



SUBJECT: Archaeological review agreements with First Nations

TO: Environment, Infrastructure & Community Services Cttee.

FROM: Engineering Services Department

Report Number: ES-41-21

Wards Affected: all

File Numbers:

Date to Committee: September 13, 2021

Date to Council: September 21, 2021

Recommendation:

Authorize the Director of Engineering Services to enter into archaeological review agreements and field liaison representative participation agreements for capital projects, which involve a city-initiated archaeological assessment with content satisfactory to the Director of Engineering Services and in a form satisfactory to the Executive Director of Legal Services and Corporation Counsel with the following Indigenous communities:

- Mississaugas of the Credit First Nation;
- Six Nations of the Grand River; and
- Haudenosaunee Confederacy Chiefs Council

PURPOSE:

Vision to Focus Alignment:

- Building more citizen engagement, community health and culture

Background and Discussion:

The Ontario Heritage Act (OHA) defines and sets out the measures required to conserve the heritage resources of Ontario. Archaeological practice and access to archaeological resources are regulated under the terms of the Act, regulations to the Act, terms and conditions of license.

The Indigenous communities expect consultant archaeologists, development proponents, and approving authorities to notify them of new projects. The Indigenous communities will be allowed to provide information, raise or address concerns, and express support for specific practices or recommendations that support their interest in the archaeological site or development property.

The requirements for engagement with first nations are described in the Ministry of Heritage, Sport, Tourism, and Culture Industries (MHSTCI) Standards and Guidelines for Consultant Archaeologists, 2011 included in Appendix A. In addition, each Indigenous community has drafted its consultation and accommodation guidelines that outline the engagement and participating protocol in the archaeological assessment process.

Historically the City as part of the Municipal Class Environmental Assessment studies completed archeological assessments and had engaged the indigenous communities for their review and input. However, there was no associated fee.

Archeological assessment is not a requirement for all projects. It is a requirement when a proposed project or development is likely to impact archeological resources. As a first step, the consultant archeologist commences a Stage 1 Archeological Assessment which includes reviews of the geographic, land use and historical information for the project and the relevant surrounding area through a background study. If the Study Area exhibits archaeological potential, a Stage 2 Archeological Assessment is carried out. In this stage, the consultant archeologist conducts a general survey by walking a ploughed field looking for artifacts lying on the surface or test pitting unploughable areas. If archeological sites are identified, a Stage 3 assessment is required. The goal of Stage 3 is to accurately determine the spatial extent of the archeological sites, evaluate their cultural heritage value or interest and, where necessary, make recommendations for conducting Stage 4 strategies to mitigate the impact. To date, the City has not come across a project site that required Stages 3 and 4.

Strategy/process

An Archaeological Assessment is a survey undertaken by a licensed archaeologist in a defined project area to determine archaeological potential. There are four stages of archaeological assessments, as defined by in the Ministry's Standards and Guidelines for consultant archaeologists, which include the following:

- Stage 1: Background study and property inspection

- Stage 2: Property assessment

- Stage 3: Site-specific assessment; and

- Stage 4: Mitigation of development impacts

The following process will be followed by staff coordinating City-initiated archaeological assessment work:

- Staff will engage with Indigenous communities within the study area at the start of a project when a proposed project or development is likely to impact archeological resources.
- Stage 1 archaeological assessment reports will be circulated to all the Indigenous communities within the study area for review and input. As of recent, Mississaugas of the Credit First Nation requires the City to sign Archaeological Review Agreements and pay the associated review fee. Other indigenous communities may in future require the same. Stage 1 review will determine if Stage 2 through Stage 4 assessments are required.
- For Stage 2 through Stage 4 assessments, in addition to the Archaeological Review Agreement, the City may be requested to enter into Indigenous monitoring agreements, sometimes referred to as Field Liaison Representatives (FLR) Participation Agreements.
- Once a Field Liaison Representative Participation Agreement is signed, the City's consultant archaeologist will coordinate the scheduling of assessment work and Indigenous monitoring on-site.

In order to expedite the Environmental Assessments and detailed design processes related to capital projects, it is staff's opinion that the most appropriate course of action would be to have the Director of Engineering Services authorized to sign such agreements on behalf of the City.

Options Considered

Updating the Delegated Authority By-law in order to authorize the Director of Engineering Services to enter into Archaeological Review Agreements and Field Liaison Representative Participation Agreement for Capital Projects was considered but awaiting this By-law update would result in delays to our capital projects.

Financial Matters:

The costs related to the Archaeological Review Agreements and Field Liaison Representative Participation Agreements with Indigenous communities will be accounted for in the budget of each capital project. Funding required for Stage 1 and Stage 2 archeological assessments for the projects currently underway are already allocated in the project budget.

Total Financial Impact

The cost of agreements will be added to the budgets of future capital projects.

The following are estimated costs involved in the review and on-site monitoring assessment of the different stages of archaeological assessment:

Stage 1 - There is typically no cost for the review of the report. However, Mississaugas of the Credit First Nation (MCFN) has a policy that requires the proponent to sign Archaeological Review Agreements and pay the associated review fee. The approximate cost range between \$500 - \$1000.

Stage 2 - Approximate cost range: \$1,000 to \$10,000

Stage 3 & Stage 4 - Approximate cost range: \$5,000 to \$100,000

Source of Funding

Costs associated with archeological assessments and the Stage 1 & 2 agreements with Indigenous communities for review and field monitoring will continue to be included in individual capital project budgets. Should Stages 3 & 4 be required, funding will be identified and noted in future budgets.

Other Resource Impacts

Not applicable.

Climate Implications

none

Engagement Matters:

The City's legal and purchasing staff were consulted in this matter.

Conclusion:

The Standards and Guidelines established by the Ministry of Heritage, Sport, Tourism, and Culture Industries (MHSTCI) require that the Indigenous communities be engaged and consulted on any new projects. As part of the engagement process, some Indigenous communities may request that the City enter into agreements for

archaeological review and monitoring of on-site assessment. One of the purposes of these agreements is to provide the Indigenous community financial assistance to develop capacities for reviewing assessment reports and on-site monitoring. It is, therefore, recommended to authorize the Director of Engineering Services to enter into Archaeological Review Agreements and Field Liaison Representative Participation Agreements for Capital Projects which involve a City-initiated archaeological assessments with content satisfactory to the Director of Engineering Services and in a form satisfactory to the Executive Director of Legal Services and Corporation Counsel.

Respectfully submitted,

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Appendices:

- A. MHSTCI Standards and Guidelines for Consultant Archaeologists
http://www.mtc.gov.on.ca/en/publications/SG_2010.pdf

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.