



## STAFF REPORT ACTION REQUIRED

### Wynford/Charles Sauriol Trail Grade Separation Agreements

<b>Date:</b>	September 29, 2009
<b>To:</b>	City Council
<b>From:</b>	Brenda Patterson, General Manager, Parks, Forestry and Recreation
<b>Wards:</b>	Ward 26 – Don Valley West Ward 34 – Don Valley East
<b>Reference Number:</b>	

#### SUMMARY

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The purpose of this report is to obtain authority for the City to enter into (i) a land use agreement with Canadian National Railway Company (“CN”) and (ii) a land use agreement with Canadian Pacific Railway Company (“CP”) to construct the East Don Trail Pedestrian Underpasses as part of the East Don Trail Project. Construction of the trail is currently delayed until this authority is obtained.

This issue is being raised for City Council approval through a Notice of Motion for increased public safety, as the trail when completed will provide emergency access into the valley. Additionally there are financial implications of funding partners that will be lost and additional costs incurred if the project is delayed.

#### RECOMMENDATIONS

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**The General Manager of Parks, Forestry and Recreation recommends that:**

1. authority be granted to enter into a Grade Separation Agreement with Canadian National Railway Company, based on the terms outlined in Appendix "A", subject to such further revisions and other terms and conditions satisfactory to the General Manager of Parks, Forestry and Recreation and in a form satisfactory to the City Solicitor;
2. authority be granted for the City to enter into a land use agreement with Canadian Pacific Railway Company on terms similar to the agreement with the Canadian National Railway Company and on other terms and conditions as may be

satisfactory to the General Manager of Parks, Forestry and Recreation, and in a form satisfactory to the City Solicitor; and

3. the appropriate City officials be authorized and directed to take the necessary action to give effect to these recommendations.

### **Financial Impact**

There is no financial impact as the East Don Trail is an approved Capital project.

### **DECISION HISTORY**

City Council, at its meeting of June 23 and 24, 2008, amended and adopted Executive Committee Item EX21.15, titled "Adjustments to the 2008 Parks, Forestry and Recreation Division's," particularly Recommendation 4 which amends the Parks, Forestry and Recreation 2008 Capital budget to add a new Trails Improvements in Wynford Park project. The capital funds were sourced from a Section 37 Agreement.

(City Council Dec. Doc. – Item EX21.15)

<http://www.toronto.ca/legdocs/mmis/2008/cc/decisions/2008-06-23-cc22-dd.pdf>

### **ISSUE BACKGROUND**

The East Don Trail Project is being undertaken by the City of Toronto, in cooperation with TRCA, to improve trail quality and access to public greenspace along the East Don River from Milne Hollow Park at Lawrence Avenue East and the DVP in Ward 34, south to Wynford Heights in Ward 26 and west to Moccasin Trail Park.

In order to complete the first phase of the project, the trail must cross CN land via a Pedestrian Underpass. The East Don Trail Pedestrian Underpass will be located under an existing CN bridge at the north end of Wynford Heights Access Road and will provide direct access for pedestrians and cyclists between the Wynford-Concorde community and the new section of East Don Trail to Milne Hollow Park.

### **COMMENTS**

The Pedestrian Underpass must be completed before Phase One of the East Don Trail Project can be completed. Construction of Phase One of the East Don Trail is scheduled to be completed in 2009.

CN has indicated that it is willing to have the East Don Trail Pedestrian Underpass constructed, provided that the City first enter into a standard Grade Separation Agreement confirming that all of the costs of constructing, maintaining and eventually replacing these facilities will be paid by the City for so long as the railway companies continue their rail operations in these locations.

The City has a number of existing arrangements with various railway companies where the City is responsible for the cost of maintaining all or part of an underpass or overpass which is required to accommodate a City highway or pedestrian walkway.

**The following reasons are noted for seeking Council Authority at this time.**

There is an increased risk to public safety by delaying construction, as residents are currently using the unfinished trail. One of the primary rationales for the trail project was the need for a trail with Emergency Medical Services access in the Don River valley. There is currently no Emergency Medical Service access into the valley in this area. Delayed construction means a trail that is not accessible to emergency vehicles and is therefore less safe for the residents.

There is a high potential for additional capital costs incurred due to delayed construction. Coordination for the project to proceed requires watercourse work and environmental approvals. For this reason it was determined that Toronto Region Conservation Authority (TRCA) was the most appropriate contractor, and they have mobilized and prepared the base for the trail up to the underpass location. In addition to storage, demobilization and remobilization cost there may be inflated costs if the work is not completed by the anticipated construction schedule based on the watercourse permits which have a limited window for work (no work is permitted after March).

There is a risk of losing significant capital funds, as the current funds were approved as part of the 2008 Capital Program and should not be carried over into 2010 if there exists a reasonable way to expend them this year. Additionally later phases of the trail were recently approved through federal infrastructure grants which require expenditure by March 2010 and are likely to be lost if the project is delayed.

**CONTACT**

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**SIGNATURE**

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Brenda Patterson  
General Manager, Parks, Forestry and Recreation

**ATTACHMENTS**

Appendix A – Proposed Licence Terms and Conditions

### **Appendix A: Proposed Licence Terms and Conditions**

<b>Property Address:</b>	Pedestrian Trail at Mile 8.08 on the Bala Subdivision, near Don Valley Parkway and Lawrence Ave
<b>Premises:</b>	Please see the attached figure.
<b>Licensee:</b>	City of Toronto
<b>Licensor:</b>	Canadian National Railway Company (“CN”)
<b>Term:</b>	Commencing: on execution of Agreement Terminating: when CN ceases its operations OR when the City closes the pedestrian trail
<b>Use:</b>	To construct and maintain the Pedestrian Trail by way of a grade separation
<b>Licence Fee:</b>	None.
<b>Additional Fees:</b>	<p>The City is responsible for the following:</p> <ul style="list-style-type: none"><li>● the cost of constructing and maintaining the trail and the grade separation, including the underpass canopy construction</li><li>● the reconstruction costs associated with regular required maintenance or the alteration or relocation of the trail at the request of either CN or the City</li><li>● any future costs associated with the trail and grade separation, including dismantling and restoration on termination of the agreement.</li></ul>