

Bill No. 235
2020

By-law No. A.-_____ - _____

A by-law to authorize a Memorandum of Understanding between The Corporation of the City of London and Her Majesty the Queen in Right of Ontario represented by the Minister of Transportation (MTO) for the construction of the Dingman Drive bridge; and to authorize the Mayor and City Clerk to execute the Agreement.

WHEREAS section 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 it is deemed expedient for The Corporation of the City of London (the "City") to enter into a Memorandum of Understanding with Her Majesty the Queen in Right of Ontario represented by the Minister of Transportation (MTO) for the construction of the Dingman Drive bridge (the "MoU");

AND WHEREAS it is appropriate to authorize the Mayor and City Clerk to execute the MoU on behalf of the City;

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

1. The Memorandum of Understanding attached as Schedule "A" to this By-law, being a Memorandum of Understanding between The Corporation of the City of London and Her Majesty the Queen in Right of Ontario represented by the Minister of Transportation (MTO) for the construction of the Dingman Drive bridge is hereby AUTHORIZED AND APPROVED.
2. The Mayor and City Clerk are authorized to execute the MoU authorized and approved under section 1 of this by-law.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on August 25, 2020.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First reading – August 25, 2020
Second reading – August 25, 2020
Third reading – August 25, 2020

SCHEDULE A
MEMORANDUM OF UNDERSTANDING

June 23, 2020

Mr. Doug MacRae, P.Eng.
Director, Roads & Transportation
City of London
300 Dufferin Avenue, PO Box 5035
London ON
N6A 4L9

Dear Mr. MacRae:

RE: Memorandum of Understanding for the Design and Construction of provisions to accommodate future widening of Highway 401/Dingman Drive Underpass Structure, Westminster Township.

This signed Memorandum of Understanding (this "Memorandum") will constitute binding agreement between **Her Majesty the Queen in right of the Province of Ontario, represented by the Minister of Transportation for the Province of Ontario** (the "Ministry") and **The City of London** (the "City") on the following:

1. The underpass structure which carries Dingman Drive over Highway 401, is under the jurisdiction and control of the Ministry (the "Dingman Drive Underpass").
2. The Ministry is currently conducting a detail design and environmental assessment for the replacement of the existing Dingman Drive Underpass structure. The existing structure has two 3.20-m lanes and 1.68-m shoulders. The new structure will provide two 3.75-m lanes with 3.0-m shoulders.
3. The City's planning for the future includes the need to widen the bridge in the future to an ultimate cross-section of four lanes (two lanes in each direction) with multi-use paths on each side of the bridge. The time horizon for the widening of the bridge is not known at this time and it is anticipated to be beyond the 20-year long-range planning horizon. The City has requested the Ministry to design and construct a wider foundation at the median pier ("Requested Works") to be included in the Ministry's new Dingman Drive Underpass structure replacement project. The purpose of the wider foundation is to take advantage of the upcoming structure replacement and accommodate future widening of the bridge to the ultimate cross-section. The City has agreed to pay the costs of the Requested Works to the Ministry pursuant to the terms of this Memorandum.
4. The detail design will be carried out by the Ministry's selected consulting firm and Ministry staff assigned to the project.
5. Where applicable, the Ministry agrees to undertake the following on behalf of the City, at the City's expense and cost:
 - A. Detail design and environmental assessment of Requested Works;
 - B. The construction and contract administration of the Requested Works;
 - C. Utility relocation due to the addition of the Requested Works (if any);
 - D. Property acquisition due to the Requested Works (if any);

6. The City agrees to compensate the Ministry for the following:
 - A. All of the detail design, environmental assessment, construction, and contract administration actual costs directly relating to the Requested Works; and
 - B. All of the utility relocation and property acquisition actual costs directly relating to the Requested Works. Cost-sharing for utility relocations shall be according to Ministry cost-sharing provisions.
7. For clarity, the cost of the Requested Works is estimated in the amount of \$300,000 plus HST based on parametric estimating and does not include utility relocation and property acquisition costs. The Ministry agrees to provide a detailed estimate within three months. The City acknowledges and agrees that the said sum is an estimate only and that payment shall be made by the City to the Ministry for all costs incurred by the Ministry associated with the Requested Works.
8. The final decision of the structure type, span arrangements, girder depth etc. will be the sole discretion of the Ministry.
9. The Ministry agrees to provide the City with a copy of the final engineering design and environmental assessment report.
10. The City warrants that it has taken all necessary steps, done all acts, passed any necessary by-laws and obtained all approvals within its power legally required to give it the authority to enter into this Memorandum.
11. This Memorandum of Understanding is conditional upon the parties entering into a cost-sharing agreement which will be provided to the City upon the completion of the detail design and environmental assessment phase.
12. This Memorandum of Understanding may be amended upon the mutual written agreement of the parties.
13. The address of the City under this Memorandum for service, unless otherwise advised, is:

City of London
300 Dufferin Avenue, PO Box 5035
London ON N6A 4L9

Attention: Mr. Doug MacRae, P.Eng.
Director, Roads & Transportation
City of London
Telephone: (519) 661-2489 ext.4936

14. The address of the Ministry under this Memorandum for service, unless otherwise advised, is:

Ministry of Transportation
West Region
659 Exeter Road
London, ON, N6E 1L3

Attention: Neil Zohorsky, P. Eng.
Regional Director
West Region
Telephone: (519) 873-4335
Fax: (519) 873-4600

If the above meets with the City's approval, please have four (4) copies of this Memorandum of Understanding signed and dated and send three original copies to this office as soon as possible. Additionally, due to COVID-19 restrictions, please email an electronically signed PDF to Neil.Zohorsky@ontario.ca with a copy to Christine.Costa@ontario.ca and Natalia.Bartos@ontario.ca. This signed Memorandum of Understanding will constitute a binding agreement by both parties with respect to the contents of this Memorandum.

Yours truly,

Neil Zohorsky
Digitally signed by Neil Zohorsky
DN: cn=Neil Zohorsky, o=Ministry of
Transportation, ou=West Region,
email=neil.zohorsky@ontario.ca, c=CA
Date: 2020.06.23 21:23:42 -04'00'

Neil Zohorsky, P. Eng. Regional
Director
West Region

Signed and Sealed this _____ day of _____, 20____

THE CORPORATION OF THE CITY OF LONDON c.s.

Authorized Signature

Date

I/We have authority to bind the City