TORONTO

STAFF REPORT
ACTION REQUIRED

Georgetown South/Air Rail Link

Date:	March 7, 2011
To:	Executive Committee
From:	City Manager
Wards:	All
Reference Number:	

SUMMARY

To avoid delay in the construction of a high priority regional transportation initiative, Committee and Council approvals are required at this time to provide authority for staff:

(i) To negotiate and execute a Construction Protocol between Toronto and Metrolinx that will specify the general terms under which Metrolinx will relocate and replace Toronto infrastructure that will be impacted by construction of the Georgetown South/Air Rail Link project; and

(ii) To initiate the process for the permanent road and laneway closures that will be required by Metrolinx to construct and operate the Georgetown South/Air Rail Link project.

RECOMMENDATIONS

The City Manager recommends that City Council:

1. Direct the Deputy City Manager, Cluster B or delegated staff to negotiate and execute a Construction Protocol with Metrolinx, on terms and conditions satisfactory to staff, that will clarify the process by which Metrolinx will protect, relocate and reconstruct Toronto infrastructure and utilities, and minimize disruption to City services, during construction of the Georgetown South/Air Rail Link project, provided that the Construction Protocol shall not include any commitment by the City with respect to the costs of the Project.
2. Authorize the General Manager, Transportation Services to initiate the process for the permanent closure of roads and laneways that have been identified in the approved

Environmental Assessment Report for the Georgetown South/Air Rail Link project, give notice of the proposed by-laws to close the roads and laneways in accordance with the requirements of Municipal Code Chapter 162, and report to Etobicoke York Community Council on the proposed closing of such roads and laneways.

Financial Impact

The recommendations in this report do not create immediate financial commitments or obligations. At a later stage in the development process of the Project, the City and Metrolinx will discuss potential financial obligations that arise in the context of legal agreements that apply to road and rail improvements within the rail corridor. Those agreements were executed by the predecessors of the City of Toronto and must be considered on a case by case basis.

Furthermore, there may be opportunities to upgrade Toronto infrastructure in conjunction with the Project. The extent and timing of those capital improvements, and the corresponding financial impacts, have not been identified or assessed at this time.

Should the City be legally required to share in the cost that will be incurred by Metrolinx to relocate or replace Toronto infrastructure and utilities, or to upgrade the basic construction that will be performed by Metrolinx, the City Manager and Deputy City Manager and Chief Financial Officer will provide a further report to City Council that will provide details of the capital costs for approval and identify a source of funds.

As a result of these uncertainties, no funding has been allocated in the City's 2011 Ten Year Capital Plan.

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

DECISION HISTORY

Toronto City Council has in the past received reports and directed that certain actions be taken by City staff with respect to the Georgetown South/Air Rail Link project, as summarized below in reverse chronological order:

June 8, 2010: Public Forum on the Proposed Metrolinx Service Expansion in the Georgetown South Corridor
(http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.PE30.3)

January 26, 2010: Board of Health Transmittal on the Update on the Metrolinx Georgetown South Service Expansion and Union-Pearson Rail Link
(http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.PE27.4)

August 5, 2009: Union Station Revitalization Implementation and Head Lessee Selection (http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.EX33.44)

January 27, 2009: Georgetown South/Air Rail Link Project - Moved by Mayor Miller, seconded by Councillor Nunziata (http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.MM30.14)

January 27, 2009: Petition - Parking for Air Rail Link (http://app.toronto.ca/tmmis/viewPublishedReport.do?function=getCouncilMinutesReport&meetingId=2187)

May 4, 2005: GO Georgetown/Weston Sub-Division Corridor (http://www.toronto.ca/legdocs/2005/agendas/council/cc050504/cofa.pdf)

April 12-14, 2005: GO Transit Georgetown Corridor Expansion Environmental Assessment (http://www.toronto.ca/legdocs/2005/agendas/council/cc050412/cofa.pdf)

There are also legal agreements (the "Crossing Agreements") that were executed by the former cities of Toronto, York and Etobicoke or their predecessors, or the former Municipality of Metropolitan Toronto, with one or more railway companies that owned segments of the Weston Subdivision, which is the corridor through which the Georgetown South/Air Rail Link will operate. The Crossing Agreements address the process for implementing capital works in locations where road, rail and other utility infrastructure are overlapping. The Crossing Agreements vary widely with respect to definitions, terms and application to current conditions.

ISSUE BACKGROUND

Metrolinx acquired an existing rail corridor from Canadian National Railway to undertake physical and operational improvements to commuter rail service to the region northwest of Toronto (the "Georgetown South" corridor), including frequent rail service between Union Station and Lester B. Pearson International Airport (the "Air Rail Link").

The Province completed detailed studies of the physical and operational requirements for upgraded commuter rail service within the Georgetown South corridor (the "Project"), which resulted in approval of an Environmental Assessment Report by the Minister of the Environment in October 2009.

Metrolinx has commenced construction of the Project at several locations along the length of the rail corridor and intends to complete construction of the Project and commission the Air Rail Link service prior to the start of the Pan Am Games in 2015.

COMMENTS

Project Scope

The approved scope of the Project will comprise substantial upgrades to rail infrastructure along the full length of the corridor within Toronto, including new construction of rail bridges, underpasses and stations. The magnitude of the Project will impact infrastructure and related assets that intersect the rail corridor at, above and below grade.

Toronto is the owner and operator of significant non-rail infrastructure, including roads, sewers and other utilities and structures that will be impacted by the Project.

Metrolinx has an obligation, as sponsor of the Project, to arrange for the protection, relocation and replacement of non-rail infrastructure that will be permanently or temporarily disrupted by construction or operation of the Project. Metrolinx is also obliged to construct new structures and facilities, such as pedestrian and vehicular bridges and tunnels that did not exist previously, if those structures and facilities comprise part of the approved scope of the Project as determined through the Environmental Assessment Review process. Accordingly, rail and non-rail infrastructure that together comprise the Project as determined by the Environmental Assessment will be delivered by Metrolinx (the "Basic Construction").

In many cases, the replacement of Toronto's infrastructure will be premature, requiring the abandonment of assets that have not exhausted their useful service life. In other cases the replacement of assets may coincide with scheduled upgrades. Regardless of the condition of Toronto's infrastructure, the scope of Basic Construction requires that new infrastructure must provide the same functional utility and serviceability as the infrastructure that is replaced, without regard to remaining service life or depreciated value.

Toronto has been consulted by Metrolinx regarding the scope and schedule of Basic Construction, including the design of major structures (e.g., bridges and underpasses) and the preferred location for Toronto infrastructure to facilitate long-term maintenance, repair and replacement. Metrolinx has also invited input on the scope for possible enhancements to Toronto infrastructure that would exceed Basic Construction. The enhancements could take the form of service improvements to meet forecast demand, or community improvements that could mitigate neighbourhood impacts of the Project (the "Supplemental Construction").

Construction Protocol

Toronto has obligations arising from the Crossing Agreements to facilitate design, planning and construction of the Project.

As noted above, the Crossing Agreements were written at different times, employ different terminology, and prescribe different obligations with respect to capital projects

within and adjacent to the rail corridor. As a further complicating factor, certain Crossing Agreements have not been clearly assigned to a legal successor. Accordingly, there is ambiguity regarding the extent to which certain Crossing Agreements are valid and enforceable by Metrolinx and the City.

It is recommended that the best means to facilitate the Project and ensure that the current and future obligations of Metrolinx and Toronto are clear and enforceable is to receive authority from City Council to negotiate a Construction Protocol (the "Protocol") that will provide clarity and certainty with respect to construction of the Project. Among the topics that would be covered in the Protocol are:

- Details of how Toronto will verify and accept plans to reconstruct our infrastructure in accordance with the scope of Basic Construction;
- Details of the scope for Supplemental Construction that Metrolinx will deliver on our behalf, or allow to be built concurrently with the Project;
- Details of how Metrolinx will avoid or minimize disruption to Toronto services and utilities during the construction period of the Project;
- Details of the manner in which Toronto will enforce obligations made by Metrolinx, and ensure the City's accountability in the case of our obligations to Metrolinx; and
- Details of a new master Crossing Agreement that will remove ambiguity regarding any existing agreements and provide an acceptable framework for future management of overlapping assets along the rail corridor.

Accordingly, the Protocol will: (i) prescribe the scope for Basic Construction; (ii) guide the logistics for construction and commissioning of Toronto infrastructure; and (iii) facilitate work within our right-of-way and on our property that will lead to a coordinated and efficient development process.

Toronto and Metrolinx have discussed a preliminary Protocol that would accomplish the stated objectives. Direction from City Council is sought through this report to finalize and execute the Protocol.

Permanent Closure of Roads and Laneways

Construction of the Project in accordance with the approved Environmental Assessment Report will change the physical relationship between road and rail intersections throughout the City. Several level crossings will be converted to rail overpasses, and in other cases existing rail overpasses will be reconstructed, offering the benefit of increased clearance and wider lanes for the affected roads.

In a limited number of locations the approved scope of the Project requires existing roads and laneways to be closed. The permanent closures that were approved in the Environmental Assessment Report are as follows: (i) John Street on both sides of the rail corridor in the vicinity of Weston Road and Lawrence Avenue West; (ii) Sam Frustaglio

Drive at the intersection of Denison Road; and (iii) Denison Road (in the existing alignment) on both sides of the rail corridor.

- The transportation impacts of the permanent closure of John Street will be relatively minor. Vehicular and pedestrian traffic flows can be seamlessly accommodated on adjacent routes, and pedestrian impacts will be further mitigated by the construction of a pedestrian bridge across the rail corridor at no expense to the City.

- The permanent closure and creation of a cul-de-sac at the intersection of Sam Frustaglio Drive and Denison Road was determined by Metrolinx to be necessary to accommodate a significant change in elevation between Sam Frustaglio and the new alignment of Denison Road that will run under the rail corridor.

- Denison Road east of Weston Road will be realigned and rebuilt to pass under the rail corridor on property that has been acquired by Metrolinx adjacent to the current roadway.

- A permanent closure of a municipal laneway that runs parallel to the rail corridor in the same vicinity is also contemplated.

Staff will exercise their delegated authority to issue permits for the temporary closure of roads during the construction period of the Project. The delegated authority to recommend permanent closures, however, is not clear following previous decisions by City Council to oppose any road closures along the route (refer to MM30.14 from January 27, 2009 cited in the Decision History above and related decisions of City Council). Accordingly, this report seeks Committee and Council approvals to initiate the process for permanent road closures that are required to implement the Project.

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SIGNATURE

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