



STAFF REPORT ACTION REQUIRED

Ministry of Transportation of Ontario – “Work by Others Program”

Date:	March 29, 2007
To:	Public Works and Infrastructure Committee
From:	General Manager, Transportation Services
Wards:	All Wards
Reference Number:	p:\2007\ClusterB\tra\tim\pw07007tim

SUMMARY

The purpose of this report is to obtain City Council approval for the General Manager, Transportation Services, to be granted the authority to enter into legal agreements with the Ministry of Transportation of Ontario (MTO) in order to undertake road rehabilitation works within the portion of roads crossing above or below MTO’s highways, where MTO currently has jurisdiction.

RECOMMENDATIONS

The Transportation Services Division recommends that:

1. City Council authorize the General Manager of Transportation Services, to execute agreements with the Ministry of Transportation of Ontario in relation to the improvements to the rehabilitation of the pavement and sidewalks on roadways within the public right of ways under the jurisdiction of the Province of Ontario at Kennedy Road at Highway 401, McCowan Road at Highway 401 and Weston Road at Highway 401, on the terms and conditions as generally set out in this report, and on such other terms and conditions satisfactory to the General Manager of Transportation Services, and in a form satisfactory to the City Solicitor;
2. The General Manager of Transportation Services be authorized to execute any similar agreements with the Province of Ontario in the future, in relation to work on the sections of roadways crossing and within the right-of-way under Ministry of Transportation jurisdiction, and

3. The appropriate City officials be authorized to take the necessary action to give effect thereto.

FINANCIAL IMPACT

There are no financial implications resulting from the adoption of this report.

Transportation Services improvements identified in this report have been approved by City Council as part of the 2007 Capital Budget process. Funds for works under MTO jurisdiction are fully recoverable with no net financial impact to the City.

ISSUE BACKGROUND

The MTO has jurisdiction over various highways within the City's boundaries including Highways 400, 401, 404, 409, 427 and the Queen Elizabeth Way. Its jurisdiction is identified in the *Public Transportation and Highway Improvement Act Subsection 20(1) and 20(2)* and includes all express and collector lanes, ramps and interchanges. In those instances where the City of Toronto's public roads pass under or over these Provincial highways, the MTO has jurisdiction over these sections of the crossing public roads. Moreover, *MTO Directive B-101* describes and clarifies guidelines for the application of Subsection 20(2) of the *Public Transportation and Highway Improvement Act* as it relates to the various maintenance, repair and rehabilitation activities involving grade separations and intersections.

The MTO is responsible for the rehabilitation of the affected highway surface. This includes major repairs and improvements to, and replacement of:

- the pavement and bridge deck;
- the structural components of the bridge including all repairs to the railing systems, parapet walls and barrier walls, expansion joints, approach slabs or supporting members; and
- outdated illumination, guiderails, curb and gutter, storm sewers and catch basins.

The City is responsible for the maintenance and repair of the affected highway surface. This includes:

- all summer operations such as shoulder gravelling, dragging and washout repairs, pothole patching, crack sealing, depression / settlement repairs, sidewalk patching, guiderail repairs, catch basin and storm sewer cleanout and zone painting; and
- all winter operations such as plowing, snow removal, sanding, spring clean-up and "bridge-deck washing".

The MTO has developed a Work by Others (WBO) program to make it possible for municipalities to formalize these work arrangements. For 2007, it was anticipated that the MTO and City could enter into such a work arrangement to include road rehabilitation work at the following locations:

- Kennedy Road at Highway 401;
- McCowan Road at Highway 401; and
- Weston Road at Highway 401.

In accordance with the WBO program, the following action was undertaken:

1. Request for Work - The City identified affected 2007 locations as noted above;
2. Agreement in Principle – The MTO reviewed the City’s request and agreed in principle that road rehabilitation improvements were required within the MTO right-of-way;
3. Funding – The MTO allocated and approved funding in the estimated amount of \$2,058,000.00 (within their WBO program) for the work to be undertaken within its right-of-way by the City in 2007. The funding includes the actual cost of construction, a five percent (5%) provision for design and ten percent (10%) provision for contract administration. Funding for the MTO work will be fully recovered through the Transportation Services 2007 Capital Program “Various Construction Projects” account at no cost to the City;
4. Legal Agreement – The MTO prepared a draft legal agreement that was reviewed by staff of the City’s Legal Services, Corporate Finance (Insurance & Risk Management Section), Transportation Services and Technical Services Divisions;
5. Tender Documents - Tender documents have been prepared by the Technical Services Division to undertake the various works; and
6. Administration - The City will be responsible for all contract administration.

The Transportation Services Division is recommending that authority be granted for the General Manager of Transportation Services to execute the agreement covering the projects for 2007, and that authority be granted to enable the General Manager to execute similar agreements in the future.

COMMENTS

The following subsections explain the benefits and timelines related to the WBO program and the impact on the City’s Transportation Capital Program.

2007 Capital Program

The 2007 Transportation Capital Program includes the following joint MTO/City rehabilitation projects. Funding for these projects have also been approved within MTO's 2007 Capital Program as described below in Table 1.

Table 1 – 2007 Approved Projects

Location	Limits	Estimated Construction Costs	
		City Part	MTO Part
Kennedy Road at Highway 401	Ellesmere Road to Sufferance Road	\$3,150,000.	\$790,000.
McCowan Road at Highway 401	Ellesmere Road to Sheppard Ave	\$2,400,000.	\$500,000.
Weston Road at Highway 401	St Phillips Road (CNR) to Walsh Ave	\$600,000.	\$500,000.
Total:		\$6,150,000.	\$1,790,000.

In order for these projects to be awarded in a timely manner and for this work to be completed in 2007, time is of the essence in receiving City Council authority to enter into a legal agreement related to this work.

Future Capital Work

The MTO has undertaken a program to make significant modifications to highways under its jurisdiction within the City of Toronto. On this note, the MTO advises that rehabilitation of highways is currently in progress or planned within the next ten years. There are several opportunities to make improvements at interchanges and road crossings across the City.

The priority order for work within MTO's rehabilitation program is as follows, from highest to lowest:

1. highway mainline, including structures, express and collector lanes;
2. highway on and off ramps;
3. interchanges; and
4. crossing roads.

The WBO program provides many benefits and opportunities for both the City and the MTO, including:

- continuity of design across the right-of-way so that the road crossing the highway does not look or operate significantly different beyond the MTO lands;
- less traffic disruption as all work is completed within one project rather than spread out over two or more projects;

- opportunity to make improvements in the right-of-way that would not otherwise be considered, such as crosswalk demarcation and tree planting on boulevards; and
- potential for more competitive tender bids based on larger project size, coordination of works and traffic staging.

Contract Provisions

The Agreement provides that the City will arrange for the performance of the rehabilitation work at the specified locations on the Province's right-of-way, and that the Province will reimburse the City for the cost of the work performed. The agreement also provides that the City will indemnify the Province from any claims arising from the work performed by the City, its contractors and consultants. The City's Insurance and Risk Management Section has reviewed this clause and the clause requiring certain insurance to be in place and has ascertained that they are acceptable.

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SIGNATURE

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