



**STAFF REPORT
ACTION REQUIRED**

**Pedestrian Bridge connecting Hudson's Bay Company
and Toronto Eaton Centre – 220 Yonge Street**

Date:	February 10, 2016
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:	TE.2016005.te.row.docx

SUMMARY

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

The existing bridge linking Toronto Eaton Centre to the north and The Hudson's Bay Company building to the south over Queen Street West is a 40-year-old structure. On behalf of the owners of these two buildings, ONTREA/TEC Holdings Inc. and CF/TEC Holdings Inc. (owners of Toronto Eaton Centre) and ONTREA Inc. (owner of The Hudson's Bay Company building) (collectively, the "Owner"), Zeidler Partnership Architects (the "Applicant") has submitted an application which proposes to replace the original bridge with a new one (the "Encroachment"). It will encroach over the public right-of-way above Queen Street West adjacent to 220 Yonge Street and will link the Toronto Eaton Centre building and The Hudson's Bay Company building (collectively referred to herein as the "Buildings").

Transportation Services has reviewed the application. The Applicant and Owner are required to satisfy all conditions of approval set out in the recommendations of this report and must comply with Transportation Services' procedure for granting approval of bridges.

RECOMMENDATIONS

Transportation Services recommends that Toronto and East York Community Council:

1. Authorize the City to enter into an encroachment agreement (the "Agreement") with the Owner permitting the Encroachment on the terms and conditions set out in Paragraphs a. through z. below, and on any other or amended terms and conditions satisfactory to the General Manager of Transportation Services (the "GM"), and in a form satisfactory to the City Solicitor:
 - a. the Owner shall submit a report, stamped and signed by either the architect or professional engineer who designed the Encroachment, addressing how vehicles, pedestrians and City-owned infrastructure will be protected from any snow and/or ice or other materials that may fall from the bridge;
 - b. the Owner shall design, construct, repair and maintain the Encroachment, at its own expense to the satisfaction of the GM and shall not make or permit any additions or modifications to the Encroachment beyond what is permitted under the terms of the Agreement without the City's consent, which may be unduly delayed or arbitrarily withheld;
 - c. the Owner shall allow the maintenance of existing and/or proposed Toronto Transit Commission infrastructure to ensure continued and proper operation of this service; TTC utility sign-off clearance must be provided prior to the issuance of a construction permit for the bridge.
 - d. the City shall not be responsible for repairing or replacing the Encroachment damaged as a result of clearing or removing litter, graffiti, posters, snow or ice, or as a result of street repairs, or resulting from the construction or maintenance of TTC infrastructure;
 - e. the City shall maintain the right to place pipes, cables, wires, poles and other infrastructure within the Encroachment and shall be entitled to attach infrastructure, including that required by TTC, to the exterior of the Encroachment;
 - f. the City shall be released from and against all actions, suits, claims or demands and from all loss, costs, damages and expenses that may result from such permission granted in a form and content satisfactory to the City Solicitor;

- g. the Owner shall 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, any matter related to the bridge, and any failure of the property owner to comply with the Agreement in a form and content satisfactory to the City Solicitor;
- h. the Owner shall provide and maintain public liability and property damage insurance with an insurer satisfactory to the GM for the lifetime of the Agreement in a form as approved by the Deputy City Manager and Chief Financial Officer, including a cross-liability /severability of interest clause, a provision that the insurance is primary before the insurance of the City, and a 30 day prior notice of cancelation/renewal clause, and in the amount not less than \$10 million or such greater amount as the Deputy City Manager and Chief Financial Officer may require;
- i. the Owner shall provide and maintain an irrevocable letter of credit, in the amount of \$2 million to be retained by the City, for the duration of construction of the pedestrian bridge within the Queen Street West right of way, to secure against any damage to the City right of way and to guarantee that the work within the public right of way is completed to the City's satisfaction. Prior to the release of the letter of credit the property owner will be required to provide a construction sign-off letter stamped and signed by the structural engineering firm that designed the bridge which states that the bridge is safe and ready to be opened to pedestrian traffic, along with two sets of as-built drawings;
- j. the Owner shall pay (i) an annual licence fee in the amount of \$12,000.00 plus applicable HST, and (ii) any applicable real property taxes exigible. The licence fees will be recalculated every ten (10) years, and shall increase annually by an amount equivalent to the percentage increase in the Consumer Price Index (all items – Toronto).
- k. except for the height as set out in Recommendation 1(v), the design and construction of the Encroachment shall comply with the Canadian Highway Bridge Design Code (CAN/CSA) as amended, superseded or replaced from time to time;
- l. the Owner shall obtain all Public Utility Coordinating Committee clearances and/or sign-offs from the public utility companies and satisfy any requirements they may have;
- m. the Owner shall obtain approval and all necessary permits for the construction of the Encroachment from the Toronto Building Division, if required;

- n. the Owner shall provide as-built drawings within 60 days of completing the construction of the Encroachment to Survey and Mapping, Attention: Utility Mapping Supervisor, Engineering Design, 275 Merton Street, 1st Floor, Toronto, Ontario M4S 1A7, as well as to Transportation Services, Right of Way Management, Construction Activities, 55 John Street, 17th Floor, Metro Hall, Toronto, Ontario M5V 3C6;
- o. the life of the Agreement to be limited to the removal of the Encroachment or the date of the demolition of either of the Buildings, whichever is event earlier
- p. the Owner shall, at its own cost, charge and expense and to the satisfaction of the GM, alter or remove the Encroachment if deemed necessary for municipal purposes by the GM upon receiving not less than ninety (90) days' notice in writing by the GM;
- q. prior to commencement of construction, a street work permit shall be obtained by the Owner in accordance with Article III of Chapter 743, Streets and Sidewalks, City of Toronto Municipal Code;
- q. the Agreement shall be registered on title to the Owner's property and other affected properties deemed necessary by the City Solicitor, at the expense of the Owner, with appropriate title opinions provided to the satisfaction of the City Solicitor as may be required by the City Solicitor;
- r. the Owner agrees that the pedestrian bridge shall, for the life of the Buildings, remain publicly accessible in accordance with the provisions of the Agreement;
- s. the Owner agrees that the City shall have the right of entry on the Buildings and on the Encroachment, to acquire access to the Encroachment for the purposes of inspection, repair, or removal of the Encroachment or performing any other activity permitted by the City under the Agreement;
- t. the Owner agrees that the Toronto Transit Commission shall have the right of access to the bridge to maintain, restore, inspect or reconstruct their plant;
- u. the Agreement shall include rights and remedies acceptable to the GM including the right, but not the obligation, of the City to remedy any failure of the Owner to comply with the Agreement, and the costs incurred by the City in enforcing the Agreement shall be payable by the Owner;

- v. permit the Encroachment to be a minimum of 5.1 meters above the grade level roadway at Queen Street West, recognizing that this is 20 cm below the recommended vertical height recommendations of the Ontario Bridge Code, for which the City has authority to approve;
 - w. shall require the Owner to adhere to applicable federal, provincial or municipal laws, by-laws, policies including the City of Toronto Municipal Code and Transportation Services' standard process for acquisition of encroachment agreements;
 - x. the provisions of Appendix 'A' to this report shall be substantially incorporated into the Agreement to the satisfaction of the GM;
 - y. the Owner shall submit a Traffic Management Plan and Construction Schedule letter outlining proposed Bridge Installation and advising on impacts within the public right of way in the area of the proposal which content shall be to the satisfaction of the GM prior to the issuance of a Construction Permit; and
 - z. the Owner will be responsible for restoration to the road pavement, to the satisfaction of the GM, if necessary, upon completion of the installation of the Encroachment.
2. Direct the GM to extend the Agreement to the new owner, in the event of sale or transfer of the properties abutting or encumbered by the encroachments, subject to the prior approval of the General Manager of Transportation Services in respect of the property owner's property, and provided in all cases the transferee or assignee enters into an assumption agreement with the City to assume the obligations under the Agreement, in form satisfactory to the City.
 3. Authorize the GM to administer and manage the Agreement including the provision of any consents, approvals, notices provided that the GM may, at any time, refer consideration of such matters (including their content) to the Toronto and East York Community Council for its determination and direction.
 4. Authorize the City Solicitor to prepare and arrange execution of the Agreement as required by this report.

Financial Impact

There are no financial implications as a result of the recommendations contained in this report as the cost of construction of the proposed pedestrian bridge will be privately funded. The Owner shall pay an annual licence fee of \$12,000 which shall increase by an amount equivalent to the percentage increase in the Consumer Price Index (all items - Toronto).

DECISION HISTORY

By way of Executive Committee Report No. 38 clause 7, at its meeting held on October 11, 1977, Council approved construction of a pedestrian bridge over Queen Street connecting the Eaton Centre to the then-existing Simpson's store. This approval was predicated on certain conditions being met, one of which was an encroachment agreement being entered into (the "Original Agreement").

ISSUE BACKGROUND

The Original Agreement was entered into between City of Toronto and predecessors to the Owner on August 18, 1978 for a term starting September 1, 1978 and ending August 31, 2018. This report stems from the upcoming termination of the Original Agreement

COMMENTS

An application has been received by the Applicant on behalf of the Owner, requesting permission to replace the existing pedestrian bridge over Queen Street West, connecting the Buildings. The Owner has decided to construct a new bridge, to replace the existing 40 year old bridge.

The bridge will be situated at the second storey level of the Buildings, as originally constructed. The connection of the bridge to The Hudson's Bay Company building is remaining at the same location on the building. The new bridge will be shifted slightly east from the original opening on the north side of Queen Street West where it connects to Toronto Eaton Centre. The alignment of the bridge is shown on plans A101 and A102, which can be found on Appendix 'B'.

The Applicant has submitted drawings and specifications depicting the Encroachment along with information letters from its consultants, Read Jones Christofferson and BA Group respectively to support the new bridge design. Copies of the letters are attached as Appendix 'C' and a photo of the existing bridge is attached as Appendix 'D'.

As there may also be potential impacts to existing utility infrastructure which are currently unknown. It will be the Owner's responsibility to undergo a public utility review with a view of obtaining clearances from the affected utility agencies and satisfying their requirements prior to the issuance of a construction permit authorizing work within the public right of way.

The proposed new bridge is 20 cm lower (measured from the centre of the pavement on Queen Street West) than the existing bridge structure. Transportation staff have consulted with TTC and Fire Services who have indicated that the proposed lower structure height will not negatively impact their operations. Specifically, the lower structure height will still be able to accommodate the necessary cabling clearances required for the TTC Streetcar clearances. TTC sign-off will be required prior to the issuance of a permit.

Applicable regulations

As Chapter 743, Streets and Sidewalks, City of Toronto Municipal Code does not provide for bridge encroachments over major arterial roadways as defined by the Road Classification System, Transportation Services is required to report on the application to Community Council.

Reasons for approval

Transportation Services has reviewed the application and determined that the construction and maintenance of the Encroachment will not impact negatively on the public right of way.

Details of the Encroachment are on file with Transportation Services.

CONTACT

Elio Capizzano, Right of Way Management
tel: 416.392.7878, fax: 416.392.7465 e-mail: ecapizza@toronto.ca

SIGNATURE

Andre Filippetti
Manager, Right of Way Management

ATTACHMENTS

Appendix 'A' – Further Building Requirements
Appendix 'B' – Encroachment Plans
Appendix 'C' – Encroachment Documentation
Appendix 'D' – Photo of the existing bridge

EC/GMH