

Bill No. 32
2017

By-law No. A.-_____

A by-law to authorize and approve a Contribution Agreement between Her Majesty the Queen in Right of Canada as represented by the Minister Responsible for Veterans Affairs Canada and The Corporation of the City of London; to authorize the Mayor and the City Clerk to execute the Agreement; and to delegate authority to the Director of Community and Economic Innovation with to execute any financial reports required under the Agreement.

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS The Corporation of the City of London wishes to enter into a Contribution Agreement with Her Majesty the Queen in Right of Canada as represented by the Minister Responsible for Veterans Affairs Canada for the purpose of receiving capital funding for the Repair of the Victoria Park Cenotaph;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Contribution Agreement attached as Schedule "A" to this by-law between Her Majesty the Queen in Right of Canada as represented by the Minister Responsible for Veterans Affairs Canada and The Corporation of the City of London, providing for the City to receive capital funding for the repair of the Victoria Park Cenotaph, is hereby authorized and approved.
2. The Mayor and the City Clerk are hereby authorized to execute the Contribution Agreement authorized and approved under section 1, above.
3. The Director of Community and Economic Innovation is hereby authorized to execute any financial reports required under the Contribution Agreement authorized and approved under section 1, above.
4. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on December 19, 2016.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – December 19, 2016
Second Reading – December 19, 2016
Third Reading – December 19, 2016

CONTRIBUTION AGREEMENT

BETWEEN

HER MAJESTY THE QUEEN IN RIGHT OF CANADA as represented by the Minister of Veterans Affairs

(the "Minister")

AND

THE CORPORATION OF THE CITY OF LONDON as represented by the Mayor and the City Clerk

(the "Recipient")

WHEREAS the Minister has established a Cenotaph/Monument Restoration Program under which a commitment has been made to the expenditure of funds to establish a program to assist communities to properly conserve their cenotaphs/monuments which were created to honour Canada's war dead and Veterans;

AND the Recipient has made an application for financial assistance and is prepared to expend and to account for the use of such financial assistance;

AND the Minister has approved a contribution.

THEREFORE the Minister and the Recipient agree as follows:

1. Interpretation

In this agreement:

- 1.1 "Eligible Costs" means the direct costs as described in Appendix "A", required to carry out the Project, to which the Minister intends to contribute and that are considered essential by the Minister to its success.
- 1.2 "Project" means the activities, work and costs described in Appendix "A";

2. Contribution

- 2.1 In order to carry out the Project and subject to the terms of this agreement, the Minister will make a contribution (the "Contribution") of an amount not to exceed 50% (fifty percent) of eligible costs, to a maximum of \$25,000 (twenty-five thousand dollars), associated to the restoration activities incurred with respect to the Project. The Minister shall not contribute to any costs incurred by the Recipient prior to the contribution agreement being signed by both parties.

- 2.2 The amounts to be paid by the Minister on account under this agreement shall not exceed:
- 2.2.1 \$12,500 (twelve thousand, five hundred dollars) in the federal fiscal year 2016-2017 (commencing April 1, 2016 and ending March 31, 2017);
- 2.2.2 \$12,500 (twelve thousand, five hundred dollars) in the federal fiscal year 2017-2018 (commencing April 1, 2017 and ending March 31, 2018);
- 2.3 The payment of this contribution is subject to there being an appropriation by Parliament for each fiscal year during which this Agreement subsists.

3. Conditions Governing Payment of the Contribution

The Minister shall pay the contribution referred to in paragraph 2 as follows:

- 3.1 Reimbursement upon receipt and approval by the Minister of a claim for payment as described in paragraph 3.2 of this Agreement.
- 3.2 A claim for payment shall be accompanied by:
- 3.2.1 an itemized accounting statement with respect to the Project outlining:
- 3.2.1.1 revenue and expenditure incurred to date;
- 3.2.1.2 revised forecast for revenue and expenditure for the total project;
- 3.2.2 a written report on the current status of the Project.
- 3.3 The final payment will be paid upon receipt and approval of the following documents, signed by a member with designated signing authority for the Recipient:
- 3.3.1 a financial statement of revenue and expenditure in respect to the Project;
- 3.3.2 a final activity report on the Project, including pictures of the restored cenotaph/monument, and including:
- 3.3.2.1 an assessment of the Project results and the extent to which the Project has met program objectives as stated in your application; and
- 3.3.2.2 a statement to the effect that all of the obligations of the Recipient, under this agreement, have been met including federal and provincial environmental requirements and provincial/municipal fire and safety standards.
- 3.4 The Recipient renews its representations in Section 4, on making each request for payment.
- 3.5 In the event that the Recipient is unable to complete the Project before the end of the federal fiscal year, and disbursements cannot be made in accordance with paragraph 2.2 of the Agreement, the Recipient must inform the Minister in writing prior to the end of the fiscal year. The Minister reserves the right to determine the amounts and fiscal years in which the subject amounts will be paid.

- 3.6 If an overpayment occurs or an audit indicates that expenditures were made for ineligible items, the subject amount shall be reimbursed to the Receiver General of Canada or shall become a debt due to Her Majesty the Queen in Right of Canada if reimbursement is not made. The Minister reserves the right to deduct the excess amount from any other payment required under this Agreement.

4. Representations by the Recipient

- 4.1 The Recipient declares that it has the capacity and authority to enter into this Agreement and to carry out the Project and that it knows of no reason, fact or event, current, imminent or probable, that would seriously compromise the Project's chances of success.
- 4.2 The Recipient declares that the project costs described in Appendix "A" accurately reflect what it intends to do, that the information contained therein is accurate and that all relevant information has been disclosed.
- 4.3 The Recipient confirms that no former holder of a public office in the government of Canada will obtain any direct or indirect benefit from this agreement or, that, if he does, he has satisfied the requirements of the Conflict of Interest Code governing employees who have left the public service; accordingly the Recipient shall fill in the Questionnaire attached as Appendix C.

5. Obligations of the Recipient

- 5.1 During the term of this Agreement the Recipient shall:
- 5.1.1 take all necessary action to maintain itself in good standing, to preserve its legal capacity and to inform the Minister without delay of any failure to do so;
- 5.1.2 complete the Project and take all necessary action to carry it out successfully within the time limits and the agreed budget in accordance with good business practice and using qualified staff;
- 5.1.3 disclose to the Minister without delay any fact or event that may compromise the Project's chances of success, either immediately or in the long term.
- 5.2 The Recipient shall disclose, without delay and in any case before the last payment of the Contribution is made, all government assistance granted for purposes of the Project, and the Recipient acknowledges that the Minister may, in his absolute discretion, reduce the Contribution accordingly.
- 5.3 The Recipient agrees that the expenditures it will incur and pay from the contribution provided under this Agreement shall only be for the costs associated with the Project and shall ensure that:
- 5.3.1 any contract(s) for work to be performed shall encourage use of the competitive process wherever feasible and result in the procurement of goods and services and the carrying out of the work so as to provide the best value in meeting the need.
- 5.3.2 the method of pricing employed in all such contracts shall be the one most appropriate to ensure best value and effective cost control.
- 5.3.3 within the limits of practicability, all qualified firms shall have an equal opportunity to compete for such contracts.

6. Reports and Information

- 6.1 During the term of this Agreement, the Recipient shall:
- 6.1.1 preserve and make available for audit and examination by the Minister's representatives, proper books, accounts and records of the costs of the Project, wherever such books, accounts and records may be located, and permit any representative of the Minister to conduct such independent audits and evaluations at the Minister's expense, as the Minister may require;
 - 6.1.2 provide any representative of the Minister with reasonable access to the Recipient's premises to assess the progress and results of the Project; and
 - 6.1.3 supply promptly, on request, such data in respect of the Project and its results as the Minister may require for purposes of this Agreement or for statistical or program evaluation purposes.
- 6.2 All certifications, forecasts, reports, claims, financial statements or any other document required to be submitted to the Minister pursuant to this Agreement must be satisfactory to the Minister in form and substance and must be accompanied by such substantiating documentation as the Minister may from time to time require.

7. Default and Remedies

- 7.1 The following constitute events of default:
- 7.1.1 the Recipient becomes bankrupt or insolvent or is placed in receivership or takes the benefit of any statute relating to bankrupt and insolvent debtors;
 - 7.1.2 an order is made or a resolution passed for the winding-up of the Recipient or the Recipient is dissolved;
 - 7.1.3 in the Minister's opinion, there is a material adverse change in risk which would jeopardize the success of the Project;
 - 7.1.4 the Recipient, either directly or through its representatives, makes or has made a false or misleading statement to the Minister;
 - 7.1.5 in the Minister's opinion, a term or condition or a commitment provided for in the Agreement has not been respected;
 - 7.1.6 the Recipient is not entitled to the Contribution.
- 7.2 Where there is an event of default or where, in the Minister's opinion, there is likely to be a default under this Agreement, the Minister may reduce the level of the Contribution, suspend any payment of the Contribution, rescind this Agreement and immediately terminate any financial obligation arising out of it and require repayment of amounts already paid.
- 7.3 The fact that the Minister refrains from exercising a remedy he is entitled to exercise under this Agreement shall not be considered to be a waiver of such right and, furthermore, partial or limited exercise of a right conferred on him shall not prevent him in any way from later exercising any other right or remedy under this Agreement or other applicable law.

8. Announcements and Ceremonies

8.1 The Recipient shall acknowledge publicly the financial assistance of the Minister using the guidelines attached as Appendix B.

9. Notices

9.1 Any notice, information or document required under this Agreement shall be given if it is delivered, sent by facsimile, telex or mail (stamped or prepaid). Any notice delivered, sent by facsimile or telex shall be deemed to have been received one (1) working day after it is sent; any notice that is mailed shall be deemed to have been received eight (8) business days after it is mailed.

9.2 Either party may change the address shown in this Agreement by informing the other party of the new address, and such change shall take effect fifteen (15) business days after the notice is received.

9.3 All notices must be sent to the following addresses:

9.3.1 To the Minister:

Julie MacEachern, Program Officer
Cenotaph/Monument Restoration Program
Veterans Affairs Canada
161 Grafton Street, PO Box 7700
Charlottetown, Prince Edward Island
C1A 8M9

Tel: (902) 566-7437
Fax: (902) 566-8501

9.3.2 To the Recipient:

Catharine Saunders
City Clerk
The Corporation of the City of London
300 Dufferin Avenue
PO Box 5035
London, Ontario
N6A 4L9

Tel: (519) 661-2500 ext 4937
Fax: (519) 661-4892

10. General

10.1 No Member of the House of Commons is eligible to participate in this Agreement or to receive any benefit from it.

10.2 This Agreement and the benefits arising from it are not assignable, except with the prior written consent of the Minister.

10.3 The parties acknowledge that this Agreement does not constitute an association for the purpose of establishing a partnership or joint venture and does not create an agency relationship between the Minister and the Recipient.

- 10.4 This Agreement is for the benefit of the parties to it, their successors and permitted assigns and is binding on them.
- 10.5 This Agreement shall be governed by and interpreted in accordance with the applicable laws in the Province of Ontario, and the parties agree that the superior court of that province and the appeal courts shall be competent to hear any case relating to a dispute under this Agreement.
- 10.6 This Agreement takes precedence over and cancels and replaces any other Agreement, undertaking, contract, quasi-contract or obligation that may have been concluded or may exist between the parties with respect to the Project.
- 10.7 This Agreement takes effect from the date of the signature of the Minister and terminates three years after the date of application.
- 10.8 This Agreement shall consist exclusively of the following documents:
- Contribution Agreement
 - Appendix A, Eligible Project Costs
 - Appendix B, Acknowledgment of Veterans Affairs Support
 - Appendix C, Conflict of Interest Questionnaire

IN WITNESS WHEREOF, having read the Agreement, the parties have signed:

For THE CORPORATION OF THE CITY OF LONDON as represented by the Mayor and the City Clerk

at _____ this _____ day of _____ 2016.

Per: _____
Matt Brown

Witness

Per: _____
Catharine Saunders

Witness

For HER MAJESTY THE QUEEN IN RIGHT OF CANADA as represented by the Minister
of Veterans Affairs

at _____ this _____ day of _____ 2016.

Per: _____
Bernard J. Butler, Assistant Deputy Minister
Strategic Policy and Commemoration
Veterans Affairs Canada

Witness

APPENDIX A

ELIGIBLE PROJECT COSTS

Project: Restoration of the Victoria Park Cenotaph

Eligible Costs: Costs associated with the following:

- repairing the concrete core;
- repairing or replacing the damaged and weathered stones;
- repairing or replacing the etching;
- repairing the damage to the wreath; and
- adding new etchings for Korean and Afghanistan missions.

Ineligible Costs:

- All expenses incurred prior to the signing of the contribution agreement by both parties are ineligible for reimbursement

APPENDIX B

ACKNOWLEDGMENT OF VETERANS AFFAIRS SUPPORT

All Recipients are required to acknowledge publicly the financial assistance of the Government of Canada. For this purpose, Veterans Affairs Canada has developed the following guidelines:

1. Public announcements and press releases are to be coordinated through the Department's Communications Division via the Cenotaph/Monument Restoration Program office. The Recipient will advise the Department in advance of public announcements or press releases.
2. If the Recipient publishes an official document of any kind, space shall be set aside in a mutually agreed section of the document for a message to participants from the Minister in both official languages. The message will be prepared by the Department. The Recipient will advise departmental officials well in advance of the publication.

APPENDIX C

**FORMER PUBLIC OFFICE HOLDERS OR RECIPIENTS FOR CONTRIBUTIONS
QUESTIONNAIRE ON CONFLICT OF INTEREST**

1. Do you presently employ in your organization a former public office holder who left the federal government in the last twelve months?

Yes _____ No _____

2. Does your organization have as a board member a former public office holder who left the federal government in the last twelve months?

Yes _____ No _____

3. If you have answered yes to question 1 or 2 above, was this person a SM (Senior Manager) level or above while in public office?

Yes _____ No _____

4. If you have answered yes to question 2, would you please ask that the employee contact his/her former department to obtain written confirmation that he/she is in compliance with the post-employment provisions of the Conflict of Interest and Post-Employment Code. Such confirmation must be provided to the Minister prior to the signing of any Contribution Agreement by the Minister.

Recipient

Date