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## MEMORANDUM

PWC-C 9-2021

**Subject: Public Works Archaeological Assessment Standard Practice**

**Date: March 9, 2021**

**To: Public Works Committee**

**From: Lindsay Jones, Senior Project Manager Engineering W-WW Services**

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### Overview

As requested by Councillor Gale at the January 12, 2021 meeting of Public Works Committee, this memorandum provides an overview of Niagara Region's Public Works (PW) standard of practice for conducting Archaeological Assessments. This includes a brief summary of Ontario's archaeological assessment standards and guidelines and details PW's standard practices for scoping, procuring and managing archaeological work.

### Ontario Standards and Guidelines

Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) has set out its requirements in the document "Standards and Guidelines for Consultant Archaeologists" (2011). The Standards and Guidelines are for consultant archaeologies conducting land-based archaeology in Ontario. Consultant archaeologists undertaking archaeological work for clients (i.e. Niagara Region) are required to address archaeological considerations as part of the land use planning and development process.

Under the Ontario Heritage Act, R.S.O. 1990 c. O.18, anyone carrying out archaeological fieldwork in Ontario must meet the following criteria<sup>1</sup>:

- Have a license from the Ministry of Tourism and Culture

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<sup>1</sup> Ministry of Tourism and Culture, 2011, *Standards and Guidelines for Consultant Archaeologists*, pg. 1

- File a report with the Ministry of Tourism and Culture containing details of the fieldwork that has been done for each project and any other information that the ministry requires.

The archaeological fieldwork process in Ontario has four stages<sup>1</sup>. Not all stages will be necessary for all projects.

### **Stage 1: Background Study**

Consultant archaeologist conducts a background study through reviews of geographic, land use and historical information of the project site and surrounding area. If an area(s) within the project site is considered to have archaeological potential, a Stage 2 assessment is required. Area(s) within the project site determined to have low or no archaeological potential will not be subject to the Stage 2 assessment.

### **Stage 2: Property Assessment**

Consultant archaeologist conducts a property assessment. A general survey of the property consists of walking a ploughed field looking for artifacts laying on the surface of the ground or test pitting unploughable areas at regular intervals and screening the soil for artifacts. If archaeological sites are identified, a Stage 3 assessment is required.

### **Stage 3: Site-specific Assessment**

The scope of this stage is based on archaeological sites recommended for further assessment after Stage 2. Stage 3 includes mapping the surface extent of each archaeological site and excavating a number of test units or test trenches. The goal of this stage is to accurately determine the spatial extent of the archaeological sites, to more completely evaluate their cultural heritage value or interest and, where necessary, make recommendations for conducting Stage 4. For sites where it is recommended that a Stage 4 is necessary, the process of determining the appropriate mitigation strategy (scope of Stage 4 work) requires review with clients and may require consulting with Aboriginal and local communities.

### **Stage 4: Mitigation of Development Impacts**

Stage 4 includes implementing long-term protection strategies for archaeological sites. If protection is not a viable option, the consultant archaeologist conducts an archaeological excavation to document the site and remove the artifacts prior to

construction. The excavation and removal may take place under the supervision of Indigenous personnel conducting on-site monitoring.

### **Archaeological Artifact Collections Deposit**

All artifacts removed from a site are washed, identified, catalogued and analyzed for the archaeological report to the MHSTCI. As per Ontario Heritage Act, R.S.O. 1990 c. O.18 section 14 of the Terms and Conditions for Archaeological Licenses, “the licensee shall hold in safekeeping all artifacts and records of archaeological fieldwork carried out under this licence, except where those artifacts and records are transferred by the licensee to Her Majesty the Queen in right of Ontario or the licensee is directed to deposit them in a public institution in accordance with subsection 66(1) of the Act.” Collections acquired under one licence cannot be transferred to another licensee nor can they be deposited with private businesses or individuals. Artifacts held in safekeeping by the licensee are stored in the consultant’s storage facility indefinitely or until they are transferred to a public institution or to the province.

### **Niagara Region’s Public Works Standard Practice**

Archaeological investigations are occasionally required during the execution of capital projects. Through project scoping and the initial stages of the project, Niagara Region staff along with the retained project engineering consultant determine the need to undertake archaeological work. When a proposed project is likely to impact archaeological resources (has “archeological potential”), the owner must ensure provincial interest is satisfied<sup>1</sup> and an archaeological assessment is completed.

PW retains consultant archaeologists to undertake archaeological work typically through the Procurement By-law’s formal Request for Quotation (RFQ) process. This is a competitive process led by the Region’s procurement division. The RFQ is issued to a subset of the Successful Roster Listing developed from Contract 2019-RFPQ-173 specifically Category 10 - Archaeological. The assignment is awarded to the compliant bidder with the lowest price.

The scope of work included in a RFQ may vary from project to project depending on the initial determination of archaeological potential. Most often, the following objectives and scope of work are issued for the archaeological assessment RFQ.

### Example of Archaeological Assessment Objectives and Scope of Work:

The objective of this assignment is to retain an archeological consultant to complete a Stage 1 Archaeological Assessment (AA) report, Stage 2 AA (provisional) report and Cultural Heritage Impact Assessment (CHIA) report. The Stage 1 AA will determine whether a Stage 2 AA is required based on a background study.

The Stage 1 AA, Stage 2 AA (provisional) and CHIA will be carried out for the entire study area in accordance with MHSTCI Standards and Guidelines for Consultant Archaeologists (2011).

The objective of the Stage 2 AA (provisional) is to determine if there are archaeological resources present within the project site. The Stage 1 and Stage 2 AA will assess whether the identified resources have cultural heritage value or interest and require further archaeological assessment (Stage 3 and possibly Stage 4).

More often in PW capital projects, the AA is complete after Stage 2. If archaeological sites are identified through completion of Stage 2 AA, a Stage 3 AA would be required in accordance with the MHSTCI (2011) prior to any development impacts that may result in the removal or disturbance of the archaeological site. The scope of work for the Stage 3 AA is based on the findings presented in the Stage 2 AA. In this situation, Niagara Region would request a quotation to conduct the Stage 3 AA from the archaeological consultant. Once the quotation amount and scope has been negotiated and agreed upon by both Niagara Region and the archaeological consultant, Niagara Region staff would follow the Procurement By-law and the change PO process.

This Change PO would be a single source assignment in accordance with Niagara Region Purchasing By-law 02-2016, Section 18(a)(i) as the archaeological consultant would be familiar with this immediate area and this work would be directly related to their assignment.

Alternatives to a change PO reviewed by staff would include Do Nothing and New Procurement. Both of these alternatives are not recommended as described below.

### **Alternatives**

Do Nothing:

- This alternative does not address MHSTCI Standards and Guidelines.
- This alternative would prevent the Region from developing the project site which does not address the needs of the project.

### **New Procurement**

- A competitive process will delay the project schedule
- A different archaeological consultant will require additional cost, effort and time to become familiar with the project, requirements and field investigation.
- A different archaeological consultant will require additional cost, effort and time to develop a working relationship with the project stakeholders and indigenous communities. Indigenous consultation and engagement is an important and required aspect of capital projects and archaeological assessments as further detailed below.

### **Indigenous Consultation**

Provincial regulations and approvals have established parameters that require consultation and engagement with First Nations. Niagara Region is responsible for fulfilling the Duty to Consult and the Duty to Accommodate Indigenous communities where it acts on behalf of the Crown where parameters are met to trigger such a duty. Niagara Region consults with Indigenous communities on Region-initiated archaeological assessment work as this falls within the parameters set forth in the Crown's Duty to Consult. Interested Indigenous groups are involved in the archaeological assessment from the initial stages of the work to the completion of Stage 4 (if required). Indigenous groups review and provide input to the technical assessment reports and perform on-site Indigenous monitoring of the fieldwork.

Niagara Region consults with Indigenous communities to fulfill our obligations under the Federal Commission on Truth and Reconciliation report. It is a recognized best practice of Indigenous consultation to maintain consistent personnel, including a consistent archaeological consultant, throughout all four stages of the archaeological assessment process to strengthen the consistency and trust that is built throughout the process.

Respectfully submitted and signed by,

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