



STAFF REPORT ACTION REQUIRED

Kennedy GO Transit Pipe Crossing Agreement

Date:	July 16, 2009
To:	City Council
From:	Deputy City Manager and Chief Financial Officer
Wards:	N/A
Reference Number:	P:\2009\InternalServices\F&re\Cc09066\F&re – (AFS 10296)

SUMMARY

The purpose of this report is to seek City Council’s authority to execute an Underground Pipe Crossing Agreement (the “Crossing Agreement”) with Greater Toronto Transit Authority (the “GO Transit”), for the purpose of the installation and maintenance of a watermain through lands owned by GO Transit at Kennedy Road – Mi.52.40, as shown in Appendix “B”, to transport water from Kennedy Pumping Station to Milliken Pumping Station and Reservoir.

RECOMMENDATIONS

The Deputy City Manager and Chief Financial Officer recommends that:

1. Authority be granted for the execution of the Crossing Agreement with GO Transit, for the lands described as Kennedy Road at Mi. 52.40, GO Transit Uxbridge sub-crossing for a term of ten (10) years with one further renewal option of ten (10) years, for the sum of \$3,000.00 plus GST for the first term, in advance, and on terms and conditions deemed appropriate by the Chief Corporate Officer and in a form satisfactory to the City Solicitor.
2. The Chief Corporate Officer and the Director of Real Estate Services be severally authorized to accept and execute the Crossing Agreement on behalf of the City.
3. The City Solicitor be authorized to complete all transactions for the Crossing Agreement on behalf of the City, including making payment of any necessary expenses, and setting of dates to such earlier date(s) and on such terms and conditions as she may from time to time consider reasonable.

Financial Impact

Funds to cover the cost of the Crossing Agreement for the 1500mm watermain on GO Transit's lands, in the amount of \$3,000.00, payable in advance, plus G.S.T. for the first term (10 years) are available in the 2009-2013 Capital Works Program for Toronto Water (-Capital Account No.CPW041-04 - construction and land costs).

The same account includes a funding provision for any additional costs that may result from the City having to assume certain liabilities such as flagman and cable locate costs in the proposed Crossing Agreement. These costs have an upset limit of \$50,000.00.

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

DECISION HISTORY

To meet future water demands, it is necessary to construct a 1500mm diameter water main on Kennedy Road from south of Purcell Square to Milliken Pumping Station and Reservoir, south of 14th Street. The required lands are more specifically described as being north of Steeles Avenue East, Kennedy Road at Mi. 52.40, GO Transit Uxbridge sub-crossing in the Town of Markham. GO Transit is prepared to provide the lands to the City for its purposes. The term of the agreement is for a ten (10) year period, and may be renewed for one further ten (10) year term, with the license fee to be renegotiated by the parties prior to renewal, provided that the license fee for the renewal term shall not be less than the licence fee for the initial term.

ISSUE BACKGROUND

City Council on February 5, 6, 7 and 8, 2007 adopted motions set out in Executive Committee Meeting 3 EX3.1 – 2007 – 2016 Capital Program Toronto Water Analyst Briefing Notes which sought approval for the funding of Toronto Water projects. The proposed watermain project falls within the foregoing approved budget, and is included in the 2009-2013 Capital Works Program for Toronto Water.

Toronto Water Division indicated that it is urgent that construction of the watermain commence in order that the City meet its contractual obligations by the summer of 2011. Consequently, there is a need for the City to finalize the Crossing Agreement as soon as possible.

Staff have commenced negotiations with GO Transit. The draft agreement provided by GO Transit is for \$3,000 plus GST and contains the standard GO Transit provisions which include indemnification requirements and a termination clause on 10 days written notice by either party. There are also some costs relating to supervision during construction, fieldwork and engineering costs and several technical provisions relating to construction and ongoing operations which are set out in the Terms and Conditions for Utility Crossings, Safety Guidelines for Contractors and Non-GO Transit Personnel, and

Release of Liability and SCP-1005 Instructions to Excavators for the Protection of Underground S&C Cables.

COMMENTS

The watermain which is required to transport water from Kennedy Pumping Station to Milliken Pumping Station and Reservoir requires a 'Crossing Agreement' in order to proceed with construction. As of the writing of this report, negotiations with GO Transit are near completion and reflect what is outlined in the body of this report.

Staff considers the terms of the proposed Crossing Agreement negotiation to be fair and reasonable, and therefore recommends the approval of a transaction based on these major terms.

CONTACT

Chuck Donohue
Executive Director, Facilities & Real Estate
Phone : 416-397-5151
Fax : 416-392-4828
E-mail: cdonohue@toronto.ca

Joe Casali
Director, Real Estate Services
Phone : 416-392-7202
Fax : 416-392-1880
E-mail: jcasali@toronto.ca

SIGNATURE

Cam Weldon
Deputy City Manager and Chief Financial Officer

ATTACHMENTS

Appendix "A" – Terms and Conditions
Appendix "B" – Site Map