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**REPORT TITLE:      Locate Alliance Consortium Agreement Extension**

**FROM:                      Kealy Dedman, Commissioner of Public Works**

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## **RECOMMENDATION**

- 1. That the contracts (Document 2018-152N) between the Region of Peel and the Locate Alliance Consortium (LAC) service providers, Multiview Locates Inc. and Promark-Telecon Inc., be extended for one 12-month term to January 31, 2024 at an estimated total annual cost of \$5.6 million and on the same terms and conditions governing the current agreement; and**
- 2. That the contracts with the service providers be extended for an additional two optional 12-month terms and on the same terms and conditions governing the current agreement, subject to satisfactory pricing, performance, and available budget; and**
- 3. That the contracts with the service providers be increased on an as required basis during the 2024 contract term and two additional optional contract terms for additional locate services, subject to available budget, all in accordance with Procurement By-law 30-2018, as amended.**

## **REPORT HIGHLIGHTS**

- In September 2017, Regional Council authorized the Commissioner of Public Works to enter into direct negotiations with the vendors selected by the Locate Alliance Consortium to provide water and wastewater infrastructure locate services (Resolution 2017-732).
  - Resolution 2017-732 also authorized the Commissioner of Public Works to enter into Alternate Locate Agreements between the Region of Peel and eligible contractors.
  - The existing contracts with locate service providers Multiview Locates Inc. and Promark-Telecon Inc. expire in January 2023.
  - In April 2022 *Bill 93 - the Getting Ontario Connected Act, 2022* passed in the Legislature resulting in changes to the legislation governing locate services.
  - The focus of the changes to the legislation is to improve overall compliance and reduce late locates which result in delayed projects and negative economic impact.
  - These legislative changes affect how locate services are provided and may negatively impact the Region's ability to meet compliance requirements. There is currently insufficient data available on the effects of these changes on how locate services will be delivered.
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### DISCUSSION

#### 1. Background

Ontario One Call is a not-for-profit organization that acts as the single point of contact for individuals planning to dig in the province of Ontario. They relay all dig information to owners of buried infrastructure so that they can mark (locate) them prior to digging. The *Ontario Underground Infrastructure Notification System Act, 2012* (the “Act”) required municipalities to become registered members of Ontario One Call by June 19, 2014. The Act also mandates the level of service to be provided for utility locates. All standard and priority utility locate requests must be completed within five business days and all emergency utility locate requests must be completed within two hours of notification.

Given the growing volume, scope and size of locate requests, staff researched alternative service delivery scenarios and elected to join a six-month pilot project with the Locate Alliance Consortium (LAC) starting in May 2016. The LAC is a collaborative group of utility owners striving to achieve consistent quality and cost-efficient utility locate services using third-party utility locate service providers. The LAC establishes standardized terms and conditions, including costs. They also regularly audit and report on service provider performance and they investigate failures and share lessons learned.

Council Resolution 2017-732 authorized the Commissioner of Public Works to enter direct negotiations with the locate service providers that were competitively procured through LAC. The Region of Peel (The Region) became a member of LAC in February 2018 and the Region entered into agreements with Multiview Locates Inc. and Promark-Telecon Inc. that same month to provide locate services in Peel. These agreements provided the Region with increased purchasing power, consistent rates for service and set out the health and safety and level-of-service standards for the locate service providers ensuring consistency across the province. It also ensured that additional regional staff was not needed to perform the locates and the current staff could focus on Water and Wastewater Operations.

In April 2022, the *Getting Ontario Connected Act, 2022* (Bill 93) was passed in the legislature which has led to significant changes to how locates are conducted. Some of the key changes include the expanded use of the owner-paid dedicated locator model and new compliance requirements. The owner-paid dedicated locator model is one in which locator services are procured to conduct all the locates for an infrastructure project using an approved vendor instead of having different locators to service the project, which is the current practice. Other key highlights of the new legislation are:

- The legislation has defined when a dedicated locator shall be used. Members must allow the use of a dedicated locator if they are approached by a Project Owner and the dedicated locator model is now mandatory for all Infrastructure Ontario projects.
- The Minister has been granted the ability to designate any class of projects as dedicated projects.
- Under the new legislation Ontario One Call has now become a regulator with increased compliance powers:
  - There will be a schedule of offenses and fines which will be put into the regulation.
  - Ontario One Call will appoint an assessor who can issue these penalties against a member or excavator. These penalties and fines will be posted publicly on Ontario One Call's website.

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Post COVID, much like many other sectors, there was a lack of trained labour to provide locates across the province and completing locates in a timely manner was a challenge. Prior to Bill 93 there was a lack of locate service providers to fulfill all locate requests across the province. The introduction of the described legislative changes and the requirement to use the dedicated locator model as well as the introduction of increased compliance requirements, may lead to further difficulties in getting locates completed within required timelines. Also, as more locate service providers move toward focusing on the dedicated locator model, there could be less resources available to conduct single address locates that do not require the dedicated locator model. This shortage could lead to an increased demand for contracted locate services by all utility owners within an already strained supply and demand environment.

### **2. Findings and Proposed Direction**

After an internal review of the legislative changes and consultation with other LAC members, it was determined that:

- there is a need to reduce the risk of decreasing an already limited pool of qualified LAC locate service providers and develop a framework for locate services that facilitates the development of resources needed by locate service providers to ensure locates are completed within the required timelines in accordance with legislation.
- more data is needed to gauge the impacts of the legislative changes to locates not only in Peel but across the province in order to prepare Requests for Proposals (RFPs) for new agreements with locate service providers.

It is therefore recommended that the existing agreements with Multiview Locates Inc. and Promark-Telecon Inc. be extended to provide some stability in the currently changing landscape. Onboarding new locate service providers during a time of legislative changes would require extensive training, pull resources away from trying to meet the new legislative requirements and may negatively impact compliance.

The legislative changes in Bill 93 are affecting how locates are completed for projects such as state of good repair and capital replacement. The implementation of these legislated changes is also creating a level of uncertainty among utility owners when trying to determine resource needs to perform locates as there is currently no means by which to forecast how many projects will be using the dedicated locator model across the province and therefore how best to allocate resources.

The legislative changes also create a level of uncertainty regarding the resourcing needs for locate service providers using the new dedicated locator model. Currently, there are not enough locate service providers to effectively complete locates within the prescribed legislative timelines across the province. Regional staff anticipate that the transition to the dedicated locator model will further compound this problem making it difficult to complete locates in a timely manner, as prescribed in the legislation, in 2023 and beyond.

By extending the current contracts of locate service providers, the legislative impacts on locate services can be reviewed and a scope of work for new contracts can be developed ensuring that factors affecting compliance, cost effectiveness and service delivery are better captured in future contracts between the Region and locate service providers. It is expected that once LAC members develop a standard form contract, updated specifically for the dedicated locator

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model, amendments to the existing contracts could be made to adjust to the dedicated locator process.

Staff are seeking approval to extend the existing contracts with Promark Telecon Inc and Multiview locates Inc. for one year with 2 additional optional one-year contracts subject to satisfactory performance and pricing.

In accordance with Section 5.5.2 of the Procurement By-law 30-2018, as amended, and approval authorities outlined in Purchasing Procedure F35-05 Purchase Orders and Vendor Contracts, the process to extend these contracts requires Regional Council approval.

## **RISK CONSIDERATIONS**

If LAC issues an RFP to retain locate providers with the current lack of data regarding the impact of the recent legislative changes, this proposal may result in agreements that are insufficient to meet the operational and compliance requirements under the new legislation. This proposal may also lead to significant cost impacts to operational and capital budgets for the Water and Wastewater Division due to cost variances which may be required to maintain adequate level of service and compliance. The current locate service providers have also expressed uncertainty due to the impact of the legislative changes and would not be able to make an informed bid. Changing locate service providers during this time of uncertainty may result in non-compliance and administrative penalties or fines for the Region from Ontario One Call. If the Region pursues contracts with locate service providers outside of LAC, costs may increase as the Region would lose the economies of scale that negotiating agreements through the consortium provides.

## **FINANCIAL IMPLICATIONS**

It is anticipated that extending the existing contracts with the current locate service providers will result in an increase to the costs; however, the cost of locates would be much higher if Peel were to pursue non-LAC pricing models.

The increase to the contract amounts is due to an increase to labour costs as a result of a new collective agreement. Further, the locate service providers will be performing the locates which were previously completed by Regional staff. The anticipated increase to the annual spend for locates will be an estimated \$3.7 million, all of which will be recovered from existing approved capital budgets and future capital budgets.

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### CONCLUSION

Staff are seeking approval to extend the existing locate contracts with Multiview Locates Inc. and Promark-Telecon Inc. for an additional year then two three one-year optional terms as part of the current Locate Alliance Consortium agreement until LAC can prepare an informed RFP to retain additional locate service providers.

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Kealy Dedman, Commissioner of Public Works

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