



**STAFF REPORT
ACTION REQUIRED**

40 Adelaide Street West - Construction of an Underground Pedestrian Tunnel Linking the Bay-Adelaide Centre to 40 King Street West, Scotia Plaza Tower

Date:	January 14, 2008
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 28
Reference Number:	Te08009te.row

SUMMARY

Transportation has assessed a request to construct an underground tunnel connection which will encroach within the public right of way fronting 40 Adelaide Street West, linking the Bay-Adelaide site to the existing Scotia Plaza Tower at 40 King Street West.

Given that the proposed tunnel will not impact negatively on the public right of way and clearances from the various utility companies have been received, Transportation Services recommends approval of the tunnel connection.

RECOMMENDATIONS

Transportation Services recommends that City Council:

1. approve the request to construct the underground tunnel connection fronting 40 Adelaide Street West, which will commence approximately 96 m west of the west street line on Yonge Street and extending 6.3 m west thereof, linking 40 Adelaide Street West to 40 King Street West, 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 the amount not less than \$10,000,000 or such greater amount as the Deputy City Manager and Chief Financial Officer may require;

- b. design, construct and maintain the tunnel as necessary at their own expense in good repair and in a condition satisfactory to the General Manager of Transportation Services and will not make any additions or modifications to the encroachment beyond what is allowed under the terms of the Agreement;
 - c. design and construct the tunnel connection to comply with the Canadian Highway Bridge Design Code (CAN/CSA) for highway loading purposes, as amended, superseded or replaced from time to time, including allowance for impact factors;
 - d. pay for the costs of preparing the Agreement and the registration of the Agreement on title;
 - e. pay an annual rental fee for the underground tunnel connection as determined by the Director of Real Estate Services, Facilities & Real Estate, to be adjusted annually by the Consumer Price Index (CPI);
 - f. allow for future developments to link into the existing PATH system;
 - g. obtain approval for associated work on private property from the Toronto Building Division;
 - h. provide “as-built” drawings within 90 days of completing the construction of the underground tunnel;
 - i. limit the life of the Agreement to the removal of the encroachment or the date of the demolition of the building at 40 Adelaide Street West, whichever is the less; and
 - j. 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 the approval of the General Manager of Transportation Services; and

3. request Legal Services to prepare, execute and arrange to register the Encroachment Agreement.

Financial Impact

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

DECISION HISTORY

The former Council of the Municipality of Metropolitan Toronto, at its meeting of July 5 and 6, 1989, approved the construction of a pedestrian tunnel within Adelaide Street West linking 40 Adelaide Street West, Bay-Adelaide Centre with 40 King Street West, Scotia Plaza Tower, subject to the owners entering into an agreement with the Metropolitan Corporation (Clause 39 of Report No. 22 of the Metropolitan Executive Committee).

The agreement, dated August 28, 1991, was executed by the owners, however, the proposed towers at the Bay-Adelaide project were not completed, as well as the pedestrian tunnel within Adelaide Street West linking 40 Adelaide Street West with 40 King Street West.

COMMENTS

An application has been received on behalf of the owners of 40 Adelaide Street West requesting permission to construct an underground tunnel connection, which will encroach within the public right of way fronting 40 Adelaide Street West, for a length of 20.1 m linking to the existing Scotia Plaza Tower at 40 King Street West. The tunnel will commence approximately 96 m from the west street line of Yonge Street and proceed 6.3 m west thereof.

The applicant is proposing to install the pedestrian tunnel using a caisson system which will remain in place upon completion of the tunnel. This method of construction will cause less disruption to vehicular traffic as it will allow Adelaide Street to reopen sooner than with a different method of construction. Of note, Transportation Services has received clearances from the various utility companies regarding the proposed work and determined that the proposed tunnel connection and caissons will not have a negative impact on the public right of way.

We have consulted with Appraisal Services, Facilities and Real Estate, Corporate Services, who advised that an appropriate annual rental fee for the first year of the lease term for the tunnel connection within the public right of way fronting 40 Adelaide Street West, based on an approximate area of 109 square metres, is estimated to be \$3,393.00, times the interest rate to be set out in the Pedestrian Tunnel Agreement, at the time of signing of agreement.

It is recommended that the initial annual rental fee be utilized for an initial term of 5 years and it may be appropriate that a new annual rental fee be calculated every successive 5 year period.

Applicable regulations

The construction and maintenance of the tunnel encroachment can be considered under the criteria set out in Chapter 313, Streets and Sidewalks, of the former City of Toronto Municipal Code, which requires Transportation Services to report on the application to City Council.

Reasons for approval

Transportation Services has reviewed the application and determined that the construction and maintenance of the tunnel encroachment linking 40 Adelaide Street West and 40 King Street West, together with the caissons, will not impact negatively on the public right of way.

Details of the encroachment are on file with Transportation Services.

A copy of the property data map is shown on Appendix 'A'.

We have consulted with Legal Services in the preparation of this report.

CONTACT

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SIGNATURE

Angie Antoniou
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ATTACHMENTS

Appendix 'A' - property data map

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