

Committee of the Whole (2) Report

DATE: Tuesday, May 14, 2024

WARD(S): 2

TITLE: PARTICIPATION AGREEMENTS WITH INDIGENOUS COMMUNITIES

FROM:

Vince Musacchio, Deputy City Manager, Infrastructure Development

ACTION: DECISION

Purpose

To seek Council approval for staff to enter into agreements with Indigenous communities as needed for infrastructure projects to enable their participation and review of studies, reports, and archaeological fieldwork.

Report Highlights

- As part of the City's commitment to reconciliation, a proactive approach is being taken to further engage Indigenous communities through infrastructure studies and capital projects with potential for heritage resources.
- On February 13, 2024, Council approved staff entering into Field Liaison Representative participation agreements with indigenous communities for the McNaughton Road West and Yonge-Steeles Corridor Secondary Plan Collector Roads Environmental Assessment studies.
- Since this time, additional requests have been received to enter into project participation agreements, specifically in relation to the Doctors McLean District Park Redevelopment project.
- Given the nature of these requests and similar experiences shared by other organizations, staff anticipate that participation requests from Indigenous communities will continue to be brought forward and are requesting authority from Council to enter into agreements as needed moving forward.

Recommendations

1. THAT the Deputy City Manager, Infrastructure Development be authorized to enter into agreements with Indigenous communities, as needed, and in a form satisfactory to Legal Services, to enable their participation and review of studies, reports, and archaeological fieldwork for infrastructure projects; and
2. THAT staff be authorized to take any steps, including executing agreements in a form satisfactory to Legal Services, to deliver Capital Project PK-6373-19 for Doctors McLean District Park Redevelopment and Riverwalk Trail Extension.

Background

The Crown delegates procedural aspects of consultation with Indigenous communities to project delivery agencies as required by various processes.

The objective of modern Indigenous treaty law is to reconcile Indigenous and non-Indigenous peoples along with their respective rights, claims, and interests. Consultation plays a vital role in this reconciliation process. The Crown has tasked proponents of Environmental Assessments, grant funding recipients, and others involved in satisfying regulatory requirements with conducting consultations with Indigenous communities.

In addition to the above-mentioned delegated consultation requirements, the City is committed to reconciliation and takes a proactive approach to engage Indigenous communities in planning studies and capital projects, particularly where there is a potential impact on heritage resources.

As part of the consultation process for City infrastructure projects, it is important to invite Indigenous communities to participate.

A Stage 1 Archaeological Assessment (AA) is typically completed as a component of an Environmental Assessment, grant requirement, project undertaking, or other regulatory requirement. A Stage 1 AA includes review of historical information and archaeological data to determine if the limits of the study contains archaeological potential that would require further investigation through a Stage 2 AA. Where a Stage 2 AA is required, on-site field investigation and reporting is required before construction works can advance.

As part of the consultation process for City projects, it is typical to invite Indigenous communities to participate in the overall project review, as well as the Stage 2 AA field work and reporting review. Not only does this invitation to participate contribute to the City meeting the delegated consultation requirements for certain projects, it also shows respect to these communities and helps maintain a positive relationship.

Previous Reports/Authority

[Field Liaison Representative Participation Agreements with Indigenous Communities](#),
Item 8, Report No. 5 of the Committee of the Whole (2), February 13, 2024

Analysis and Options

Through the City's commitment to reconciliation, it is important to enter into participation agreements with Indigenous communities to further enable their involvement in City infrastructure projects.

A large number of Indigenous communities have developed tools, consultation protocols, policies, and/or processes that provide guidance on how they prefer to be consulted. The Province encourages proponents to respect these community processes where it is reasonable to do so, and to bear the reasonable costs associated with the consultation process. A typical participation agreement is estimated to cost in the range of \$5,000 to \$10,000, depending on the scope of work and amount of effort required. Occasionally, these agreements may have identified costs above this threshold.

Requests are anticipated to continue being brought forward for participation in City infrastructure projects and staff are seeking authority from Council to enter into agreements as needed to support this work.

Council has recognized the need to delegate certain duties to staff to respond to issues in a timely manner while maintaining accountability (Policy 03.C.02), including the delegation of administrative matters required for the management of the City. Staff anticipate that requests will continue to be brought forward for infrastructure studies and are seeking authority from Council to enter into agreements with Indigenous communities as needed to enable this work. This delegated authority will enable staff to respond to requests in a timely manner and advance projects, studies and required fieldwork.

The Doctors McLean District Park Redevelopment and Riverwalk Trail Extension is a priority strategic project for this term of Council, and a Stage 2 AA is required in advance of any construction activity.

The City was the successful recipient of a \$3,584,000 grant through the provincial Strategic Priorities Infrastructure Fund to support trail construction and the redevelopment of park facilities at Doctors McLean District Park. The grant funding requires a deadline for construction substantial completion by March 31, 2027. Redevelopment of the Doctors McLean District Park is a priority strategic project within this term of Council, and staff are actively working towards a target construction completion date by June 2026.

The scope of work for delivery of the entire project includes the design and construction of 800m of paved trail to complete a key linkage in the broader Humber Trail network, installation of a new pedestrian bridge over the Humber River, trail signage, benches, landscape planting and environmental restoration works. The project also includes redevelopment of Doctors McLean District Park to make improvements consistent with the City's level of service for District Parks, including redeveloping the existing shade structure and playground, installation of a new splash pad, park pathways, additional shaded seating opportunities, and associated works.

As a requirement of the grant, background investigations including a Stage 1 AA and Stage 2 AA are needed in advance of construction.

The Strategic Priorities Infrastructure Fund grant delegates the duty to consult with affected Indigenous Communities to the City.

For the Doctors McLean District Park project, the City retained Schollen and Company through a competitive procurement process to lead the detailed design process on behalf of the City. Cambium Indigenous Professional Services, an Indigenous-led organization, is retained as a sub-consultant to Schollen and Company to lead Indigenous engagement, including guidance on best practices, coordination and communications, and reporting and documentation.

Indigenous communities identified by the City's Indigenous Relations Specialist and confirmed by the Province were invited to engage in the project, including overall design review, input into commemorative opportunities, and participation in the Stage 2 AA reporting review and field work. The City's retained Archaeologist will be responsible for coordinating the field work, participation of the Indigenous communities, and documentation of findings for review and Ministry submission.

To date, the Mississaugas of the Credit First Nation, Huron-Wendat First Nation, Chippewas of Rama First Nation, Alderville First Nation and the Six Nations of the Grand River have each expressed a desire to participate and requested that an agreement be entered into with the City for participation in the Stage 2 AA and overall project review.

As the Province has delegated the duty to consult with Indigenous Communities to the City as a requirement of the grant funding associated with the redevelopment of the Doctors McLean District Park, construction cannot advance until the Duty to Consult requirements have been met.

Financial Impact

A typical participation agreement is estimated to cost in the range of \$5,000 to \$10,000 (+ HST), depending on the scope of work and amount of effort required. Occasionally, participation agreements may have identified costs above this threshold.

All requests to participate on City infrastructure projects and associated participation agreement costs will be funded from approved Capital budgets.

Operational Impact

The City is committed to respecting self-determination and self-governance and seeks to build strong, respectful and reciprocal relationships with Indigenous communities. The City understands that better relationships and engagement will result in more responsive and appropriate services under our obligations as treaty holders and our path to reconciliation and the Truth and Reconciliations Commission's Calls to Action.

The City continues to work towards formalizing our existing relationship with the Mississaugas of the Credit First Nation through a Memorandum of Understanding (MOU) and a wider strategy to define and Engagement, Consultation and Relationship Guide.

Broader Regional Impacts/Considerations

N/A

Conclusion

Staff are seeking approval from Council to enter into agreements as needed with Indigenous communities to enable their participation in City infrastructure projects. This participation will satisfy the delegated duty to consult for various projects and help the City continue to foster and maintain positive relationships with Indigenous communities.

For more information, please contact: Jamie Bronsema, Director, Parks Infrastructure Planning and Development, ext. 8858

Attachments

N/A

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