoing, or any other applicable laws, standards, codes or guidelines, the most stringent standard shall apply. The Contractor shall obtain any necessary consent of such governmental authorities or of any applicable third parties, in respect of their respective obligations and conduct pursuant to or in respect of this Agreement

8. In the event any UGL Underground Plant is discovered or encountered, but where there has been no damage to UGL Underground Plant or to property of any third party and no personal injury as described in Section 9, the Contractor will contact UGL immediately at the telephone number set out on the first page of this Agreement and ensure that, if required by UGL, the excavation is left open in a safe and secure manner until it has been inspected by UGL.
9. If any excavation by the Contractor results in any damage (including but not limited to pipe coating damage or damage to tracer wire) to UGL Underground Plant or property of any third party or any personal injury, the Contractor shall immediately:
  - a. Cease all work within the excavation;
  - b. Exclude all people and barricade the area; and
  - c. Contact UGL immediately.

The Contractor shall comply with the Ontario Regional Common Ground Alliance Best Practices, 4-23: Facility Damage Notification and 4-24: Notification of Emergency Personnel, as same may be changed or amended from time to time. In the event of any conflict between the Ontario Regional Common Ground Alliance Best Practices and the terms of this Agreement, the terms of this Agreement shall be paramount.

10. This Agreement shall not release the Contractor of any liability for damage to UGL Underground Plant or property of any third party or any related personal injury arising from any excavation by the Contractor. The Contractor shall be liable for and shall indemnify and hold harmless UGL, and its Affiliates (as defined under the Business Corporations Act (Ontario) and their respective directors, officers, employees, contractors, agents and other representatives (collectively, "Representatives") from all actions, claims, penalties, damages, losses, judgments, settlements, cost and expenses (including legal costs) arising out of or resulting from any breach of this Agreement or any act or omission or willful misconduct of the Contractor or any of its Representatives. For certainty, in the event of any damage to UGL Underground Plant, UGL reserves the right to complete a damage investigation into the nature and cause of the damage. The conclusions arising out of UGL's investigation are final and not contestable. Without limiting the generality of the foregoing, the Contractor shall be liable to pay for any costs and expenses to repair damages to any UGL Underground Plant caused directly or indirectly by excavation by the Contractor and shall pay any invoices for such costs or expenses within thirty (30) days from receipt thereof. Late payment charges shall accrue at 1.5% per month.
11. Any notice or other communication to be given under or pursuant to the provisions hereof or in any way concerning this Agreement shall be sufficiently given if reduced in writing and delivered to the person to whom such communication is to be given, or sent by facsimile transmission, or mailed to such person by prepaid mail addressed to such person at the address set out on the first page of this Agreement, or at such other address as may be specified therefore by proper notice hereunder. Any communication mailed as aforesaid shall be deemed to have been given and received on the fifth (5th) business day following the date on which it was so mailed, where such communication is sent by facsimile transmission it shall be deemed to have been given and received on the next business day following transmittal provided the facsimile is received as confirmed by the issuance of a confirmation receipt, and where such communication is personally delivered it shall be deemed to have been given and received when so delivered.
12. Unless UGL specifies otherwise in writing, the Contractor shall at its expense maintain and keep in full force and effect until this Agreement is fully performed Commercial General Liability insurance having a minimum inclusive coverage limit, including personal injury and property damage, of at least Two Million Dollars (\$2,000,000.00). UGL must be added as an additional insured in the insurance policy, which should be extended to cover Contractual liability, products/completed operations liability, owners'/Contractors' protective liability and should also contain a cross liability clause.

The Contractor shall forthwith after entering into this Agreement, and from time to time at the request of UGL, furnish to UGL a memorandum of insurance or an insurance certificate

setting out the terms and conditions of each policy of insurance (all such policies of insurance being hereinafter called "Insurance Policies") maintained by the Contractor in order to satisfy the requirements of this Section. At any time and from time to time at the request of UGL, the Contractor shall furnish UGL with one or more duly completed insurance certificates in the form requested by UGL to evidence the details of all Insurance Policies. The Contractor shall not cancel, terminate or materially alter the terms of any of the Insurance Policies without giving prior written notice to UGL. The Contractor shall cause or arrange for any of its insurers under any one or more of the Insurance Policies to contractually obligate itself in writing to UGL to provide fifteen (15) days prior written notice to UGL before canceling, terminating or materially altering the Insurance Policies under which it is an insurer.

13. The Contractor shall not, without the prior written consent of UGL, assign this Agreement or any rights of the Contractor under this Agreement.

14. All indemnities provided for in this Agreement shall survive the termination of this Agreement irrespective of the time of or party responsible for such termination and all such indemnities shall remain in full force and effect and be binding on the Contractor notwithstanding such termination.

### **SCHEDULE "A"**

"Allowable Work" means excavation meeting the following criteria within the Company's operating area:

#### Method of Excavation

- Hand excavation to a depth not to exceed 0.25m on private property and not to exceed 0.3m on municipal property - no picks or bars are allowed.
  - Hand excavation either side of a sidewalk to a depth not to exceed 0.3m to facilitate the use of a tunneling bar to bore from one side of the walk to the other immediately below the bottom of the sidewalk. The tunneling bar must be operated to ensure it moves from private property to public property.
- Use of mechanical equipment is approved only to remove concrete and asphalt pavement to a depth not to exceed 0.25m on private property and not to exceed 0.3m on municipal property.
- Hand spading to a depth not greater than 0.25m on private property and not greater than 0.3m on municipal property.
- Staking (wood) to a depth not to exceed 0.25m on private property and not to exceed 0.3m on municipal property.
- Staking for sidewalks will be with wooden stakes to a depth no greater than 0.3m.
- Blading or leveling of soil only to create a flat surface for pouring of cement, no digging allowed without full locates (ALA is not valid).
- Hand excavating to a depth not greater than 1.2m and diameter not greater than 0.6m around a survey monument.
- Installation of service cables on private property, by plowing or spading to a depth of not greater than 0.25m and not greater than 0.3m on municipal property.
- Pedestal Replacement, hand dug to a depth of not greater than 0.3m, use of a jackhammer is approved for concrete removal but not to exceed the allowable depth. Replacement with new pedestal in the same location.
- Raising or repairs made around manholes and sewer grates are not to exceed 0.6m beyond edge of manhole or sewer grate and 0.6m in depth. Use of a jackhammer is approved for asphalt and concrete removal only. Work below asphalt and/or concrete to be done with hand tools only, no picks or bars allowed.

#### Vacuum Hydro-Excavation

- All hydro-excavation work is to be completed with the conditions outlined in the latest version of the "Guideline for Excavation in the Vicinity of Utility Lines" (jointly published by the Electrical Safety Authority and the Technical Standards & Safety Authority).
- The excavator is responsible for maintaining the minimum clearance requirements for each facility for all installations/replacements using hydro-

excavation.

1. Only competent, qualified workers shall operate hydro-excavation equipment.
2. The maximum water pressure to be used at any time with a straight tip nozzle during excavation in public roads or easements shall be 17250 kPa (2500 psi). Below a depth of 0.45m (18") the water pressure to be used at any time with a straight tip nozzle shall be reduced to a maximum of 10350 kPa (1500 psi). All pressure measurements are to be taken at the hydro-excavation machine (truck, pump).
3. The maximum water pressure to be used at any time with a spinning tip nozzle during excavation shall be 20684 kPa (3000 psi). When a spinning tip nozzle is used, pressure measurements are to be permanently monitored using a calibrated device mounted on either the hydro-excavation machine (truck, pump) or the wand.
4. The wand shall never remain motionless during excavation. Aiming directly at the plant shall be avoided at all times.
5. A distance of 0.2m (8") shall be maintained between the end of the pressure wand nozzle and the plant and/or the subsoil. The nozzle shall never be inserted into the subsoil while excavating above the plant.
6. Only use hydro-excavation equipment and nozzles that have been specifically designed for use above buried gas lines or other reasonably expected underground gas plant.
7. A device capable of stopping the excavation on demand, such as a dead man trigger or valve, shall be installed on the wand.
  
8. If heated water is used during excavation, the temperature and pressure of the water shall never exceed 115 °F (45 °C) and 17250 kPa (2500 psi) respectively.
9. If damage to gas plant occurs while using hydro-excavation technology or any other method of excavation, the excavator shall contact the gas utility.

NOTES:

- 1) Straight Tip Nozzle- A straight tip nozzle is a single orifice fitting that can be inserted into the end of the wand used with a hydro-excavation machine such that there is a single concentrated jet of water exiting from the tip of the nozzle.
- 2) Spinning Tip Nozzle- A spinning tip nozzle consists of a conically shaped housing unit that contains a single exit port (to facilitate the flow).

### **Types of Work allowed**

The work must be conducted using one of the excavation methods above.

#### Landscaping/Forestry

- Installation and service of lawn sprinkler systems
- Installation of fence posts
- Tree planting
- Stump grinding
- Installation of park benches and picnic tables
- Installation of new soil and nursery sod; lawn restoration
- Removal of existing root ball trees

#### Road Work

- Final permanent repair to surface material
- Final permanent repair to utility cuts
- Removal of temporary surface

material, asphalt

- Installation of bus shelters and garbage cans
- Installation of wooden stakes for sidewalk replacement
- Culvert Replacement
- Sign Post Replacement

#### Cable Work

- Cable drop lines
- Installation of service cables by ploughing or spading

#### Brushing and Clearing

- Clearing of ROW's

#### Pedestal replacement and flush grade enclosure

- Installation of replacement pedestals and flush grade enclosures

#### Manhole and Sewer Grates Repairs Only:

- Raising or repairs made around manholes and sewer grates are not to exceed 0.6m beyond edge of manhole or sewer grate and 0.6m in depth. Work below asphalt and or concrete to be done with hand tools only, no picks or bars allowed.

#### Surveyors

- Hand excavating to a depth not greater than 1.2m and diameter not greater than 0.6m around a survey monument

#### Type of allowable work using Hydro Vacuum Excavation

- Replacement of existing utility poles
- Removal and replacement of existing fence posts
- Water valve and valve case maintenance, repair and replacement
- Installation of new fence posts, deck posts
- Construction, maintenance, repair, removal of existing roadside features
- Excavation of service pits for repair or maintenance of buried facilities
- Slot trenching for daylighting or installation of underground services
- Pre-Engineering design