

12, 14 and 16 York Street - Amendments to Section 16 Agreement and Road Closure Authorization

Date: April 27, 2018
To: Toronto and East York Community Council
From: Senior Strategic Director, Capital Projects, Transportation Services
Acting Director, Community Planning, Toronto and East York
Wards: Ward 20 - Trinity-Spadina, Ward 28 - Toronto Centre-Rosedale

SUMMARY

When Council approved development of 12, 14 and 16 York Street within Railway Lands East in 2009, as a condition of approval the owner was required to enter into a Section 16 Agreement to secure a range of facilities and services, including the construction of a PATH tunnel connection under York Street at the owner's expense. In 2014, Council authorized an amendment to the agreement to, among other matters, defer timing for completion of the tunnel connection to December 2018 and allow for the full closure of York Street in this location for up to six (6) months in order to carry out this work.

York Street is a major arterial road, providing a direct link from the downtown core to the F.G. Gardiner Expressway and Lake Shore Boulevard West. A full closure would have a significant negative impact on the road network and on adjacent residents, venues, and businesses.

The purpose of this report is to seek Council authorization to further amend the Section 16 Agreement applicable to 12, 14 and 16 York Street so that the owner's obligations include carrying out the construction of the York Street PATH tunnel connection with only the partial closure of York Street. Although a partial closure of York Street will extend the duration of construction, it will significantly reduce the congestion impacts of this work.

To quantify the relative impacts of a partial closure versus a full closure of York Street, Transportation Services has calculated the cost of vehicular delays, based on an estimate of the effects of each scenario on vehicular travel times and volumes. A full closure is estimated to result in costs to the economy of \$5.5 Million while the estimated impact cost of the partial closure scenario is \$636,000.

However, requiring a partial closure of York Street will result in additional costs incremental to the obligations in the original Section 16 Agreement, arising from the longer timeframe of construction, increased structural and earthwork requirements, and increased City fees. If the City wishes to alter the Section 16 Agreement, it will be necessary to accommodate these additional costs.

RECOMMENDATIONS

The Senior Strategic Director, Capital Projects, Transportation Services and Acting Director, Community Planning, Toronto and East York District recommend that:

1. City Council authorize the further amendment of the Section 16 Agreement, as amended, and applicable to the final phase of development at 12, 14 and 16 York Street (formerly 16 York Street), subject to Council approval of the required project costs and cash flow funding commitments within the 2018-2027 Capital Budget & Plan for Transportation Services, as required to:

a) extend the time within which the owner is required to provide a publicly accessible York Street PATH tunnel connection to May 31, 2020;

b) provide for a maximum City financial contribution of \$1,675,244, toward the incremental costs to be incurred by the owner arising from constructing the PATH tunnel connection under York Street with a partial closure rather than a full closure; and

c) incorporate additional details and amend terms as may be required, including alternative construction timing, specific scheduling requirements, other technical matters at the discretion of and to the satisfaction of the General Manager, Transportation Services and Chief Planner and Executive Director, City Planning.

2. City Council authorize the City Solicitor to prepare a further amending Section 16 Agreement in accordance with Recommendation 1 above together with modification or incorporation of such additional terms and conditions as may be appropriate for implementation of such direction, subject to Council approval of the required project costs and cash flow funding commitments within the 2018-2027 Capital Budget & Plan for Transportation Services.

3. City Council amend City of Toronto Municipal Code Chapter 937, Temporary Closing of Highways, to delegate to the General Manager, Transportation Services, until May 31, 2020 inclusive, the authority to temporarily close to vehicular and pedestrian traffic York Street between Bremner Boulevard and Lake Shore Boulevard West, to a maximum of two lanes of traffic, for a period up to and including 270 consecutive days but ending no later than May 31, 2020 inclusive, as required for the purposes of construction of the York Street PATH tunnel.

4. City Council exempt the General Manager, Transportation Services, in carrying out her authority under Recommendation 3 above, from Section 937-5 of City of Toronto Municipal Code Chapter 937, Temporary Closing of Highways, that being the requirement to notify the local Ward Councillors of the pending closure and the requirement to report on the proposed closure if so requested by the local Ward Councillors.

5. City Council waive the occupancy fees as found as Reference Nos. 37 and 38.1 under City of Toronto Municipal Code Chapter 441, Fees and Charges, Appendix C, Schedule 2, Transportation Services, up to a maximum dollar amount of \$1,779,274.00 for Lanterra Developments on behalf of the owners of 12, 14 and 16 York Street for the purposes of and during the construction of the York Street PATH tunnel connection by Lanterra Developments on behalf of the owners of 12, 14 and 16 York Street, subject to Council approval of the required project costs and cash flow funding commitments within the 2018-2027 Capital Budget & Plan for Transportation Services

6. City Council authorize City Officials to take all necessary action to implement the foregoing, including execution of a further amendment to the Section 16 Agreement.

FINANCIAL IMPACT

The construction of the PATH system connection via a partial closure will result in incremental additional costs incurred by the owner totalling \$3,454,518. It is anticipated that road occupancy fees incurred will be in the amount of \$1,779,274. Rather than requiring the owner to pay these fees to the City, only for the City to then provide a financial contribution to the owner in the amount of \$3,454,518, it is proposed that the fees up to an amount of \$1,779,274 be waived, or in essence off-set, such that there would be a maximum payment by the City to the owner of \$1,675,244 toward the incremental costs to be incurred by the owner arising from constructing the York Street PATH tunnel connection with a partial closure rather than a full closure.

Prior to the City entering into the revised Section 16 Agreement, Council must approve the required project costs and cash flow funding commitments within the 2018-2027 Capital Budget & Plan for Transportation Services. Council approval will be recommended as part of a report to Budget Committee.

The Acting Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting of April 29 and 30, 2009, City Council approved an Official Plan Amendment (amendment to Railway Lands East Secondary Plan) and rezoning application for a 31-storey office building, a 65-storey residential condominium building and a 55-storey residential condominium on the lands now known municipally as 12, 14 and 16 York Street. As part of the approval the owner was required to enter into a Section 16 Agreement to secure a range of facilities and services, including a publicly accessible PATH walkway under York Street.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.TE25.10>

At its meeting on February 19, 2014, City Council approved amendments to the Section 16 Agreement applicable to 12, 14 and 16 York Street (formally 16 York Street) to extend the timeframe within which the owner is required to provide a publicly accessible PATH system connection under York Street and into 15 York Street. The amended Section 16 Agreement required that PATH construction would be completed within a 9

month period, the closure of York Street would be for no longer than 6 months and construction is to be complete by December 31, 2018.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.TE29.4>

COMMENTS

Background

The provision of a below-grade PATH system connection under York Street between Bremner Boulevard and Lake Shore Boulevard West has long been envisioned as a key objective for redevelopment in the Railway Lands East, first identified as part of the 1996 Revised Precinct B Agreement. A below grade PATH connection between 15 York Street and 12, 14 and 16 York Street was identified in the Precinct B concept plan for pedestrian routes.

Consequently when Council approved development of 12, 14 and 16 York Street in 2009, as a condition of approval the owner entered into a Section 16 Agreement, dated April 30, 2009, to secure a range of facilities and services, including the construction of the York Street PATH connection at the developer's expense. A Section 16 Agreement under the City of Toronto Act is similar to a Section 37 Agreement under the Planning Act, which secures community benefits in exchange for an increase in height and/or density.

The development of 12, 14 and 16 York Street has proceeded in three Phases, with Phase 1 and 2 including construction of each of the residential condominium buildings (now completed), and Phase 3 including construction of the office building (in progress). The PATH connection was originally required to be completed prior to the condominium registration for Phase 2.

In 2014, the developer, Lanterra Developments, on behalf of the owner initiated discussions with City staff about construction of the York Street PATH Connection in order to meet the obligations under the Section 16 Agreement and to obtain necessary approvals in order to proceed. However, due to current and planned road closures in the area, it was determined by the City that a closure of York Street should not occur until after the Pan-Am Games in the summer of 2015, and that the construction of the connection should not delay the completion of Phase 2 of the development.

Accordingly, Council authorized an amendment to the Section 16 Agreement and deferred completion of construction of the PATH connection to no later than December 31, 2018. The amendments also contemplated the full closure of York Street for up to six (6) months for construction. In accordance with Council's direction, an amending Section 16 Agreement, dated October 26, 2015, was entered into with the owner.

At this time, a PATH walkway has been constructed within Phase 1 and 2 illustrated by dotted lines on Attachment 1. The proposed PATH walkway within Phase 3 as well as the York Street PATH connection within the York Street right-of-way are also illustrated with solid black lines on Attachment 1.

Mitigation of Construction-Related Congestion

The City of Toronto is currently experiencing an unprecedented period of growth - with the GTA expected to grow from 6.7 million in 2016 to 9.6 million on 2041. A consequence of this rapid population expansion has been a significant intensification of development in the downtown core, with an associated increase in construction-related congestion.

In response, the City of Toronto has redoubled its efforts to manage and mitigate the impacts of construction-related congestion through initiatives such as the:

- establishment of the Mayor's Road Closure Coordination group;
- stricter management of developer occupation of the roadway;
- acceleration of City-led construction projects by allowing extended construction work hours; and
- increases in road-occupation fees.

Through this lens, it is appropriate to re-evaluate the congestion impacts that would arise from a full closure of York Street and seek to minimize these. City Staff and the owner have worked collaboratively to explore alternative construction phasing and methodologies that would permit construction of the PATH connection, while maintaining a minimum of one lane of traffic in each direction.

Construction Scenarios

Existing Required Scenario - Full Closure

The current Section 16 agreement applicable to 12, 14, and 16 York Street requires that the owner complete construction of the PATH connection:

- a) within nine (9) months of commencement; and
- b) limit the closure of York Street to not more than a six (6) month period.

Direction previously provided by the City has clarified that this clause should be interpreted such that the full closure of York Street be limited to six (6) months, and a further partial two-lane closure of York Street would be permissible within the overall nine (9) month construction period. During this period, one lane of traffic in each direction would be provided.

The currently planned construction schedule under a full closure scenario is:

- Full Closure: 6 months - January 7th, 2019 to July 2nd, 2019
- Partial Closure: 3 months - July 3rd, 2019 to September 30th, 2019

Alternate Scenario - Partial Closure

Given the anticipated congestion impacts anticipated from this closure scenario, the City and the owner have worked to develop an alternative scenario that would eliminate the need for a full closure of York Street. Under this scenario, one lane of traffic in each direction would be maintained throughout the full construction period.

The currently planned construction schedule under a partial closure scenario is:

- Partial Closure (Western Two Lanes): 7 months - January 8th, 2019 to August 12th, 2019
- Partial Closure (Eastern Two Lanes): 6.5 months - August 13th, 2019 to February 27th, 2020

While proceeding with a partial closure will lengthen the time period of construction from 9 months to 13.5 months, the overall impact on traffic and resulting congestion will be reduced through the maintenance of two-lanes (one in each direction) throughout the full construction period.

Assessment of the Two Scenarios

Delay Cost Analysis

To evaluate the relative congestion impacts of the two closure scenarios, staff conducted a delay-cost analysis, estimating the effects on vehicular travel times and volumes across a total of 60 road segments in the vicinity of the proposed closure, in an area bounded generally by Front Street, Yonge Street, Lake Shore Boulevard and Spadina Avenue.

This analysis used traffic volume and travel time data to reflect operational conditions, while leveraging City Planning's macroscopic traffic model to better estimate the diversion impacts resulting from both a full and partial closure of York Street.

- After first establishing a base scenario reflecting current conditions (e.g. no closure of York Street), the traffic model was used to estimate changes in traffic volumes for all 60 segments for both partial and full closures.
- These estimated changes in traffic volumes for each scenario were then used to estimate changes in travel times based on the theoretical capacity of each roadway segment.
- The travel time delays for each scenario were then summed across all 60 segments to calculate the average additional delay (in vehicle-hours per day) for the partial and full closures. A value of time figure of \$20/hr and average vehicle occupancy of 1.3 persons/vehicle were applied to establish the total additional delay cost for each scenario.

Based on this analysis, summarized in Table 1, a full closure of York Street would have a significant negative impact on the road network given that it is a major arterial road, providing a direct link from the downtown core to the F.G. Gardiner Expressway and Lake Shore Boulevard West. Delay costs for the full closure are estimated at over \$5.5 Million. The partial closure will significantly reduce the impact, with estimated delay costs of just over \$600,000.

Overall, permitting construction to proceed via a partial closure will significantly reduce the congestion impacts associated with this work, with estimated delay-cost savings of \$4,953,000.

Table 1 - Delay Cost Summary

Measure	Full Closure Scenario	Partial Closure Scenario
Average Additional Delay - vehicle-hours/day		
Weekday	1,451	110
Weekend/Holidays	580	44
Additional Delay Cost - \$/day		
Weekday	\$37,726	\$2,860
Weekend/Holidays	\$15,080	\$1,144
Number of Days		
Weekday	125	188
Weekend/Holidays	58	87
Total Additional Delay - \$		
Total Additional Delay (\$)	\$5,590,390	\$637,208
Estimated Savings	\$4,953,182	

Incremental Costs

Given the significant reduction in delay costs with a partial closure, staff approached the owner about amending the Section 16 Agreement to require that the work be undertaken with partial closure of York Street. The owner indicated that there would be an incremental construction cost increase to perform the work without full closure.

Following discussion, the owner provided detailed construction cost estimates for the full closure and partial closure scenarios along with a summary comparison to substantiate their claim of increased costs with the partial closure scenario. These estimates have been the subject of a number of discussions with the owner. In addition, staff engaged an engineering consultant, at the owners' cost, to peer review the cost estimates. The peer review concluded that the overall construction costs were generally in-line with projects of similar scope and size and that the additional items specific to the partial closure scenario were fair and reasonable.

Proceeding on the basis of a partial closure will result in additional incremental costs to the owner of \$3,454,518 (inclusive of road occupation fees), as summarized in Table 2, arising from increases to:

- hard costs such as earthworks and excavation, additional structural requirements, and utility relocations; and
- soft costs such as traffic and construction management.

Proceeding with the partial closure scenario will require further amending the Section 16 Agreement to adjust timelines, modify specific scheduling requirements and

appropriately address any City financial contribution, given that these matters are outside the scope of the original agreement.

It is anticipated that road occupancy fees that would otherwise be incurred will be in the amount of \$1,779,274. Rather than requiring the owner to pay these fees to the City, only for the City to then provide a financial contribution to the owner in the amount of \$3,454,518, it is proposed that the fees up to an amount of \$1,779,274 be waived, or in essence off-set, such that there would be a maximum payment by the City to the owner of \$1,675,244 toward the incremental costs to be incurred by the owner arising from constructing the York Street PATH tunnel connection with a partial closure rather than a full closure.

Table 2 - Scenario Cost Summary

Scenario	Full Closure	Partial Closure	Incremental Change
Hard Costs	\$13,749,265	\$15,682,805	\$1,933,540
Soft Costs*	\$2,373,896	\$3,894,874	\$1,520,978
Sub-Total	\$16,123,161	\$19,577,679	\$3,454,518
Road Occupancy Fees			\$1,779,274
Required Financial Contribution			\$1,675,244

*includes Road Occupancy Fees

Road Closure Delegation

In order to proceed with either a partial or full closure, City Council approval is required as the construction time period will exceed current closure delegation to the General Manager, Transportation Services under Code Chapter 937.

Staff recommend that Council delegate to the General Manager, Transportation Services, until April 30, 2020 the authority to temporarily close to vehicular and pedestrian traffic up to a maximum of two lanes on York Street between Bremner Boulevard and Lake Shore Boulevard, for a period up to and including 270 consecutive days but ending no later than May 31, 2020 inclusive as required for the purposes of construction of the York Street PATH tunnel and to exempt the General Manager, Transportation Services, in carrying out this delegation from Section 937-5 of Chapter 937.

This delegation is being requested as:

- the construction start date may change during the immediate lead-up to the commencement of construction, and given the Council election break it may not be feasible for Staff to amend authorized time periods via a report; and

- given the congestion impacts anticipated, additional flexibility is required in order to quickly and effectively respond to changing staging requirements during the construction period.

Encroachment Agreement

In order for the owner to construct the York Street PATH tunnel within the City's right-of-way, an encroachment agreement with the owner is required to authorize the encroachment of the tunnel within the City's right-of-way, and to secure public accessibility and the City's right of entry onto the tunnel once constructed.

This agreement will be the subject of a subsequent report to the Toronto and East York Community Council, as it represents a delegated matter.

Section 16 Agreement

It is anticipated that the completion of the York Street PATH connection can be undertaken in the context of construction of the office building at 16 York Street, the third and final phase of development on this block. To provide for necessary extension, as well as a City financial contribution that would facilitate the construction of the York Street PATH connection by May 31, 2020 with a partial closure of York Street, staff recommends amendment to the Section 16 Agreement. The details of these terms and the construction timing will be finalized by the Acting Director Community Planning, Toronto and East York District and the General Manager, Transportation Services.

It is important that York Street PATH construction timing coincide with the construction of Phase 3 of the site, which commenced in 2017. If issues arise in terms of timing for completion, staff will report back to Council for further instruction. The obligation to construct and maintain the York Street PATH connection is identified as a community benefit in the site specific zoning by-law for this site and Council approval will provide only for an extension of time to deliver and a financial contribution to accommodate PATH construction through a partial closure of York Street. Amendment to the site specific by-law is not contemplated.

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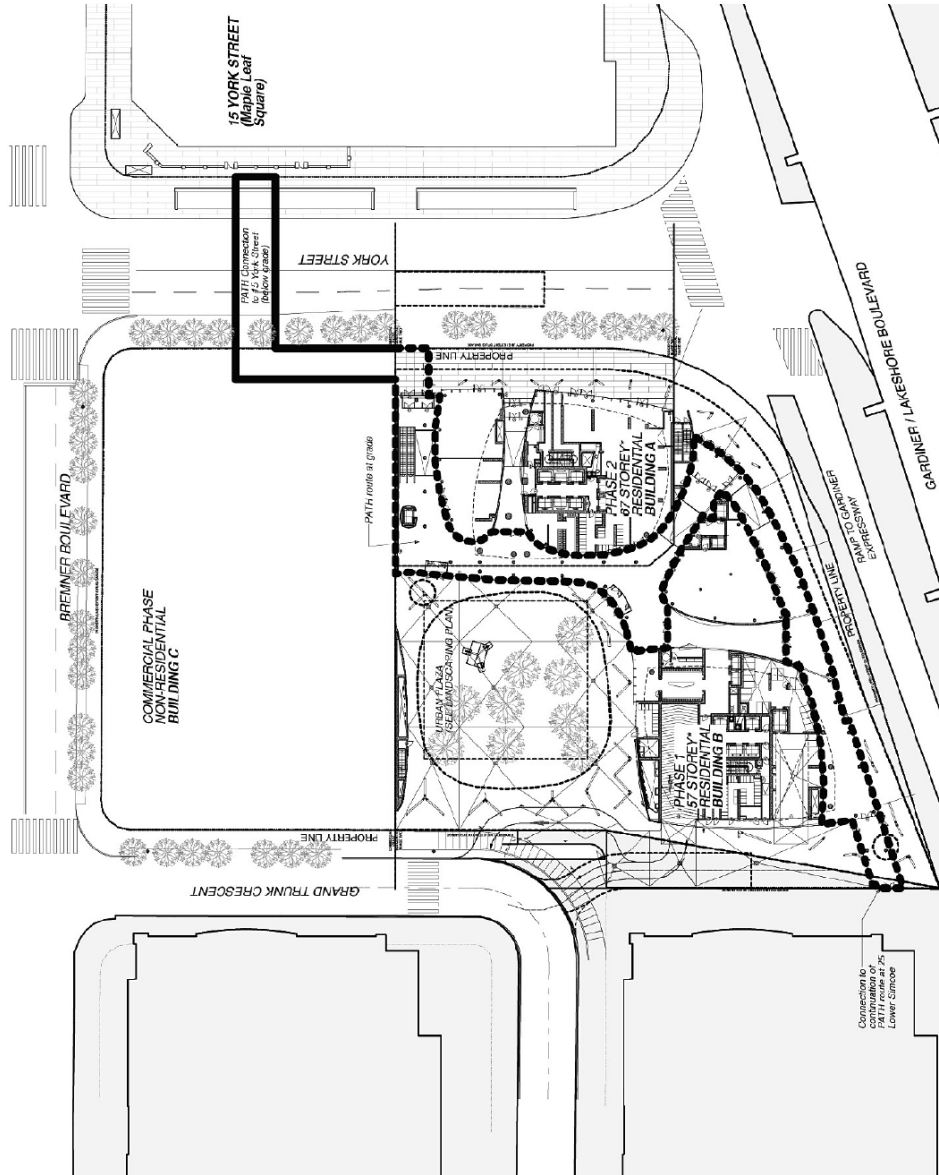
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ATTACHMENTS

Attachment 1: 12, 14 and 16 York Street - Site Plan

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16 York Street

File # 08 100769 0Z

PATH Tunnel Connection

Applicant's Submitted Drawing

Not to Scale
01/10/2014