
REPORT TITLE: **Locate Alliance Consortium (LAC) Agreement for Additional LAC Locate Service Providers**

FROM: Kealy Dedman, Commissioner of Public Works

RECOMMENDATION

- 1. That the Region of Peel enter into agreement with additional Locate Service Providers (LSPs) procured through a competitive process previously issued by the Locate Alliance Consortium (LAC) at an estimated total annual cost of \$2,000,000; and**
- 2. That the contracts with the additional service providers be renewable in alignment with current LAC affiliated LSPs on the same terms and conditions governing the current agreement, subject to satisfactory pricing, performance, and available budget; and**
- 3. That once final unit rate costs are established for the services to be provided by the additional LSPs, the Director of Procurement be authorized to approve the award of these contracts and any subsequent contract increases should demand for the service require it, subject to satisfactory performance, price and approved budget, all in accordance with Procurement By-law 30-2018, as amended; and**
- 4. That the Chief Financial Officer be authorized to increase budget as per business needs, due to the impacts of anticipated growth and demand for locate services.**

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 (LAC) to provide water and wastewater infrastructure locate services (Resolution 2017-732).
 - 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 intent of the legislative changes is to improve overall compliance, reduce late locates which result in delayed projects and negative economic impact, and to introduce a legal concept of dedicated locator.
 - 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 for how locate services will be delivered.
 - In December 2022, the existing contracts with locate service providers Multiview Locates Inc. and Promark-Telecon Inc. were extended for one 12-month term to January 31, 2024 with two optional renewal terms (Resolution 2022-819).
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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 underground excavation in the province of Ontario. They relay all dig information to owners of buried infrastructure so that they can mark (locate) them prior to excavation. 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, that include Enbridge, Hydro One and most other municipalities in Ontario, 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. Peel Region (Peel) became a member of LAC in February 2018 and entered into agreements with Multiview Locates Inc. and Promark-Telecon Inc. LAC initially negotiated the rates and service standards for across the province. LAC members were then able to leverage these rates to create agreements with individual locate service providers of their choosing. These agreements provided Peel 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.

In April 2022, the *Getting Ontario Connected Act, 2022* (Bill 93) received Royal Assent and passed into law which has led to significant changes to how locates are delivered. Some of the key changes include the expanded use of the project proponent paid “dedicated” locator model and new compliance requirements. The project proponent 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. 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 for project owners to designate any class of projects as dedicated locate 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.

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- 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.

Post COVID, much like many other sectors, the locate industry experienced a lack of trained labour to provide locates across the province and completing locates in a timely manner became a significant challenge. Prior to Bill 93 there was a lack of locate service providers to fulfill 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 completing locates 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. It is anticipated that an increased demand for contracted locate services by all utility owners within an already strained supply and demand environment will occur.

2. Proposed Direction

The implementation of these legislated changes is creating a level of uncertainty among utility owners when trying to determine resource and funding needs to perform locates as there is currently no means by which to forecast how many projects will utilize the dedicated locator model across the province.

Currently, there are not enough locate service providers to effectively complete locates within the prescribed legislative timelines across the province. 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. The issue is further exasperated given the potential impact of other provincial legislation and the projected increase in capital construction across the province.

Staff recommend that Peel enter into new agreements with additional LAC locate service providers in combination with the existing agreements with Multiview Locates Inc. and Promark-Telecon Inc to ensure adequate levels of service and compliance are continued under the new legislation. Having additional qualified locate service providers available within Peel will aid in meeting current and projected future high demands while providing some stability in the currently changing landscape. It will also strengthen Peel's due diligence in ensuring locates are completed within required timelines in accordance with current legislation.

In accordance with Section 5.2.2 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 enter into new contractual agreement requires Regional Council approval.

RISK CONSIDERATIONS

Peel is required to meet the operational and compliance requirements under the new locates legislation. Maintaining a high level of service with the uncertainty of the impacts from these new legislative changes could result in challenges for meeting legislated completion time requirements and could result in monetary penalties. Furthermore, the current locate service providers have expressed uncertainty due to the impact of the recent legislative changes.

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Pursuing contracts for additional locate service providers outside of LAC could result in higher costs as the Region would lose the ability to rely on the existing negotiating agreements provided by the consortium.

It is expected that the onboarding of additional LAC locate service providers will not result in increased costs to the 2023 Water & Wastewater Operations Operating budget; however, the cost of locates would be much higher if Peel were to pursue non-LAC pricing models for the locates delivery program.

On May 18, 2023, the Province introduced Bill 112, the *Hazel McCallion Act (Peel Dissolution), 2023* that, if passed, will dissolve the Region of Peel and make the Cities of Brampton and Mississauga and the Town of Caledon single-tier municipalities, effective January 1, 2025. The proposed legislation provides for the establishment of a Transition Board to make recommendations on implementing the restructuring. Details of the transition including matters as they relate to Regional roles and responsibilities are not known at this time and are to be addressed in future reporting to Regional Council. Additional assessment to support the transition under Bill 112 will be provided as further details become known.

FINANCIAL IMPLICATIONS

The cost for contracting additional locate service providers is estimated at \$2,000,000. There are sufficient funds available in the approved operating budget to carry out the report's direction.

There is significant potential for the quantity of locates to increase given anticipated capital program increase by the Region, other local municipalities, the development industry and other utilities. Flexibility in amending purchase order limits is recommended. Staff recommend the Chief Financial Officer have the delegated authority to increase budget as per business needs.

CONCLUSION

Staff are seeking approval to enter into contractual agreements with other LAC locate service providers at an estimated cost of \$2,000,000 based on the same terms and conditions governing the current LAC agreement, subject to satisfactory pricing, performance, and available budget.



Kealy Dedman, Commissioner of Public Works

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