



**City of Kingston
Report to Council
Report Number 15-403**

To: Mayor and Members of Council
From: Desiree Kennedy, City Treasurer
Resource Staff: David Johnston, Chief Information Officer
Susan Nicholson, Director Legal Services
Date of Meeting: October 20, 2015
Subject: Online Application Store Agreements

Executive Summary:

As part on the City's ongoing focus on building on a culture of excellence in customer service and service improvement, a number of software applications ("apps") are being developed or considered for use on mobile devices. Examples include a cultural city tours app, waste collection calendars and service request submissions.

In order for these applications to be provided to the public and to achieve maximum uptick/usage, online stores must often be used for distribution. Use of "app stores" requires the City to enter into agreements with vendors such as Apple, Google, BlackBerry and Microsoft. The agreements detail the terms and conditions which apply to the development and publishing of applications. Their primary intent is to protect the app user (public), app developer (City), and the app distributor (online store vendor).

This report outlines some of the common stipulations of on-line app store agreements as well as the benefits and potential drawbacks/risks associated with this type of application delivery. Staff have reviewed standard app store agreements and have not identified any significant concerns or legal risks. The agreements require staff to understand their obligations and ensure that these are managed effectively.

The purpose of this report is to seek Council approval to delegate authority to staff to enter into agreements with on-line apps stores such as Apple, Google, BlackBerry and Microsoft as a means to distribute apps for mobile devices.

October 20, 2015

Page 2 of 6

Recommendation:

That the Chief Information Officer (CIO) be delegated authority to enter into and execute online agreements and any other documentation, in a form satisfactory to the Director of Legal Services, with mobile application store vendors for the provisioning of mobile applications.

October 20, 2015

Page 3 of 6

Authorizing Signatures:

ORIGINAL SIGNED BY CHIEF FINANCIAL OFFICER AND CITY TREASURER

**Desiree Kennedy, City Treasurer
& Chief Financial Officer**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Gerard Hunt, Chief Administrative Officer

Consultation with the following Commissioners:

Cynthia Beach, Corporate & Strategic Initiatives

Lanie Hurdle, Community Services

Not required

Denis Leger, Transportation, Facilities & Emergency Services

Not required

Jim Keech, President and CEO, Utilities Kingston

Not required

October 20, 2015

Page 4 of 6

Options/Discussion:**Background**

The new City website launched in 2013 was designed as a “responsive website”, automatically adjusting to provide an optimal viewing and user experience on any device, including mobile devices such as smartphones and tablets. Since its launch, the City website has become the primary source of information about the City.

Surveys and industry trends, including the recent Engagement Survey of the city’s citizens, indicate a place for native mobile applications (“apps”), which are typically downloaded to an individual mobile device from apps stores from Apple, Google, BlackBerry and Microsoft.

Native mobile apps provide the user a richer, more responsive experience, typically focusing on high volume or focused user interactions that allow access to information, services, and to provide feedback.

As part on the City’s ongoing focus on building on a culture of excellence in customer service and service improvement, a number of software applications are being developed or considered as strong candidates for development as a native mobile application, such as a City cultural tours app, waste collection calendars, service request submissions, and/or a City app that bundles a number of services and capabilities.

Native mobile applications are not necessarily a replacement for responsive websites, but can offer single services or combine multiple services into a seamless user experience that complements the more traditional website experience. Some native mobile apps such as the cultural tours app however, are much more effective than a website application since they specifically target a mobile user.

As mobile apps must be designed and certified to work on multiple devices, on-line stores must be used for distribution. Use of the “app” stores requires the City to enter into online agreements which detail the terms and conditions which apply to the development and publishing of applications. Their primary intent is to protect the “app” user (public), application developer (City), and the application distributor (online store vendor).

Embracing mobile “apps” aligns well with the City’s corporate direction as contemplated in Council’s priority to foster open government.

Benefits of Mobile “Apps”

- Residents, visitors to Kingston and City staff can benefit from the rich functionality and information which can be made available through mobile applications. Application distribution through the online store platforms is a fast and cost-effective method for reaching a global user base. There is often no cost associated with the services.

October 20, 2015

Page 5 of 6

- The ability to publish mobile applications gives the corporation maximum flexibility to deliver highly effective experiences tailored to the local cityscape. We predict the ability to publish mobile applications will be an important supporting capability for the corporation on its Smart City and Open Government journey.
- Services often include useful features and statistics such as application feedback mechanisms and utilization statistics which can be useful for understanding trends and effectiveness of an application.
- Agreement may entitle the City to attend special events, obtain access to certain software useful in the development of applications, and obtain early information on new platform releases.

Drawbacks, Risks

- With most of the on-line store vendors, the agreement is mandatory in order to have applications distributed through their stores, or distributed at all. Although the vendors involved offer little, if any, room for negotiation, their agreements have been accepted by a large number of agencies in diverse industry segments. Nevertheless, the City remains in complete control of what applications it makes available, and the information and functionality they provide.
- Poorly rated applications (by the user base) may affect City reputation.
- Failure of one application to comply with the agreement terms and conditions may impact the availability of other applications.

Other Considerations

- **Content;** the agreements include terms and conditions which protect the consumer (application user), the City as application developers, and the store vendor as application distributor. They typically include the protection of personal information, copyright material, or other intellectual property, terms of use restrictions, confidentiality, conditions and methods of termination, limitations on warranty and/or liability.
- **Vendors, Platforms;** vendors currently being considered for entering into agreements are Apple, Google (for Android based devices), Blackberry and Microsoft.
- **Agreement types;** actual agreements may be titled in different ways (e.g. Developer, Developer Distribution, Terms of Use).
- **Privacy;** The City will not provide any data to vendors or the public which it is not entitled to do so; including that which is protected under legislation such as the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), the Personal Health Information Protection Act (PHIPA), 2004, s12.1, or the Personal Information Protection and Electronic Documents Act (PIPEDA), S.C. 2000, c. 5.
- **3rd Party Agreements;** in some cases the City will contract with another agency\vendor (3rd party) to liaise with the app store vendor on its behalf. In those cases, the 3rd party has entered into the agreements with the app store vendor.

October 20, 2015

Page 6 of 6

- **Online execution;** most agreements are formally entered into electronically (on the vendors site) through signing-on and then 'accepting' (click box) the terms.
- **Agreement Changes;** the vendor can change the agreement text at any time, which requires the re-acceptance of the agreement (revision).
- **Open Data;** data provided to the public through any Open Data License that results in apps distributed by 3rd parties through apps stores will not be affected by any agreements between the City and the app store vendor.

Staff have reviewed standard app store agreements and have not identified any significant concerns. The agreements require staff to understand their obligations and ensure that these are managed effectively.

Existing Policy/By Law:

In accordance with the purchasing by-law, Council approval is required to enter into contractual agreements.

Notice Provisions:

Not applicable.

Accessibility Considerations:

This report may be available in alternative formats upon request.

Financial Considerations:

There are no significant direct costs incurred to enter into agreements with on-line apps stores. Specific initiatives/applications may incur initial and/or recurring costs for application design and development, promotion, data/application hosting, application maintenance, or for other purposes, but these would be considered under separate purchasing agreements subject to the City's purchasing bylaw and approved budgets. The decision to charge or not charge for application usage is not part of this report but would be reflected in the Fees and Charges bylaw, if applicable.

Contacts:

David Johnston, Chief Information Officer

613-546-4291, Ext. 1333

Other City of Kingston Staff Consulted:

Alan McLeod, Senior Legal Counsel, Legal Services

Exhibits Attached:

Not applicable.