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Town of Aurora

General Committee Report

No. OPS23-004

Subject: Reconstruction of Engineered Walkway on Crawford Rose Drive

Prepared by: Luigi Colangelo, Manager of Public Works

Department: Operational Services

Date: April 4, 2023

Recommendation

1. That Report No. OPS23-004 be received; and
2. That the condition on the approval of a total of \$175,000 in capital budget authority for Capital Project No. 34015 – Engineered Walkway Reconstruction Moffat Crescent to Valley Drive + Crawford Rose be lifted, and the project proceed; and
3. That the current contract value of \$650,000 for Vaughan Paving Limited, for Restoration and Repairs of Engineered Walkways, be increased by \$175,000 to a total contract value of \$825,000, excluding taxes; and
4. That staff take steps to remove any unauthorized structures, fills, obstructions, objects and other items from Town easements and Town property to enable the walkway reconstruction project work between Crawford Rose Drive and Devins Drive.

Executive Summary

The purpose of this report is to respond to a Council directive to staff to provide further information relating to capital project No. 34015 to reconstruct an existing concrete walkway between Crawford Rose and Devins Drive, including addressing the existing unauthorized structures and other items and possible encroachments, which was conditionally approved as part of the 2023 Capital Budget Process:

- Private landscaping, retaining walls, pavers and plant materials are the most common unauthorized obstructions and encroachments that occur.
- There are several deficiencies and unauthorized items in and around the walkway that must be addressed.

- Asset management best practices require the Town to transition from an Operations Maintenance Program to individual capital projects.

Background

Engineered Walkways are inspected as part of the Roads Division's annual sidewalk inspection program whereby deficiencies are identified and rated by condition. Through this inspection program, many of the existing engineered walkways were identified with low condition rating score. Pursuant to O. Reg. 239/02: Minimum Maintenance Standards for Municipal Highways (the "MMS"), the Town is required to maintain such walkways in a proper state of repair and free of hazards.

Unauthorized items and encroachments such as landscaping, plant materials retaining walls and fences are the most common problem at every engineered walkway maintained by the Town. The MMS also requires the Town to address any identified encroachments that may pose a hazard.

In 2020 Council approved Capital Project #34616 Sidewalk/Engineered Walkway Reconstruction. Since then, Operational Services tendered the project hired Vaughan Paving Limited as contractor and reconstructed the following walkways.

- Old Yonge Street – from Yonge Street to Old Yonge Street
- Two (2) walkways on Falling Leaf Court
- One (1) Walkway off Tamarac Trail
- One (1) Walkway off McClellan Way

At this time, the engineered walkway between Crawford Rose Drive and Devins Drive needs to be reconstructed. The walkway is a three (3)-metre-wide public laneway, owned by the Town, that runs between four (4) private residential properties. Along both sides of the laneway, runs a 1.5-metre-wide easement in favour of the Town.

In 2022 Finance closed Capital project #34616 and requested that moving forward each asset's replacement be based upon a defined level of service methodology that meets Asset Management best practices. As such, a request for approval for Capital Project 34015 was submitted to Council for approval through the Town's 2023 Capital Budget process and was conditionally approved by Council. The condition of approval needs to be lifted by Council for this project to proceed.

Analysis

Private landscaping, retaining walls, pavers and plant materials are the most common unauthorized obstructions and encroachments that occur.

Non-existent property reference lines often lead to a minimal distinction of the exact boundary lines between private and public properties, and locations of any municipal easements. This condition often results in property owners straying from their property boundaries with various landscaping works or placing such items on Town easements.

For the most part, such unauthorized landscaping is considered very benign and cause little or no concern to the municipality or to the public. Many of these plantings tend to improve the neighbourhood streetscape and add value to overall property aesthetics. However, placement of structures, fill, shrubs, plantings and other items on Town easements or within property used for public walkways can create hazards or impede the Town's ability to maintain its infrastructure as required by the Municipal Act and the MMS.

There are several current deficiencies and unauthorized items in and around the walkway that must be addressed.

A private retaining wall constructed at 108 Crawford Rose was built within an Easement registered in favour of the Town. The private retaining wall does not comply with the terms of the Easement, which precludes the owner from placing such structures within the easement lands. The retaining wall is failing and has caused significant damage to the fence, which is installed on the property line, requiring sections of the fence to be replaced as part of this project.

The original grading plans for this subdivision did not provide for a retaining wall, and such a wall is not shown in any approved engineering drawings the Town has for this subdivision. It has been determined that the retaining wall in question was presumably constructed without any notification or approval from the Town as it is not recorded in any registered plans, or records of title. Operational Services cannot replace the damaged sections of fence unless the retaining wall is removed from within the Easement.

Further, the properties on the south side of the walkway (106 Crawford Rose and 123 Devins Drive) have cedar hedges planted within the easement along the entire length of this walkway. The cedar hedges encroach onto the Town lands as they have overgrown past the property line. The Town will be required to address the hedges to complete the project work.

Pictures of the conditions at the engineered walkway are provided in Attachment #1. At this stage, the walkway must be replaced in order to address the various deficiencies and potential hazards, as part of the Town's obligations to maintain its walkways and sidewalks in a state of repair pursuant to the Municipal Act and MMS. Unauthorized objects on the easements or public lands will have to be addressed and potentially removed to allow for the project work to be conducted.

Asset management best practices require the Town to transition from an Operations Maintenance Program to individual capital projects.

Asset Management best practices require that each individual asset's replacement be planned as an individual project with an equivalent level of detail to the organization's asset inventory, which enables the Town to maximize the benefits obtained from its limited asset replacement dollars.

Individual Asset Management projects offer greater versatility in meeting defined asset category levels of service and in responding to funding availability.

The Town has a contract in place for the Repairs of Engineered Walkways with Vaughan Paving Limited. The transition to Asset Management best practices impacted some of the Operations' Maintenance Programs, the Restoration and Repairs of Engineered Walkways being one of them. This change needs to be reflected on the contractor's PO by adding individual capital projects fundings, to match the financial records.

Advisory Committee Review

Not applicable.

Legal Considerations

The Municipal Act, and more specifically the MMS, requires the Town to maintain its sidewalks and walkways in a proper state of repair and free of hazards. Failure to adhere to such standards may result in injury or property damage to the public, which may lead to the Town becoming liable for any such injuries or damages. Any claims in which the Town becomes involved affects the Town's insurance costs.

The engineered walkway between Crawford Rose Drive and Devins Drive consists of a 3-meter-wide dedicated public laneway, owned by the Town. Along both sides of the laneway, runs a 1.5-meter-wide easement in favour of the Town for purpose of maintaining and reconstructing sewer infrastructure that runs under the laneway and the

easements. The easement language requires the property owners to keep such lands free of any buildings, structures, obstructions (other than fences) and only permits the lands to be used as a lawn, garden, flower bed or driveway. The property owners are not permitted to pave the area or place fill on it. In this case, it appears that the property owners have placed some unauthorized objects without permission within the easement lands, such as the retaining wall and additional fill.

Additionally, items placed wholly or partially on the Town's public laneway may constitute an encroachment, pursuant to the Town's Highway Occupancy Encroachment By-law, which authorizes staff to have unauthorized encroachments removed.

As noted in the report, the Town is required to conduct rehabilitation works on the laneway. Any unauthorized objects or items, which impede the laneway or the ability to properly reconstruct the laneway and the fence, will have to be addressed and may have to be removed to permit the project work. If the private property owners do not properly address any obstructions to allow the Town's project work, staff may be required to take steps to enforce the Town's by-law and/or easement rights in order to be able to complete the reconstruction of the laneway and to eliminate any hazards, obstructions and contraventions.

Financial Implications

As part of the 2023 Budget process, Council approved a conditional budget of \$175,000 for Project No. 34015 Engineered Walkway Reconstruction Moffat Crescent to Valley Drive + Crawford Rose subject to further information.

In consideration of the additional information presented above, staff recommend that this project's conditional authority be lifted, and this project proceed. As presented under Attachment #2, this capital budget authority is to be funded from the Roads & Related Asset Management reserve.

Further, should Council support this project moving forward, staff recommend that the total contract value for the Vaughan Paving Limited (PO 1521) be increased by \$175,000 to a total value of \$825,000. This contract increase is to be funded by Capital Project No. 34015.

Communications Considerations

The Town will inform the public of the information in this report by posting it to the Town's website.

Climate Change Considerations

The opinions and considerations from this report do not impact greenhouse gas emissions or impact climate change adaptation.

Link to Strategic Plan

This project supports the Strategic Plan Goal of Supporting an Exceptional Quality of Life for all by improving transportation, mobility, and connectivity. This project maintains a well-managed and fiscally responsible Municipality.

Alternative(s) to the Recommendation

1. Council can cancel Capital Project 34015. (The current walkway deficiencies will remain a problem for pedestrians and cyclists and the Town may become non-compliant with Minimum Maintenance Standards).

Conclusions

In consideration of the additional information presented above it is recommended that Council lift its conditional approval of Project No. 34015 and allow it to proceed.

In the delivery of this project, steps will need to be taken to mitigate and remove any unauthorized structures or items on the easements lands and any encroachments in accordance with the Town's rights and Town by-laws, to permit the work to be conducted and all hazards addressed.

In support of this project's delivery, there is a need to increase Vaughan Paving Limited contract's existing value to include individual capital projects. It is recommended that PO#1521 issued to Vaughan Paving Limited, be increased by a total of \$175,000, excluding taxes.

Attachments

Attachment #1 – Images of the encroachments and deficiencies

Attachment #2 - 34015 Engineered Walkway Reconstruction Moffat Crescent to Valley Drive + Crawford Rose capital page

Previous Reports

None.

Pre-submission Review

Agenda Management Team review on March 16, 2023

Approvals

Approved by Allan D. Downey, Director, Operational Services

Approved by Doug Nadorozny, Chief Administrative Officer