



**STAFF REPORT
ACTION REQUIRED**

**399 Bathurst Street to 620 University Avenue – Fibre
Optic Cable**

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| Date: | June 11, 2007 |
| To: | Toronto and East York Community Council |
| From: | Manager, Right of Way Management, Transportation Services Toronto and East York District |
| Wards: | Toronto Centre-Rosedale – Ward 27 |
| Reference Number: | Te07043te.row |

SUMMARY

This staff report is about a matter which Community Council has delegated authority from City Council to make a final decision.

Transportation Services has assessed the request for the installation of an underground fibre optic cable, connecting Toronto Western Hospital, 399 Bathurst Street and the Princess Margaret Hospital, 620 University Avenue.

Given that the installation of fibre optic cable will not impact negatively impact on the public right of way, Transportation Services recommends approval of this request.

RECOMMENDATIONS

Transportation Services recommends that Toronto and East York Community Council:

1. approve the installation of the fibre optic cable encroaching within portions of the public right of way under and across from the Toronto Western Hospital, 399 Bathurst Street, to 620 University Avenue, connecting to the north/east corner of the Princess Margaret Hospital, subject to the property owner entering into an encroachment agreement with the City of Toronto, agreeing to but not limited to the following:
 - a. indemnify the City from and against all actions, suits, claims or demands and from all loss, costs, damages and expenses that may result from such

permission granted and providing of an insurance policy for such liability for the lifetime of the Agreement in a form as approved by the Deputy City Manager and Chief Financial Officer and in an amount not less than \$5,000,000 or such greater amount as the Deputy City Manager and Chief Financial Officer may require;

- b. maintain the encroachment at his/her own expense in good repair and a condition satisfactory to the General Manager of Transportation Services and will not make any additions or modifications to the fibre optic cable and associated structures beyond what is allowed under the terms of the Agreement;
 - c. limit the life of the Agreement to the removal of the encroachment or the date of the demolition of the buildings being served by the fibre optic cable, whichever is lesser;
 - d. provide a certified cheque to the General Manager of Transportation Services in the amount of \$300,000 to cover the cost of permanent repairs associated with the restoration of the pavement, sidewalk, curb and boulevard and agree to pay all associated costs that may exceed this amount;
 - e. pay an annual encroachment fee as approved by City Council for this type of use (2007 rate is \$25.85 per lineal metre of cable in this area of the City) within the public right of way, which shall automatically increase on the first day of January in each year by the percentage increase in the All Items Index of the Consumer Price Index (not seasonally adjusted) for the Toronto Census Metropolitan Area;
 - f. provide “as constructed” drawings within 90 days of completing the construction of the underground fibre optic cable;
 - g. notify the City of any contemplated third-party use of the cable, wire, conduit or right of way, such that the agreement will be subject to re-negotiation; and
 - h. accept such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the City;
2. direct Legal Services and/or the General Manager of Transportation Services to extend the Encroachment Agreement to the new owner, in the event of sale or transfer of the property abutting the encroachment, subject to approval of the General Manager of Transportation Services;

3. should Community Council decide to authorize the installation of the fibre optic cable for University Health Network, authority also be granted to the General Manager of Transportation Services to amend the proposed agreement should future requests for the installation of fibre optic cables be required by the University Health Network; and
4. request Legal Services to prepare and execute the Encroachment Agreement.

Financial Impact

There is no financial impact to the City as a result of this report.

ISSUE BACKGROUND

The applicant, on behalf of the University Health Network, submitted an application requesting permission to install and maintain a fibre optic conduit within portions of the public right of way as affecting various streets from the Toronto Western Hospital, 399 Bathurst Street to the Princess Margaret Hospital, 620 University Avenue.

The proposed installation will be approximately 1700 m in length and will extend within the public right of way under and across various streets extending from the Toronto Western Hospital, 399 Bathurst Street, north on Leonard Avenue, east on Nassau Street, north on Spadina Avenue to Cecil Street, east on Cecil Street to Henry Street, north on Henry Street across the University of Toronto Parking Lot (private property) to Orde Street, east on Orde Street to 620 University Avenue, connecting to the north/east corner of the Princess Margaret Hospital. The proposal is to connect the network systems between the two hospitals.

As indicated, a portion of the proposed installation will pass through private property on lands owned and occupied by the University of Toronto and as a condition of approval, the applicant should provide Transportation Services with a copy of the easement agreement between the University Health Network and the University of Toronto for such use.

The proposed installation will be completed by directional drilling and open cut procedures will be utilized in close proximity to existing utilities. Accordingly, the applicant will be responsible to carry out temporary repairs to the public right of way and upon completion of the project, the City will carry out permanent repairs to the pavement, sidewalk and boulevard area at the expense of the University Health Network. In this regard, the University Health Network must provide a certified cheque/letter of credit in the amount of \$300,000 to cover off the permanent repairs and agree to pay all other associated costs that may exceed this amount.

COMMENTS

Applicable regulation

Under the provisions of Municipal Code Chapter 789 Telecommunications Equipment, applications can be given consideration to allow for the installation and maintenance of a telecommunication network within the public right of way on a location-specific basis for internal business purposes of the applicant, subject to an Encroachment Agreement and approval by Community Council.

Reasons for Approval

According to the applicant, this is a more cost effective way of data transmission for the University Health Network to install and maintain their own fibre optic cable connecting Toronto Western Hospital and Princess Margaret Hospital; than to lease cable lines from any utility conduit or fibre cable. The applicant further adds that the installation will help the hospitals to overcome their geographic disparity with the use of technology.

Transportation Services has received clearances from various public utility companies regarding the proposed work and has determined that the proposed installation of fibre optic cable will not impact negatively upon the public right of way.

City Council has granted approval to a number of firms enabling them to install fibre optic cable network and associated support plant within the public right of way pursuant to a number of terms and conditions. Transportation Services anticipates that additional applications for fibre optic cable installations will be filed by the University Health Network and, accordingly, to expedite the process of these applications, request that authority be granted to the General Manager of Transportation Services to amend the proposed agreement to incorporate and address future requests.

Details of the encroachment are on file with Transportation Services.

The proposed route of fibre optic cable is shown on Appendix 'A'.

CONTACT

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SIGNATURE

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ATTACHMENTS

Appendix 'A' – map of proposed location of fibre optic cable

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