

City Council

Notice of Motion

MM35.2	ACTION			Ward: 10
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Authorization to convert a cash-in-lieu Section 37 payment to an in-kind contribution for the construction of a PATH tunnel beneath Simcoe Street by Cadillac Fairview (Frontside Developments LP) - by Councillor Joe Cressy, seconded by Councillor Mike Layton

** Notice of this Motion has been given.*

** This Motion is subject to referral to the Executive Committee. A two-thirds vote is required to waive referral.*

Recommendations

Councillor Joe Cressy, seconded by Councillor Mike Layton, recommends that:

1. City Council increase the 2021 Council Approved Operating Budget for Non-Program (NP2161), by \$1,776,997.84 gross, \$0 net, fully funded by Section 37 funds obtained from the development at 156-174 Front Street West and 43-51 Simcoe Street (Source Account: XR3026-3701064) for PATH construction.
2. City Council direct that the \$1,776,997.84 be forwarded to Cadillac Fairview directly, once an Encroachment Agreement has been executed and conditional on receipt of a letter of credit being in place to complete the PATH tunnel to the satisfaction of the General Manager of Transportation Services.

Summary

As part of the approval of the development at 156-174 Front Street West and 43-51 Simcoe Street, Council had, as part of the Section 37 obligations, secured benefits from the owner for streetscape improvements which would have included a future east/west PATH system connection to and from Union Station. The enabling By-law 1027-2014 provided that the owner would provide a cash contribution of \$1,500,000 "for streetscape improvements in the immediate area, which may include a future east/west connection to the PATH system". An indexed payment of \$1,776,997.84 was received from the owner.

It was the intent that the funds collected would be utilized by the City to undertake the obligatory PATH connection, however the developer Cadillac Fairview has advised that as part of their construction process, they would relieve the City of its responsibility and undertake the requisite PATH improvements as integrating it would be more economical and efficient. Over the past year, Cadillac Fairview has worked with various divisions at the City to advance the design, construction planning, and approvals for the tunnel. It is estimated that the total cost of

construction the PATH improvement would be \$38 million.

In exchange for undertaking the construction this Motion seeks to offset the \$1,776,997.84 that was received from the owner, and have it applied against the total construction cost of the PATH tunnel. Prior to the release of the funds, the registered owner of 160 Front Street West (the "Owner") will be entering into an Encroachment Agreement with the City, which will require the Owner to construct, maintain, repair and operate the publicly accessible pedestrian PATH tunnel under Simcoe Street, at the Owner's expense.

The Encroachment Agreement to be signed by the Owner will contain provisions requiring the Owner to submit a letter of credit to guarantee that the work within the public right-of-way is completed to the City's satisfaction, and to ensure public access to the pedestrian PATH tunnel.

Background Information (City Council)

Member Motion MM35.2