

Municipal's Project Crossing Hwy. 407
MTO and/or 407 ETR Requirements
(Draft)

1. As per the Highway 407 Act (1998 Ontario), 407 ETR Concession Company Limited ("407 ETR") is the owner of, and as such, is the authority having jurisdiction of Highway 407 and its facilities/lands. Pursuant to the Act, 407 ETR is responsible for any and all structures that will carry traffic over or under Highway 407. As such, 407 ETR shall assume upon completion of the municipal project ("the project") the ownership, and jurisdiction and control over the proposed _____ structure that crosses over or under Hwy. 407.
2. The Municipality shall ensure that the design and construction of any proposed crossing highway and structure adhere to the standards of the Ministry of Transportation of Ontario ("MTO") and any additional requirements of 407 ETR, including enhanced safety standards, as applicable. The Municipality shall submit for review and comment the proposed design of the crossing highway and structure to MTO and 407 ETR. Their review of the proposed design may include, but is not limited to, peer review of structure drawings, geotechnical reports and safety standards. Once MTO and 407 ETR are satisfied that the proposed design meets all applicable standards and requirements, their approval in writing shall be given. 407 ETR and/or Independent Auditor and MTO may carry out random design and construction audits during the course of the project design and construction phases. Should any deficiencies be identified, the Municipality must rectify them within the specified period of time to the satisfaction of MTO and 407 ETR, which shall be acknowledged in writing.
3. All costs associated with the design and construction of the project that are located within either or both the Highway 407 Right-of-Way and MTO Right-of-Way shall be the responsibility of the Municipality. This includes, but is not limited to, the capital cost of design and construction, the ongoing cost of operations and maintenance, and the future rehabilitation and reconstruction costs of the structure, as well as any risks or liabilities created by the construction of the structure or its widening. Further the Municipality will be responsible for any costs associated with design reviews by 407 ETR and/or Independent Auditor including a peer review of the design drawings, and all quality control (both QA & QC) of construction operations.
4. The Municipality shall retain consultants and contractors qualified under the MTO's Registry Appraisal and Qualification System (RAQS) systems.
5. The Municipality will be required to enter into a legal agreement with 407 ETR. This agreement will define the roles, responsibilities and conditions under which the Municipality can construct new or widen existing structures for highways that cross over or under Highway 407, as the case may be. The Municipality is also required to enter into a separate agreement with MTO for any portion of the structure that is located within MTO right-of-way.
6. The Municipality should not tender the project until 407 ETR and, if applicable, MTO have signed the appropriate legal agreement(s) with the Municipality. Further, drawings and specifications for the project must meet the standards and requirements of both MTO and 407 ETR before they will be approved. Once the drawings and specifications are approved, MTO will issue an encroachment permit, which will include 407 ETR's conditions and agreements. If the Municipality elects to tender a project without first having the legal agreement(s) executed by all parties, the Municipality shall bear all risks and costs of so doing, including but not limited to, any changes to the design of the project as a result of MTO's and 407 ETR's review and any legal and financial liabilities associated with the tender.

NO construction activities will be allowed within either of the Highway 407 right-of-way or MTO right-of-way without an encroachment permit issued by MTO.

7. Following issuance of an MTO encroachment permit, the Municipality shall be required to fulfill all conditions outlined in it and according to the terms of the executed legal agreement with 407 ETR which may include, but shall not be limited to, payment of fees, insurance certificates, prior to 407 ETR issue a Work Activity Permit. Only after the Work Activity Permit has been issued by 407 ETR may any construction activities commence on 407 ETR lands.
8. Upon the Municipality granting substantial completion to its contractor and prior to opening the highway to the public, the Municipality will be required to request an inspection by 407 ETR, Independent Auditor and/or MTO to review safety issues. The Municipality will be required to rectify all safety deficiencies to the satisfaction of both 407 ETR and or MTO.
9. The Municipality will be required to post the highway as an "Unassumed Road" until such a time as the conditions in paragraph 10 have been met, and 407 ETR and/or MTO have assumed ownership, and jurisdiction and control of the structure. The Municipality shall assume all risks, liabilities and responsibilities for the structure during this time.
10. The Municipality shall request that 407 ETR assume ownership, and jurisdiction and control of the structure upon the Municipality fulfilling the following conditions:
 - All its contractual requirements with both 407 ETR and MTO.
 - The Municipality is to assume the highway passing a road opening by-law and register the by-law in the Land Registry Office.

A final completion inspection will be carried out by 407 ETR and its Independent Auditor and the Municipality must rectify any identified deficiencies.

MTO is required to carry out an opening and commissioning audit. All noted deficiencies identified by MTO must be rectified prior to written approval being granted.

The Minister endorses his/her consent to the by-law.
11. MTO, 407 ETR and the Municipality shall assume operations and maintenance activities as outlined in MTO Ministry Directive B-101 or as may be specified in the legal agreement, as the case may be, and the Municipality will be required to reimburse 407 ETR and MTO for the ongoing costs of operations and maintenance as per the legal agreement(s).