



Standing Committee Report Closed Committee of the Whole

To: Committee of the Whole
From: Corporate Officer
Date: June 8, 2023
Subject: Community Works Fund Allocation Policy (from May 04, 2023)

Objective: To consider the Community Works Fund Allocation Policy that was deferred from the May 4, 2023 Closed Regular Board Meeting.

Discussion:

When the Community Works Fund Allocation Policy report was deferred from consideration on May 04th, there was a board resolution to bring the item to the regular meeting on June 01st. Following the board resolution, the Chair was advised that the Director of Finance would be at a conference on June 01st and would not be able to attend the June 01st meeting.

In consultation with the Chair, the CAO confirmed the report would be added to the June 08th Committee of the Whole meeting to ensure senior staff were in attendance.

Next Steps:

The report in its original form is attached, however, as the policy is being presented for discussion at a committee-of-the-whole meeting, the following recommendation to the Regional Board has been prepared for the committee's consideration.

Recommendation(s):

THAT the Committee of the Whole recommends to the Regional Board the following:

- **THAT** the Regional Board approves the Community Works Fund Allocation Policy as attached to the report from the Chief Administrative Officer dated May 04, 2023, and directs staff to apply this policy to CWF funds received in 2023 and subsequent years.
- **THAT** the Regional Board allocates funds currently held by RDCO for eligible projects that meet the Community Works Fund criteria as outlined in this report in Table 1, Line a of this report.

- **THAT** the Regional Board directs that Electoral Area West outside of IR#9 and IR#10 receive no further allocation from funds currently held by the RDCO or received by the RDCO in the future until the allocation is rebalanced as outlined in this report in Table 1, Line a of this report.
- **THAT** that the Regional Board directs staff to work with Westbank First Nation and Okanagan Indian Band to dispense the funds allocated to them based on the Community Works Fund Allocation Policy and information outlined in Table 1, Line a of this report.
- **THAT** the Community Works Fund Allocation Policy be brought to an open meeting once Okanagan Indian Band and Regional District of North Okanagan have been engaged on this matter.

Respectfully submitted by:



Karen Needham, Corporate Officer

Attachment(s): Community Works Fund Allocation Policy report - May 4, 2023
PowerPoint presentation

Approved for Committee Agenda



Brian Reardon, CAO



Regional Board Report

Closed (Request for Decision)

To: Regional Board

From: Chief Administrative Officer

Date: May 4, 2023

Subject: Community Works Fund Allocation Policy

Voting Entitlement: *All Directors - Unweighted Corporate Vote – Simple Majority (LGA s.208)*

Purpose: To consider a policy for the allocation of the Union of BC Municipalities' Community Works Funds going forward and to determine how to fairly distribute funds already held by the Regional District of Central Okanagan.

Executive Summary:

The Community Works Fund (CWF), often referred to as Gas Tax Funds, is provided to all local governments in British Columbia based on a per capita formula that includes a funding floor. Within the Regional District of Central Okanagan (RDCO), the per capita formula includes an allocation for populations living in Electoral Area West including Westbank First Nation's (WFN) IR#9 and IR#10, and Electoral Area East including Okanagan Indian Band's (OKIB) IR#7.

Local governments may direct these funds towards eligible costs for eligible projects as set out in the CWF agreement. In 2014, the CWF criteria changed to allow local governments to provide funding for eligible projects including those where the assets would not be owned by the local government.

As part of the RDCO's activities in working toward reconciliation and in response to a letter from Westbank First Nation Chief and Council dated January 5, 2023, RDCO staff have reviewed how CWF funds have been allocated historically and drafted a Board policy that would more equitably allocate CWF funds to WFN and OKIB. UBCM's policy on allocating Community Works funds is based on population. The proposed RDCO Community Works Fund Allocation Policy applies the same principle of using population to allocate CWF monies internally.

Recognizing the Board's commitment to reconciliation and in support of good governance, staff are recommending WFN and OKIB are made whole by allocating Community Works funds in accordance with Table 1, **Line a**, and have the deficit in Electoral Area West paid over time with future Community Works Fund monies as they are received. Should the Board wish to proceed in that direction, a motion in support of the recommendations below would be in order.

Recommendation(s):

THAT the Regional Board approves the Community Works Fund Allocation Policy as attached to the report from the Chief Administrative Officer dated May 04, 2023, and directs staff to apply this policy to CWF funds received in 2023 and subsequent years.

AND THAT the Regional Board allocates funds currently held by RDCO for eligible projects that meet the Community Works Fund criteria as outlined in this report in Table 1, **Line a** of this report.

AND THAT the Regional Board directs that Electoral Area West outside of IR#9 and IR#10 receive no further allocation from funds currently held by the RDCO or received by the RDCO in the future until the allocation is rebalanced as outlined in this report in Table 1, **Line a** of this report.

AND THAT that the Regional Board directs staff to work with Westbank First Nation and Okanagan Indian Band to dispense the funds allocated to them based on the Community Works Fund Allocation Policy and information outlined in Table 1, **Line a** of this report.

AND FURTHER THAT the Community Works Fund Allocation Policy be brought to an open meeting once Okanagan Indian Band and Regional District of North Okanagan have been engaged on this matter.

Respectfully submitted by: Jodie Foster, Director of Communications, and Information Services

Approved by:



Brian Reardon, Chief Administrative Officer

Attachment(s): Community Works Fund Allocation Policy

Strategic Plan Alignment:

Priorities: Sustainable Communities

Values: Good Governance

Background

The Community Works Fund, historically referred to as Gas Tax Funds, is one of the funding streams of the Canada Community-Building Fund, administered through the Union of BC Municipalities (UBCM). The CWF allocates funding to all local governments in BC based on a per capita formula that includes a funding floor.

Within the RDCO, the per capita formula includes an allocation for populations living on WFN lands (IR#9 and IR#10) and Okanagan Indian Band lands (IR#7). Staff have confirmed that UBCM's allocation attributes IR populations within a Regional District directly to the Regional District unless, the Band or Nation has a Provincial Treaty.

Local governments may direct the funding towards eligible costs for eligible projects as set out in the CWF agreement. The current agreement between the RDCO and UBCM is in place until 2024. The RDCO first received funds through the program in 2005. Each local government is responsible for the funds and must report annually on projects completed using CWF funding.

At the January 19, 2023, Regional Board meeting, the Regional Board passed the following resolution:

***THAT** the Regional Board receives the North Westside Water System Generators – Financial Implications from the Director of Engineering Services report, dated January 19, 2023, for information.*

***AND THAT** a Board Policy on the apportionment of gas tax funds be developed for Board consideration prior to the allocation of Community Works (Gas Tax) funds in 2023.*

Reconciliation

As part of the RDCO's commitment working toward reconciliation and in response to a letter from Westbank First Nation (WFN) Chief and Council dated January 5, 2023, the RDCO has reviewed the allocation of the CWF funds.

Westbank First Nation is a recognized order of government in Canada. WFN has not signed Treaty with the Province of British Columbia. Because of this, UBCM, acting on behalf of the Province, does not provide a CWF annual allocation directly to WFN. Instead, UBCM includes the equivalent CWF amount in the allocation to RDCO.

Okanagan Indian Band has also not signed a Treaty with the Province and their allocation for IR#7 is also allocated to the RDCO. After several conversations with UBCM it has been determined that while IR#7 Duck Lake falls within the boundaries of the City of Kelowna, the RDCO is receiving funding based on the number of residents living on that IR.

It should be noted that Regional District of North Okanagan is likely receiving funds for OKIB lands within its boundaries.

The criteria for use of the CWF funds changed in 2014 allowing the RDCO to use funds for eligible projects, even if the resulting capital assets are not owned by the RDCO. While the RDCO is allocated funds based on the populations of both WFN (IR#9 and IR#10) and OKIB (IR#7) lands, the fund review shows no monies have been spent on WFN or OKIB projects.

As one demonstration of RDCO's commitment of working towards reconciliation, a Community Works Fund Allocation Policy has been developed for Board consideration and approval.

Policy outline:

Scope

- Proposed projects or initiatives that meet the eligibility criteria and guidelines outlined in the Agreement between the Union of BC Municipalities and the RDCO

Allocation of Funds

- The funds are to be allocated and held for projects based on the individual Census population used by UBCM in determining the allocation of CWF monies to RDCO as follows:
 - Electoral Area East,
 - Electoral Area West, and
 - Each syilx / Okanagan Nation within the RDCO boundaries allocated based on the population on their IR(s).

Application and Approval Process

- Internal RDCO service projects must be reviewed by Staff against eligibility criteria of the Agreement and requests will be presented as a staff report to the Electoral Area Services Committee.
- syilx / Okanagan Nation applications will be submitted to their respective Chief & Council and support staff to ensure eligibility criteria has been met and the project aligns with their strategic priorities. An application will then be made to the RDCO.
- To be included in the RDCO financial plan for a given year, syilx / Okanagan Nation proposals must be received before October 1st of the preceding year. Proposals received after this date will be considered at the Board's discretion.
- Only projects approved by a motion of the Board indicating the amounts approved shall proceed.

Payment of Funds

- Where funding is approved for a syilx / Okanagan Nation project, a contribution agreement must be signed between the RDCO and the syilx / Okanagan Nation.
- Once the criteria of the agreement (see clause 8.d in the agreement) has been satisfied the RDCO will advance the syilx / Okanagan Nation the funds for the approved project.

Time Limits

- CWF funded projects must be spent within twenty-four (24) months from the Board approval date or be returned.
- Extensions to the twenty-four (24) month term may be considered and approved by the Financial Administrator.

Reporting

- The RDCO is required to provide annual reporting to the UBCM, including measured outcomes on recent past projects.

Community Works Fund (Previously Gas Tax) allocations based on population:

In addition to adopting the new policy, staff recommends setting aside historic funds (2014-2022) which could have been used by WFN and OKIB for eligible projects based on the following assumptions:

- No change in the allocation of funds received from 2005-2014.
- 2014-2022 funds received allocated based on population used by UBCM.
- Annual interest earned is allocated on a pro-rata basis using opening balances for the year. Where the opening balance is negative, no interest is allocated or charged.
- The totals include amounts over the life of the program. Since criteria before 2014 required projects be owned by the RDCO, the funds allocated to WFN and OKIB are from 2014 forward.

Table 1

Description	Recalculated				
	Electoral Area West (excluding IR#9 & IR#10)	Westbank First Nation (IR#9 and IR#10)	OKIB (IR#7)	Electoral Area East (excluding IR#7)	Total
Received	2,658,546	4,090,466	894,314	2,641,873	10,285,199
Interest	30,196	208,384	50,005	92,988	381,574
Spent	(3,123,781)	-		(1,840,518)	(4,964,299)
Line a Balance	(435,038)	4,298,850	944,319	894,344	5,702,475
Line b Available Dec 31, 2022	0-	3,994,140	877,384	830,951	5,702,475

Table 2

2019 - 2023 Agreement		
Population Details		
Area	Population	% of Total
Electoral Area West	1,981	12%
Electoral Area East	3,824	23%
Westbank First Nation	9,028	55%
Okanagan Indian Band	1,664	10%
	16,497	100%

Considerations:**Organizational/External:**

The RDCO is committed to reconciliation and has been building better relationships with syilx / Okanagan communities within the Central Okanagan. Correcting inequities in funding allocations is one step in the journey of reconciliation.

The Board's decision regarding this funding may have an impact on our neighbouring local governments who knowingly, or unknowingly, are not allocating funds to the Indigenous communities within their boundaries. This will be especially impactful for the Regional District of North Okanagan who also have OKIB IRs within their regional boundary.

Financial:

By re-allocating funds to better align with the populations across the region and including WFN and OKIB,

it is noted that funds have been overspent in Electoral Area West. This leaves a shortfall in funds which could be allocated to WFN, OKIB and Electoral Area East, based on their population allocation.

Based on an early conversation in this process, consideration was given to taking a forward-looking approach that would, in effect, adopt the Community Works Fund Allocation Policy as presented, allocate the current reserves in accordance with Table 1, **Line b**, write off the overage in Electoral Area West, and move forward with the new policy. Table 1, **Line b** illustrates the financial impact of doing this. Should the Board wish to proceed in that direction the “Alternate Recommendations” below would achieve that.

Recognizing the Board’s commitment to reconciliation and in support of good governance, staff are recommending WFN and OKIB are made whole by allocating Community Works funds in accordance with Table 1, **Line a**, and have the deficit in Electoral Area West paid over time with future Community Works Fund monies as they are received. Should the Board wish to proceed in that direction the recommendations at the beginning of this report would achieve that.

Alternate Recommendations:

THAT the Regional Board approves the Community Works Fund Allocation Policy as attached to the report from the Chief Administrative Officer dated May 04, 2023, and directs staff to apply this policy to CWF funds received in 2023 and subsequent years.

AND THAT the Regional Board allocates funds currently held by RDCO for eligible projects that meet the Community Works Fund criteria as outlined in this report in Table 1, **Line b** of this report.

AND THAT the Regional Board directs staff to work with Westbank First Nation and Okanagan Indian Band to dispense the funds allocated to them based on the Community Works Fund Allocation Policy and information outlined in Table 1, **Line b** of this report.

AND FURTHER THAT the Community Works Fund Allocation Policy be brought to an open meeting once Okanagan Indian Band and Regional District of North Okanagan have been engaged on this matter.

Considerations not applicable:
Legal/Statutory Authority:



Regional Board Policy

COMMUNITY WORKS FUND ALLOCATION

Category: Finance	Number: # - 2023	Replaces: N/A
Type:	Authority:	Approved By:
<input checked="" type="checkbox"/> Policy <input type="checkbox"/> Procedure	<input checked="" type="checkbox"/> Board <input type="checkbox"/> Administrative	<input checked="" type="checkbox"/> Board <input type="checkbox"/> CAO <input type="checkbox"/> Department Head
Office of Primary Responsibility: Finance		
Date Adopted: May 04, 2023	Board Resolution Number: "Insert Board Resolution"	Date to be Reviewed: 2028
Manner Issued: Policy will be adopted by the Regional Board at a public meeting.		

PURPOSE:

To establish guidelines for the Regional District of Central Okanagan's allocation of the Community Works Funds (CWF) and to implement a process to ensure compliance with the Community Works Fund Agreement.

POLICY:

1. Definitions:

The following definitions are used in the interpretation of this policy

- a) "Agreement" refers to the CWF agreement signed between the RDCO and the Union of British Columbia (UBCM).
- b) "Annual Funding" means the annual amount received from UBCM in two installments each year.
- c) "Board" is the elected officials that make up the RDCO Board of Directors.
- d) "CAO" is the Chief Administrative Officer of the RDCO, or their deputy.
- e) "Chair" means the Chair of the Regional Board elected pursuant to the Local Government Act, or the person appointed as the Chair.
- f) "Community Works Fund (CWF)" means those funds received annually by the RDCO from the Community Works Fund, overseen by UBCM. Excluded from the definition for the

purposes of this policy are any funds other than the Community Works Fund that may otherwise come under the Federal Gas Tax umbrella of Funds.

- h) "Directors" are the elected representatives of the RDCO.
- i) "EASC" is the Electoral Area Services Committee of the RDCO.
- j) "IR" means Indian Reserve as defined by the Indian Act within the boundaries of the RDCO.
- k) "Member Municipalities" means the incorporated local governments in the RDCO including the City of Kelowna, City of West Kelowna, District of Peachland, and District of Lake Country.
- l) "Staff" means an employee or contract employee of the RDCO.
- m) "syilx / Okanagan Nation" means the IR's located within the boundaries of the RDCO.
- n) "Federal Gas Tax Funds" means those funds received annually by the Federal Gas Tax – Community Works Fund, overseen by UBCM.
- o) "Financial Administrator" is an officer position established under the Local Government Act and assigned the responsibility of financial administration, or their deputy.
- p) "RDCO" is the Regional District of Central Okanagan.
- q) "UBCM" is the Union of British Columbia Municipalities.

2. Scope:

Proposed projects or initiatives must meet the eligibility criteria and guidelines outlined by the Agreement.

3. Authority:

- a) The CAO is responsible for implementing and administering this policy.
- b) UBCM determines the eligibility criteria for projects and/or proposed expenditures.
- c) Staff is responsible for reviewing proposed projects and expenditures to ensure they meet UBCM eligibility criteria.
- d) The EASC is responsible for reviewing and evaluating all proposed projects and initiatives that meet the eligible criteria and guidelines of CWF to provide recommendations to the Board.
- e) The Board is responsible for reviewing and evaluating all proposed projects and initiatives that meet the eligible criteria and guidelines of CWF and making decisions on funding.

POLICY STATEMENT:

4. Allocation of Funds:

- a) The RDCO receives CWF annual funding under the terms of the Agreement. These funds are allocated for use in the electoral areas and syilx / Okanagan Nations within the boundaries of the Regional District.
- b) No portion of these funds shall be allocated to member municipalities as they receive their own share of CWF directly from UBCM.
- c) The CWF annual funding received by the RDCO is to be allocated as follows:
 - i) The funds are to be allocated and held for projects based on the individual Census population used by UBCM in determining the allocation of CWF monies to RDCO as follows:
 - (1) Electoral Area East,
 - (2) Electoral Area West, and
 - (3) Each syilx / Okanagan Nation allocated based on the population of their IR(s) within the RDCO boundaries.
- d) Subsequent changes in population will not cause unspent funds to be reallocated.
- e) Interest earned on unspent balances will be allocated annually to the respective balances of each fund.

5. Use of Funds

All CWFs must be used in accordance with eligibility criteria contained in the Agreement, and any subsequent changes or updates thereto.

6. Application and Approval Process

- a) Internal RDCO service projects must be reviewed by Staff against eligibility criteria of the Agreement and requests will be presented as a staff report to the EASC.
- b) syilx / Okanagan Nation applications will be submitted to their respective Chief & Council and support staff to ensure eligibility criteria has been met and the project aligns with their strategic priorities.
- c) To best ensure that proper information is gathered to determine the project eligibility and associated expenditures, a written application process will be established for syilx / Okanagan Nations.
- d) Funding applications and reports will be presented to the EASC along with review findings for consideration and referral of eligible projects to the Board for approval.
- e) syilx / Okanagan Nation projects that meet eligibility requirements and have received a resolution by their Council shall not be reasonably denied.
- f) Where possible, the EASC will strive to achieve consensus on CWF approval recommendations to the Board.
- g) Only projects approved by a motion of the Board indicating the amounts approved shall proceed.
- h) The following project areas shall be given priority:

- i) Projects that align with the strategic priorities of the RDCO or syilx / Okanagan Nation;
 - ii) Projects which address critical infrastructure needs, capacity building, capital investment plans, integrated community sustainability plans, life-cycle cost assessments, and asset management plans for the RDCO;
 - iii) Infrastructure projects that are owned or leased by the RDCO or syilx / Okanagan Nation; and
 - iv) Projects that are regionally focused or benefit a large portion of the population.
- i) To be included in the financial plan for a given year, syilx / Okanagan Nation proposals must be received before October 1st of the preceding year. Proposals received after this date will be considered at the Board's discretion.

7. Payment of Funds:

- a) syilx / Okanagan Nations who are recipients of CWF funding must abide by RDCO procurement standards.
- b) In general, the RDCO will work with the syilx / Okanagan Nation recipients to ensure RDCO procurement standards are met.
- c) Supplier invoices for costs that do not meet eligibility criteria will not be paid. This will be the case regardless of what the initial project eligibility review had indicated.
- d) Where a syilx / Okanagan Nation project is approved for an eligible project, a contribution agreement must be signed between the RDCO and the syilx / Okanagan Nation. The agreement must include the following commitments from the syilx / Okanagan Nation:
 - i) Compliance with all applicable regulations including obtaining proper building permits;
 - ii) Responsibility for sourcing any remaining project funds needed for the proposed project;
 - iii) Submission of an annual report in a form prescribed by the Financial Administrator for each year in which the project is being funded;
 - iv) Submission of a final report in a form prescribed by the Financial Administrator including the outcomes and deliverables of the project;
 - v) To provide to the Financial Administrator a copy of an unaudited Balance Sheet and Statement of Income and Expenses for the year the funds were dispersed to finance the project; and
 - vi) To maintain all records associated with the project and retain these records for at least five (5) years following the project completion.
- e) Once the criteria in 7.d) of this agreement has been satisfied the RDCO will advance the syilx / Okanagan Nation the funds for the approved project.

8. Time Limits

- a) CWF funded projects must be spent within twenty-four (24) months from the Board approval date.
- b) Any unspent funds within the RDCO Electoral Areas will be redistributed twenty-four (24) months following the Board approval date.
- c) syilx / Okanagan Nations must return any unspent funds twenty-four (24) months following the Board approval date. This expectation will be communicated to the syilx / Okanagan Nation recipients upon approval, within the body of the contribution agreement.
- d) Extensions to the twenty-four (24) month term may be considered and approved by the Financial Administrator.

9. Reporting

- a) The RDCO is required to provide annual reporting to the UBCM, including measured outcomes on recent past projects.
- b) syilx / Okanagan Nation recipients must adhere to the contribution agreement requirements listed in 7.d) of this agreement and provide all documentation as requested.
- c) syilx / Okanagan Nation recipients that do not meet the reporting requirements may be subject to a requirement to repay the CWF.

RELATED POLICIES, PROCEDURES, AGREEMENTS AND/OR BYLAWS:

***** END OF POLICY *****

<u>Policy No.</u>	<u>Date Adopted</u>	<u>Date Reviewed</u>	<u>Amended (Y/N)</u>	<u>Date Reissued</u>	<u>Authority</u>
BP#					

Community Works Fund Allocation Policy

Committee of the Whole Meeting – Closed
June 8, 2023

1450 K.L.O. Road
Kelowna, BC, V1W 3Z4
rdco.com



Community Works Fund Allocation Policy

- Purpose:

- Bring forward a Community Works Fund Allocation Policy for Board consideration and approval.

- Objectives:

- Enact a Board policy that establishes a methodology for the internal allocation of Community Works Fund monies for 2023 and future years;
- Make Westbank First Nation and Okanagan Indian Band whole by reconciling the deficit in Electoral Area West (Table 1, Line a).

Table 1

Description	Recalculated				
	Electoral Area West (excluding IR#9 & IR#10)	Westbank First Nation (IR#9 and IR#10)	OKIB (IR#7)	Electoral Area East (excluding IR#7)	Total
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Recommendation

All Directors - Unweighted Corporate Vote – Simple Majority (LGA s.208)

THAT the Committee of the Whole recommends to the Regional Board the following:

- **THAT** the Regional Board approves the Community Works Fund Allocation Policy as attached to the report from the Chief Administrative Officer dated May 04, 2023, and directs staff to apply this policy to CWF funds received in 2023 and subsequent years.
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- **THAT** that the Regional Board directs staff to work with Westbank First Nation and Okanagan Indian Band to dispense the funds allocated to them based on the Community Works Fund Allocation Policy and information outlined in Table 1, Line a of this report.
- **THAT** the Community Works Fund Allocation Policy be brought to an open meeting once Okanagan Indian Band and Regional District of North Okanagan have been engaged on this matter.