**Construction of an Underground Pedestrian Tunnel Linking 1 Front Street East to 5-7 The Esplanade - 1 Front Street East**

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<th>Date:</th>
<th>March 2, 2011</th>
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<tr>
<td>To:</td>
<td>Toronto and East York Community Council</td>
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<tr>
<td>From:</td>
<td>Manager, Right of Way Management, Transportation Services Toronto and East York District</td>
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<td>Wards:</td>
<td>Toronto Centre-Rosedale – Ward 28</td>
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**SUMMARY**

Transportation has assessed a request to construct an underground tunnel connection which will encroach within the public right of way at The Esplanade rear of 1 Front Street East, linking the L-Tower site to a new condominium development at 5-7 The Esplanade.

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 on The Esplanade rear of 1 Front Street East, which will commence at a point approximately 10 m east of the east street line on Yonge Street and extend 2.8 m east thereof, linking 1 Front Street East to 5-7 The Esplanade, 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 interim net annual rental fee of $12,700.00 for the underground tunnel connection as determined by the Director of Real Estate Services;

f. satisfy all conditions of approval provided by Toronto Water and Technical Services and any further requirements they may have;

g. obtain approval for associated work from the Toronto Building Division;

h. provide “as-built” drawings that include the location of the tiebacks installed for the 5-7 The Esplanade development, within 90 days of completing the construction;

i. limit the life of the Agreement to the removal of the encroachment or the date of the demolition of the building at 1 Front Street East, 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.

COMMENTS
An application has been received on behalf of the developer of 1 Front Street East requesting permission to construct an underground tunnel within The Esplanade, connecting 1 Front Street East to the new condominium development at 5-7 The Esplanade, which is currently under construction. The proposed tunnel connection will encroach within the public right of way on The Esplanade rear of 1 Front Street East, for a length of 20.1m. The tunnel will commence approximately 10m from the east street line of Yonge Street and extend 2.8m east thereof. The tunnel will be constructed at the P3 underground parking level and be available for pedestrian use only.

Transportation Services has received clearances from the various utility companies regarding the proposed work and determined that the proposed tunnel connection will not have a negative impact on the public right of way.

We have consulted with Policy & Appraisal, Real Estate Services, who advised that an appropriate interim annual rental fee based on an area of approximately 92 square metres for the tunnel connection within the public right of way fronting 1 Front Street East is estimated to be $12,700.00 for the first year of the lease term. This interim rate will be applied until a strata survey of the constructed tunnel is provided by the applicant at which time the actual annual rental fee will be determined.

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 based on the current market value of the lands.
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 1 Front Street East and 5-7 The Esplanade 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".

CONTACT
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SIGNATURE

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Angie Antoniou
Manager, Right of Way Management

ATTACHMENTS
Appendix ‘A’ - property data map

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