

City of Mississauga
Corporate Report



<p>Date: December 15, 2023</p> <p>To: Chair and Members of General Committee</p>	<p>Originator's files:</p>
<p>From: Shari Lichterman, CPA, CMA, City Manager and Chief Administrative Officer</p>	<p>Meeting date: January 24, 2024</p>

Subject

Single Source Contract Award with the Toronto Star for Mandatory Public Notices Requirements

Recommendation

1. That Council approve the Corporate Report entitled "Single Source Contract Award with the Toronto Star for Mandatory Public Notices Requirements" dated December 15, 2023 from the City Manager and Chief Administration Officer.
2. That the Chief Procurement Officer or designate be authorized to award and execute a one-year single-source contract with the Toronto Star, under the City's Procurement By-law, and all documents relating thereto including any necessary ancillary documents and/or amending and extension agreements, all in a form satisfactory to Legal Services, for the print publishing of statutorily required public notices, via paid advertising, with an upset limit of \$175,000 exclusive of HST.
3. That City Staff request the Acting Mayor, on behalf of Council, to submit a formal letter to the Government of Ontario and its respective Ministries advocating for the review and revision of current statutes to permit the publishing of required public notices in digital and other alternative forms to print newspaper.

Executive Summary

- A review conducted by Legal Services in 2019 identified several provincial statutes, including the Municipal Act, where the publishing of public notices by municipalities, in sheet form print newspapers, continues to be required.
- As a result, an open and competitive request for proposal was conducted to select a new vendor of record for the publishing of mandatory public notices.
- In February 2021 the contract was awarded to Metroland Media Group (i.e. Mississauga News) for 5 years with the option to extend for an additional 5 years.
- The City also promoted the use of the City's website as a supplement to print public

notices to provide an easy, consistent and accessible source for such information.

- On Friday, September 15, 2023 the Metroland Media Group announced that the Mississauga News will move to a digital-only model and cease print publication and distribution with immediate effect.
- As a result, and in accordance with the terms of the contract, notice was provided in writing to Metroland Media Group, on December 18, 2023 that the City of Mississauga will be terminating the contract for mandatory print public notices.
- At the same time City Staff are exploring options to reduce and, where legislatively possible, eliminate the need to provide print statutory public notice to residents.
- However, the City's obligations to issue public notices in print form, continues to exist under several provincial statutes. As a result, to support this continued need in certain circumstances the legislative requirement to communicate print public notices will remain.
- To support this on an interim basis it is recommended that the City of Mississauga execute a one-year single-source contract with the Toronto Star, to allow the City a publishing vendor to continue to fulfill its obligations while the City investigates its options, including advocacy to the Provincial Government for legislative changes.

Background

Mandatory public notices are regulatory-based ads where the City is statutorily required to publicly advertise to residents – often through a local print newspaper. This includes, but is not limited to: planning regulatory notices, tax sale notices, environmental assessment notices and notices from the Office of the City Clerk. Currently, the practice has been to publish all mandatory public notices using paid advertising.

To review, confirm and validate the City's legal requirements to publish mandatory public notices in a print newspaper, in 2019 Legal Services conducted a review to determine (a) whether the City must publish the notices in a newspaper and (b) if as an alternative, it would be possible for the City to publish notices solely on the City's website. Legal Services indicated that "The City must publish certain notices in a newspaper where required to do so by statute" but that "this is only the case for certain notices under these Acts, and not for all notices." The review also noted that "because the City publishes multiple notices pursuant to multiple Acts, the need to publish a notice in a newspaper should be examined on a case-by-case" basis.

To validate whether the City's current notices have a legal obligation to be published in a print newspaper, Legal Services also conducted a review of a sample of the most common notices published in 2018. The review determined that several provincial statutes such as the Municipal Act, the Ontario Heritage Act, the Planning Act, Expropriations Act, the Construction Act, and others require municipalities to issues certain public notices, and under this legislation, municipalities are required to do so in print newspaper form. Of the 18 types reviewed, 16 had a legal requirement to be published in a print newspaper with two likely not having that need.

To support the print advertising of legislated public notices to residents, on November 17, 2020 an open RFP was issued and a large number of print publications invited to bid. The City received a single submission from the Mississauga News. The bid was evaluated and awarded to the Mississauga News on February 18, 2021 for a 5 year term with a total value of \$876,750 – with the option of another 5 year extension.

Comments

On September 15, 2023 the Metroland Media Group announced efforts to restructure under the *Bankruptcy and Insolvency Act*. As part of these changes, it announced 71 community newspapers will move to a digital-only model – including the Mississauga News – as well as an end to its flyer business. As a result of this decision by Metroland Media Group, the City of Mississauga no longer has a viable contract with a vendor that can fulfill the City's statutory public notice publishing obligations.

As an interim solution to satisfy its immediate need to comply with its statutory requirements it is recommended that the City of Mississauga execute a one-year contract with the Toronto Star to take effect immediately, with an upset limit of \$175,000.

The Toronto Star is among the most read print newspapers in the City of Mississauga. Based on Vividata information from 2023 approximately 178,000 or 29% of all Mississauga adults (18 years and over) read The Star in print on a weekly basis.

This contract is considered a single source procurement as defined in the Procurement By-Law 0013-2022. This contract would be executed under the following criteria in Schedule A (1):

- (b) There is a scarcity of supply in the market
- (f) The Goods and/or Services are required as a result of an Emergency which would not reasonably permit the solicitation of competitive bids
- (h) (ii) Would cause significant inconvenience or substantial duplication of costs for the City

In accordance with Procurement By-law 0013-2022, Schedule B further requires Council authority to award single source contracts having a value of more than \$100,000.

At the same time as this contract is executed, City Staff will conduct a thorough review and benchmarking to investigate potential options, including:

- Explore the potential of developing a public notice policy as stipulated in section 270 of the Municipal Act. (2019) to reduce the need for print notices.
- Draft a letter for the Acting Mayor to send, on behalf of Council, to the Government of Ontario advocating, in light recent developments in the local print newspaper industry, that it consider updating public notice requirements in relevant legislation.

- Continue to assess the viability of digital alternatives to communicate public notices and improve the distribution of City information to residents.
- Conduct an open and competitive procurement for a new long-term vendor of record to publish statutory public notices.

This will result in an update to Council that will outline a revised solution to communicating mandatory public notices that complies with the City's legislative obligations.

Financial Impact

There are no additional financial impacts resulting from the recommendations in this report. All charges incurred will be funded through existing Divisional advertising budgets. Furthermore, the proposed upset limit of \$175,000 does not obligate the City to spend these funds, as the contract will only be used when public notices are statutorily required to be communicated in a print publication.

Conclusion

The City of Mississauga has statutory requirements to publish and communicate mandatory public notices for a variety of different purposes and issues that have an impact on the lives of Mississauga residents and businesses. Based on current legislation the City is required to continue to publish public notices in a print newspaper with a circulation in Mississauga. Given the recent decision by Metroland Media Group to cease the print publication and distribution of the Mississauga News, the City of Mississauga does not have a viable option to meet this requirement.

As an interim solution it is recommended that the City of Mississauga execute a one-year single-source contract with the Toronto Star. This will enable Staff to meet their statutory requirements while City seeks a permanent vendor through an open and competitive procurement and continues its advocacy efforts requesting the Government of Ontario update relevant legislation regarding the communication of public notices)



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