



STAFF REPORT ACTION REQUIRED

Grant of Temporary Easement to the Toronto District School Board in a Portion of Flemingdon Park

Date:	April 1, 2008
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	Ward 26 – Don Valley West
Reference Number:	P:2008\Internal Services\F&re\Gm08032F&re - (AFS 7042)

SUMMARY

The purpose of this report is to obtain authority to grant a temporary easement to the Toronto District School Board (“TDSB”) in a portion of Flemingdon Park for a term of 20 years without any rights of renewal, for the purpose of maintaining that part of the asphalt walkway and retaining wall located on City-owned lands connecting Grenoble Public School with the park.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. Council grant authority to enter into a twenty (20) year temporary easement agreement with TDSB, without any rights of renewal, in a portion of the City-owned Flemingdon Park, being Part of Block M, Plan M834 (the “Property”), as shown on Appendix “B”, substantially on the terms and conditions outlined in Appendix “A” and on such further terms as may be acceptable to the Chief Corporate Officer and in a form satisfactory to the City Solicitor.

Financial Impact

The twenty-year easement is being granted to TDSB for nominal consideration in return for TDSB taking on the responsibility to maintain the asphalt walkway and retaining wall located on the Property at its own cost. This will result in savings of approximately \$12,000 over the term to the City in terms of maintenance and further improvements to the asphalt walkway and retaining wall.

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

ISSUE BACKGROUND

Flemingdon Park is a 16.20 hectare park made up of five (5) blocks of leased or City-owned parkland. The City-owned ravine adjacent to Grenoble Public School require priority improvements because of the extensive erosion of the side slopes caused by the students of Grenoble Public School who access the school (especially from the east and south) by traversing these slopes.

According to a Landscape Master Plan for the school and the ravine parkland, it was recommended that an asphalt ramp and a retaining wall with metal railings should be constructed between the school and the ravine City-owned parkland to address the erosion problem (the “Project”). As the Project, which straddles both City and TDSB lands, is an integral element, it was recommended that it should be built at the same time by one contractor. Both the TDSB and the City have agreed that TDSB will build the Project on the Property. The General Manager of Parks, Forestry & Recreation, in consultation with the Purchasing and Materials Management Division, has authorized TDSB to provide construction services via the approved purchasing procedures and in accordance with the provisions of the City of Toronto Municipal Code Chapter 195 (Sole sourcing authorities). The Project was completed by TDSB on February 26, 2008.

TDSB has agreed to solely maintain the asphalt ramp and the retaining wall with metal railings located on the Property, and requests that a permanent easement over the Property be granted to TDSB for this purpose. However, as the Property is within the Parks and Open Space Areas in the Official Plan, the disposal of such (by sale or easement over 21 years) is prohibited by the Official Plan. The Official Plan, however, stipulates that City-owned lands in the Parks and Open Space Areas may be exchanged for other nearby land of equivalent or larger area and comparable or superior green space utility.

Considering the maintenance of the asphalt ramp and retaining wall located on the Property would have been the responsibility of the City, it is not reasonable for the City to request TDSB for conveyance of a parcel of land that meets the Official Plan requirements in exchange for the granting of the permanent easement. Given the Official Plan disposal prohibition, TDSB have agreed to a temporary easement for a term of 20 years without any rights of renewal. Staff of Parks, Forestry & Recreation has been consulted and has no objection to the proposed temporary easement, subject to the inclusion of the terms and conditions as outlined in Appendix “A”.

COMMENTS

Staff proposes that the temporary easement be authorized substantially on the terms and conditions outlined in Appendix “A” and on such further terms and conditions as may be acceptable to the Chief Corporate Officer or City Solicitor.

CONTACT

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SIGNATURE

Bruce Bowes, P. Eng.
Chief Corporate Officer

ATTACHMENTS

Appendix A – Major Terms and Conditions
Appendix B – Sketch & Map

Appendix “A”

Terms and Conditions of Granting Easement to TDSB

Easement Lands:	Portion of Flemington Park where the asphalt ramp and retaining wall with metal railings are located
Legal Description:	Part of Block M on Plan M834
Grantor:	City of Toronto
Grantee:	Toronto District School Board (TDSB)
Term:	Twenty (20) years without any rights of renewal
Commencement Date:	Upon execution of the Agreement
Fee:	Nominal consideration (\$2.00)
Use and Maintenance:	<p>(a) TDSB shall use the Easement Lands for the sole purpose of maintaining or altering/updating the asphalt ramp and retaining wall</p> <p>(b) TDSB shall maintain and, if required, update the asphalt ramp and retaining wall at its sole cost and expense, to the satisfaction of the General Manager of Parks, Forestry & Recreation</p>
Indemnification and Insurance:	TDSB shall indemnify and save harmless the City from and against all actions, suits, claim or demands and from all loss, costs, damages and expenses that may result from such permission granted and shall provide such insurance as may be required by the Chief Financial Officer and Treasurer
Reference Plan:	TDSB shall obtain and deposit in the appropriate Land Registry Office, at its sole cost and expense, a Reference Plan of Survey, integrated with the Ontario Co-ordinate System, satisfactory to the City Surveyor, delineating the Easement Lands
Registration on Title:	TDSB shall pay the cost of registering the easement on title, including GST, if applicable
Legal Administration Fee:	TDSB shall pay legal administration fee of \$500.00, plus any applicable GST

Other Terms	TDSB shall accept such additional conditions as the Chief Corporate Officer or City Solicitor may deem necessary in the interest of the City
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