

## **Ontario Ministry of Transportation Boundary Facility Agreement - Cinemart Drive**

**Date:** December 20, 2021

**To:** Infrastructure and Environment Committee

**From:** General Manager, Transportation Services

**Wards:** Wards 25 - Scarborough-Rouge Park

### **SUMMARY**

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Cinemart Drive, built in 1985, is a collector road located north of Highway 401 and runs westerly from Morningside Avenue to Milner Avenue and primarily serves the Smart Centres' commercial shopping mall located on the north side of Cinemart Drive. There is a portion of Cinemart Drive that falls within the Ontario Ministry of Transportation's right-of-way between Morningside Avenue and approximately 220 metres west thereof which will continue to be retained by the Ministry (See Appendix 1 Map), while the remaining portion of Cinemart Drive continues to be under the jurisdiction of the City of Toronto.

The purpose of this report is to seek authorization for the execution of an agreement between the City of Toronto and Her Majesty the Queen in right of the Province of Ontario, represented by the Minister of Transportation for the Province of Ontario (MTO) to formalize and clarify both parties' respective responsibilities and cost sharing obligations for the maintenance and rehabilitation of that portion of Cinemart Drive located within the MTO's right-of-way, including the bridge structure over MTO's ramp connecting Morningside Avenue southbound to Highway 401 westbound.

The term of the agreement would be for one (1) year from the date of its execution by both parties, with automatic yearly renewals until the agreement is cancelled in writing by either party with sixty (60) days prior notice or on such other date as the parties agree. Should there be substantive changes to the agreement conditions or responsibilities that would impose additional costs or risk on either party while the agreement is in effect, Transportation Services would submit a report to City Council seeking the necessary authority to amend the agreement.

## **RECOMMENDATIONS**

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The General Manager, Transportation Services, recommends that:

1. City Council authorize the General Manager, Transportation Services to negotiate, enter into, and execute an agreement with Her Majesty the Queen in right of the Province of Ontario, represented by the Minister of Transportation for the Province of Ontario, generally in accordance with the Agreement Terms listed on page 3 of this report dated December 20, 2021 from the General Manager, Transportation Services, and on such other terms and conditions satisfactory to the General Manager, Transportation Services, and in a form satisfactory to the City Solicitor.

## **FINANCIAL IMPACT**

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

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

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This report addresses a new initiative.

## **COMMENTS**

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Cinemart Drive is a collector road constructed in 1985, located north of Highway 401 and runs between Morningside Avenue and Milner Avenue. The construction of Cinemart Drive was a requirement of the City of Scarborough imposed on the developer to help unlock development opportunities with the adjacent parcels of land to the north. The road was intended to help accommodate additional access to the Smart Centres' commercial shopping mall now located to the north of Cinemart Drive and to better manage the traffic generated by the mall. All costs associated with construction of the road were borne by the developer who built the section of road from Milner Avenue up to the MTO's right-of way, with the remaining connection to Morningside Avenue being built by the MTO.

The City has been responsible for the on-going maintenance of Cinemart Drive since it was constructed, while the MTO has been responsible for any inspection and rehabilitation work required for the bridge structure located on Cinemart Drive, which crosses over MTO's ramp connecting Morningside Avenue southbound to Highway 401 westbound.

The former City of Scarborough received Ministry approval to construct the road, but no legal agreement was ever executed formalizing the responsibilities of the City of

Scarborough and the MTO. The MTO has requested that a formal agreement be drafted to legalize the protocols of co-operation between the City of Toronto and the MTO. The agreement would cover that portion of Cinemart Drive that falls within the MTO's right-of-way between Morningside Avenue and approximately 220 metres west thereof which will continue to be retained by the MTO, while the remaining portion of Cinemart Drive will continue to be under the jurisdiction of the City of Toronto. The agreement with the MTO would deal with the technical, administrative, financial and legal obligations of each party and avoids the imposition of any unusual cost or additional work.

## **Agreement Terms**

The term of the Agreement shall be for one (1) year from the date of its execution by both parties, with automatic renewal annually until this Agreement is cancelled in writing by either party with sixty (60) days prior notice or on such other date as the parties agree.

*City of Toronto will be responsible for:*

- On-going summer and winter maintenance, repairs and operation for the entire section of Cinemart Drive from Morningside Avenue to Milner Avenue;
- Routine maintenance of the bridge structure located on Cinemart Drive;
- All costs associated with the above responsibilities;
- Maintaining in full force and effect throughout the term of the agreement, liability insurance with coverage of not less than ten (10) million dollars inclusive per occurrence for bodily injury, personal injury, death and damage to property including loss of use thereof; and
- Naming the Ministry as an additional insured on the City's liability insurance policy at all times throughout the term of the agreement.

In accordance with subsection 33(1) of the Public Transportation and Highway Improvement Act, R.S.O. 1990, c.P.50, the maintenance work undertaken by the City for the section of Cinemart Drive between Morningside Avenue and approximately 220 metres west thereof is considered a municipal undertaking and would be subject to an apportionment of liability to the City.

*MTO will be responsible for:*

- Carrying out inspection, major maintenance, rehabilitation, routine monitoring, cleaning of the drainage systems and reconstruction of the bridge structure, as required, crossing over the Ministry's Highway 401 westbound ramp; and
- All costs associated with the above responsibilities.

The agreement with the MTO will formalize the terms and conditions that have been the basis of co-operation between the two organizations. The agreement formalizes this arrangement and hence does not impose any additional costs to the City of Toronto.

Staff of Risk Management of Finance & Treasury Services and Toronto Water and Engineering and Construction Services have all been consulted in the preparation of this report.

## **CONTACT**

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## **SIGNATURE**

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Barbara Gray,  
General Manager, Transportation Services

## **ATTACHMENT**

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Appendix 1: Map - Limits of Cinemart Drive Agreement

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