



**STAFF REPORT
ACTION REQUIRED**

**York University Busway –
Canadian National Railway Crossing Agreements**

| | |
|--------------------------|---|
| Date: | June 23, 2008 |
| To: | Government Management Committee |
| From: | Chief Corporate Officer |
| Wards: | Ward 8 – York West |
| Reference Number: | P:\2007\Interal Services\F&re\ Gm08062F&re – (AFS – 8073) |

SUMMARY

The joint City/TTC York University Busway Project (the “Project”) consists of constructing a dedicated roadway for bus transit service (the “Busway”) between Downsview Station and York University. The longest continuous section of the Busway is a portion of the Hydro corridor, north of Finch Avenue between Keele and Dufferin Streets. In September 2007 City Council granted authority to enter into a permanent easement and a temporary construction licence with Ontario Realty Corporation (ORC) for the use of a portion of the Finch Hydro corridor for Busway purposes.

A Canadian National Railway (“CN”) rail corridor, known as the Newmarket Subdivision, bisects the Hydro corridor. In order for the Busway to pass over the tracks, CN must retire an existing north rail access into the Esso’s Finch Facility and construct a run-around track and a new south rail access into this facility. CN must also install a crossing warning system at the track and Busway intersection. TTC’s contractor will construct the Busway road surface upon CN lands at the crossing.

Negotiations with CN have resulted in CN agreeing to undertake the required rail and warning system work and the City and TTC agreeing to fund the project costs of the CN construction and annual maintenance during construction with on-going maintenance to be addressed in the Operating Budget, subject to City Council approval to enter into the proposed CN standard crossing construction and warning system agreements.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council grant authority to enter into a standard crossing construction agreement with CN and the TTC, at a cost of \$2,030,000.00, plus GST, substantially on terms outlined in Appendix “A” and that each the Chief Corporate Officer and the Director of Real Estate be authorized severally to enter into the agreements.
2. City Council grant authority to enter into a standard crossing warning system agreement with CN and TTC, at a cost of \$386,000.00, plus GST, substantially on terms outlined in Appendix “A” and that each the Chief Corporate Officer and the Director of Real Estate be authorized severally to enter into the agreements.
3. The Chief Corporate Officer be authorized to administer and manage the crossing construction and warning system agreements including the provision of any consents, approvals, notices and notices of termination provided that the Chief Corporate Officer may, at any time, refer consideration of such matters (including their content) to City Council for its determination and direction.
4. The City Solicitor be authorized to complete the transactions in the agreements on behalf of the City, including paying the necessary expenses and amending the commencement and other dates, and amending and waiving terms and conditions, on such terms, as she considers reasonable.
5. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Financial Impact

Commencing in 2009, the annual cost for the maintenance of the CN rail crossing and warning system will be approximately \$7,200.00. These costs will be addressed within the TTC capital project while under construction and upon the opening of the line for revenue service. The TTC will include this cost in its future year Operating Budgets. Upon the opening of the Toronto York Spadina Subway Extension, decisions will be made upon the future utilization of this roadway and the costs will be addressed in future budgets as appropriate

The capital cost to the TTC for CN to complete the rail and signal work is \$2,416,000.00. Funding is included in Program 3.3 Yards and Roads under Bus Rapid transit (BRT) – Spadina Subway to York University/Steeles Avenues as identified on pages 665 to 671 – category expansion of the TTC 2008-2012 Capital Program as approved by City Council on December 11, 2007 (Account CTT015).

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

DECISION HISTORY

City Council, at its meeting held on May 23, 24 and 25, 2006, adopted Clause 12 of Report No. 3 of the Administration Committee titled “Memorandum of Agreement and Easement Agreement – Construction and Operation of York University Bus Only Roadway”, authorizing the City to enter into the MOU and a temporary easement with York University and the TTC for the construction and operation of a bus-only road on York University Campus.

In June 2006, the Project received Ontario and Canadian Environmental Assessment approvals. City Council at its meeting on September 25, 26 and 27, 2006, adopted Clause 33 of Report No. 6 of the Administration Committee titled “Acquiring Land Necessary for the York University Busway”, which authorized staff to enter into negotiations for the acquisition, whether by purchase or lease for a period of ten (10) years, of the necessary property interests.

At its meeting on September 26 and 27, 2007, City Council adopted Government Management Committee Report No. GM7.22, thereby authorizing the City to enter into a permanent easement and a temporary construction licence with ORC, on behalf of the Province and Hydro, to facilitate the construction and operation of the Busway within the Finch Hydro corridor.

COMMENTS

A key element of the Project is the completion of the Busway within the Finch Hydro corridor. In order that it be completed and operational by late 2008, it is necessary that CN complete the work outlined in this report by the end of September 2008.

CN advised that the construction of the Busway crossing necessitates the following work:

- (1) retire the existing north rail access into Esso’s Finch Facility
- (2) construct a new south rail access into Esso’s Finch Facility;
- (3) in order to utilize the proposed south rail access, construction of a run-around track, approximately 2,000 feet in length, parallel to the CN’s Newmarket Subdivision; and
- (4) install a rail crossing warning system at the intersection of the tracks and Busway, consisting of flashing lights, bells and gates.

Negotiations between the City, TTC and CN have reached a consensus on terms of construction, maintenance and compensation under which the railway work related to the Busway is to be completed. The parties have agreed that the terms are to be set out in a crossing construction agreement and a warning system agreement, containing substantially the terms and conditions set out in Appendix “A”, including costs of \$2,030,000.00 and \$386,000.00, respectively. The annual maintenance and inspection of

the CN crossing is approximately \$7,200.00 and will be addressed within the TTC capital project during construction and following the opening of the Busway, will be included in the 2009 and future year TTC budget submissions. All amounts are subject to GST.

Should the CN work be delayed past October, the opening of the Busway could not be realized until early 2009 and could result in an increase in construction costs directly attributable to such delay.

CONTACTS

Joe Casali, Director, Real Estate Services; Tel: (416) 392-7202; Fax: (416) 392-4880;
E-Mail: jcasali@toronto.ca

Domenic Garisto, Manager, TTC Property Development; Tel: (416) 393-6536; Fax: (416) 338-0211; E-Mail: Domenic.Garisto@ttc.ca

SIGNATURE

Bruce Bowes, P.Eng.
Chief Corporate Officer

ATTACHMENTS

Site Maps
Appendix "A"