

**Grant of Temporary Easement to Enbridge Gas  
Distribution In a Portion of CN Leaside Park at Overland  
Drive**

<b>Date:</b>	April 1, 2008
<b>To:</b>	Government Management Committee
<b>From:</b>	Chief Corporate Officer
<b>Wards:</b>	Ward 25 – Don Valley West
<b>Reference Number:</b>	P:\2007\Internal Services\F&re\Gm08030F&re – (AFS 7314)

**SUMMARY**

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The purpose of this report is to obtain authority to grant a temporary easement to Enbridge Gas Distribution Inc. (“Enbridge”) in a portion of CN Leaside Spur Park at Overland Drive for a term of 10 years without any rights of renewal, shown as Part 1 on Sketch No. PS-2008-047 and on Appendix “B” attached.

**RECOMMENDATIONS**

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**The Chief Corporate Officer recommends that:**

1. Council grant authority to enter into a ten (10) year temporary easement agreement with Enbridge Gas Distribution Inc. for a buried NPS 6 gas pipeline, without any rights of renewal, in consideration for the sum of \$3,500.00 paid to the City, in a portion of CN Leaside Spur Park, being a portion of Parts 4, 5 & 6 on Plan 64R-17106, also shown as Part 1 on Sketch No. PS-2008-047 and on Appendix “B” attached (the “Property”), substantially on the terms and conditions outlined in Appendix “A” and on such further terms as may be acceptable to the Chief Corporate Officer or in a form satisfactory to the City Solicitor.

**Financial Impact**

Revenue in the amount of \$3,500.00 plus GST if applicable, is anticipated.

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

## ISSUE BACKGROUND

The City-owned park known as the CN Leaside Spur Park is comprised of the former CN railway right-of-way land purchased by the City of Toronto from the railway in 2001. The strip of parkland flows in a north-south direction, running almost parallel and east of Leslie Street.

Enbridge was previously authorized by CNR, under a 1959 pipe crossing agreement (while CN was the former owner), to install and operate one NPS 4 gas pipeline near the location of the proposed pipeline to supply gas from its Leslie Street pipeline and Overland Drive to customers to the east.

In order to supply additional gas now required for the re-development of the former Don Mills Centre at the southwest corner of Don Mills Road and Lawrence Avenue East, Enbridge intends to construct an additional gas line beside and parallel to their original gas line.

Enbridge originally requested a permanent easement for its additional pipeline; 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. Alternatively, a prospective purchaser may apply for an amendment to the Official Plan to permit the sale (or easement over 21 years) of a defined portion of a particular park without the necessity for land exchange.

Considering the urgency of the required supply of gas and the cost of obtaining an Official Plan Amendment, Enbridge revised its initial requirement and are now requesting a temporary easement, with the understanding that there is no renewal commitment on part of the City. Due to Council meeting dates and an urgent need to accommodate an April in-service date to the former Don Mills Centre, Enbridge also applied for and received a Parks Occupation Permit from Parks, Forestry & Recreation to enter the Property and begin construction without delay. The Parks Permit only permits Enbridge to install an additional gas pipeline for a duration of six months, beginning March 5, 2008.

## COMMENTS

	Property Dimensions
1. East/West Measurement	30.5 m (100.1 ft)
2. North/South Measurement	3.0 m (9.8 ft)
3. Site Area (Approximate)	92 m <sup>2</sup> (990.3 ft <sup>2</sup> )

Staff propose that a temporary easement for the buried gas pipeline 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.

Completion of this transaction will generate revenue for the City which is reflective of market value and is considered fair and reasonable.

## CONTACT

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## SIGNATURE

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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 Enbridge Gas Distribution Inc.

Grantor:	City of Toronto
Grantee:	Enbridge Gas Distribution Inc.
Property:	Portion of CN Leaside Spur Park, at Overland Drive
Legal Description:	Part of PARTS 4, 5 & 6 on Plan 64R-17106, also shown as PART 1 on Sketch No. PS-2008-047
Approximate Dimensions:	30.5 m x 3.0 m (100.1 ft x 9.8 ft)
Approximate Area:	92 m <sup>2</sup> (990.3 ft <sup>2</sup> )
Term:	Ten (10) years without any rights of renewal
Commencement Date:	Mutually agreeable to both parties
Termination:	Upon expiration of the Agreement, the Grantor is under no obligation to renew the Agreement. The Grantee shall, on or before the expiry date of the temporary easement, at its own expense, remove the pipeline and restore all lands to their original state
Fee:	One-time fee of \$3,500.00 plus applicable taxes
Use and Maintenance:	<p>(a) The Grantee shall use the Property for the sole purpose of constructing and maintaining a NPS 6 gas pipeline to service the former Don Mills Centre located on the southwest corner of Lawrence Avenue East and Don Mills Road</p> <p>(b) The Grantee shall be required to:</p> <ul style="list-style-type: none"> <li>(i) erect security fences at the Property to prevent access by the public during construction;</li> <li>(ii) restore all lands to their original condition as shall be determined in the sole discretion of the Chief Corporate Officer, acting reasonably, through prior and post construction inspections by Chief Corporate Officer and Enbridge staff;</li> <li>(iii) post signage to inform pedestrians of scheduled closures at least 2 weeks in advance of the closure and flyer drop to neighbourhood residents to</li> </ul>

	<p>inform of scheduled closures;</p> <p>(iv) at its own expense, keep the Property in a clean and well-ordered condition, and not permit any rubbish, refuse, debris or other objectionable material to be stored, or to accumulate, thereon during periods of construction;</p> <p>(v) if, in the opinion of the Grantor, the land or any portion occupied by the pipeline is required by the Grantor, upon reasonable notification from the Grantor, the Grantee shall, at its own expense, remove or alter its pipeline to the Grantor's satisfaction;</p> <p>(vi) the easement is on the express understanding that the City makes and has not made any representation that the Grantee has any right, option or other understanding from the City and/or its staff that the temporary easement may be extended or renewed;</p> <p>(vii) On or before the date of expiry of the temporary easement the Grantee shall, at its expense, take all necessary steps to remove the pipeline and to restore the Property to its original condition, satisfactory to the Parks, Forestry &amp; Recreation Division</p>
Indemnification and Insurance	<p>The Grantee shall, at all times, indemnify and save harmless the City from and against any and all manner of claims, demand, losses, costs, charges, actions and other proceedings whatsoever (including those under or in connection with the <i>Worker's Compensation Act</i> and the <i>Construction Lien Act</i> or any successor legislation) made or brought against, suffered by or imposed on the City or its property in respect of any loss, damage or injury (including fatal injury) to any person or property (including, without restriction, employees, agents and property of the City or of the Grantee) directly or indirectly to the extent arising out of, resulting from or sustained as a result of the Grantee's occupation or use of, or any operation by the Grantee in connection with, the Property</p> <p>The Grantee shall provide at its own expense, arrange and maintain a liability insurance policy satisfactory to the Grantor in the minimum amount of Five Million (\$5,000,000.00) dollars in order to indemnify the Grantor</p>

	and such insurance shall name the Grantor as an additional insured and contain a cross liability clause
Reference Plan	The Grantee 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, delineating the Property. Prior to its registration on title, a draft of the Reference Plan shall be submitted to the Chief Corporate Officer for his approval
Registration on Title:	The Grantee shall pay the cost of registering the easement on title, including GST, if applicable
Legal Administration Fee:	The Grantee shall pay legal administration fee of \$500.00, plus any applicable GST
“As-is” Condition:	The Grantee shall accept the Property on an "as is" basis, including without limitation, the environmental condition of the Property. The Grantee must satisfy itself, at its own expense, that the Grantee’s intended use complies with existing zoning by-laws and all other applicable rules and regulations. Prior to performing any construction on the Property, detailed drawings and specifications must be submitted to the City’s Chief Corporate Officer for prior written approval
Other Terms	The Grantee shall accept such additional conditions as the Chief Corporate Office or City Solicitor as may be necessary in the interest of the City