



ADMINISTRATIVE REPORT

Report Date: March 1, 2011
Contact: Brian Crowe
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RTS No.: 09107
VanRIMS No.: 08-2000-20
Meeting Date: March 15, 2011

TO: Vancouver City Council

FROM: General Manager of Engineering Services in Consultation with the Director of Legal Services

SUBJECT: 95 East 1st Avenue: Statutory Right of Way for Southeast False Creek (SEFC) Neighbourhood Energy Utility (NEU) Construction

RECOMMENDATION

- A. THAT Council approve entering into a statutory right of way agreement with South Coast British Columbia Transportation Authority ("TransLink") over a portion of their site at 95 East 1st Avenue.
- B. THAT such statutory right of way agreement will be on terms and conditions, including releases and indemnities in favour of TransLink, acceptable to the General Manager of Engineering Services and the Director of Legal Services.
- C. THAT the Director of Legal Services be authorized to execute and deliver the statutory right of way agreement on behalf of the City.
- D. THAT no legal rights or obligations will arise hereby and none will arise or be granted hereafter unless and until all legal documentation has been executed and delivered by the Director of Legal Services.

GENERAL MANAGER'S COMMENTS

The General Manager of Engineering Services RECOMMENDS approval of A, B, C and D.

COUNCIL POLICY

Council approval is required for the City to grant indemnities in favour of any third party and to enter into agreements that include indemnities by the City.

PURPOSE

This report seeks Council authority for the City to enter into a statutory right of way agreement with TransLink which includes a release and indemnity in favour of TransLink.

BACKGROUND

The expansion of the NEU in SEFC was approved by Council on January 21, 2010 as one of the projects to be completed as part of the Federal Infrastructure Stimulus Program, with project completion later extended beyond the original March 31, 2011 deadline. This project involves the extension of the existing NEU distribution pipeline system in SEFC from its current limit at 1st and Ontario to the intersection of Quebec Street and Terminal Avenue. This expansion will serve proposed new developments along this corridor as well as the Telus World of Science.

Construction on this section of the project is scheduled to begin March 21, 2011 and is expected to be completed by August 2011.

DISCUSSION

During the detailed design process of the NEU distribution pipeline system extension, it has been determined that the best alignment option along 1st Avenue east of Ontario Street is within an existing statutory right of way on the north side of 1st Avenue. This statutory right of way is 4.5m wide and exists on a City-owned parcel (Lot 307). To continue to construct the system in this corridor alongside 1st Avenue to Quebec Street, a 5.0m wide statutory right of way is required over the adjacent site (the "TransLink Lands") to the east of the City-owned Lot 307. Engineering staff have determined that installing the NEU distribution pipeline system through the TransLink Lands is the most cost effective alignment. To construct the pipeline within a different alignment would result in significant cost premiums and would require the partial closure of 1st Avenue to traffic for a period of time.

TransLink is preparing to sell the TransLink Lands and has undertaken the remediation of contamination on the TransLink Lands in anticipation of the sale of these lands. The City has advised TransLink that if and when the TransLink Lands are rezoned in the future, the City will require the 5.0 metre statutory right of way to be dedicated to the City as road. This future road dedication will ensure that adequate space is available for the required public realm and road improvements adjacent to this site.

TransLink has agreed to provide a statutory right of way on their site to facilitate the construction of the NEU system as shown on the attached plan (Figure 1), subject to the City entering into a statutory right of way agreement. Because TransLink has recently completed the remediation of the TransLink Lands, TransLink wishes to ensure that the installation of the NEU distribution pipeline system does not have an adverse affect on the soil remediation work that has already been completed. To that end, the City will ensure that excavations for the NEU pipelines are back filled with clean soil as is our standard practice. TransLink is requiring a release and indemnity from the City for any losses that may result from the City's work on the TransLink Lands. While it is not standard practice for the City to release and indemnify an owner who grants a statutory right of way to the City, the Director of Legal Services and the General Manager of Engineering Services are of the opinion that the circumstances are sufficiently unique and therefore recommend that Council approve the granting of a release and indemnity by the City in this case. It is important to note that the

statutory right of way agreement will be released if and when the statutory right of way lands are dedicated to the City in the context of a future rezoning.

FINANCIAL IMPLICATIONS

There are no financial implications.

CONCLUSION

To construct the expansion of the NEU system in SEFC, a statutory right of way agreement needs to be entered into with TransLink to secure a statutory right of way for the City over a 5.0 metre strip on the southern boundary of the TransLink Lands adjacent to 1st Avenue. TransLink is requiring that the statutory right of way agreement include a release and indemnity from the City. Council approval is required for the City to enter into agreements which include indemnities in favour of third parties. Due to the unique circumstances and the timing constraints for installation of the NEU distribution piping system the General Manager of Engineering Services and the Director of Legal Services recommend that Council approve a statutory right of way agreement with TransLink which includes a release and indemnity in favour of the registered owner of the TransLink Lands.

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EXPLANATORY PLAN OF STATUTORY RIGHT OF WAY OVER A PORTION OF LOT 1, BLOCK E, DISTRICT LOT 200A, PLAN 12958, GROUP 1, NEW WESTMINSTER DISTRICT

PLAN EPP11215

PURSUANT TO SECTION 99(1)(e), LAND TITLE ACT
BCGS 92G.025

10 8 6 4 2 0 10 20 METRES

ALL DISTANCES ARE IN METRES AND DECIMALS THEREOF.

THE INTENDED PLOT SIZE OF THIS PLAN IS 432mm IN WIDTH BY 280mm IN HEIGHT (B SIZE) WHEN PLOTTED AT A SCALE OF 1:300.

5
REM
PLAN 12958

307
REM

PLAN BCP20720

FALSE CREEK

BLOCK E

DISTRICT LOT 200A

1

PLAN 12958

QUEBEC STREET



STATUTORY RIGHT OF WAY
PLAN BCP20722

1° 41' 10" 13.288
1° 41' 10" 5.000

STATUTORY RIGHT OF WAY 228.6m²

91° 41' 10" 45.712
91° 41' 10" 45.720

1° 35' 20" 0.537
1° 35' 20" 5.000

91° 35' 20"

1ST AVENUE

THIS PLAN IS BASED ON THE FOLLOWING LAND TITLE AND SURVEY AUTHORITY OF BC RECORDS:

- PLAN BCP20720
- PLAN BCP20721
- PLAN BCP20722
- PLAN 12958

DANIEL R. PARKER, BCLS
JANUARY 28, 2011

THIS PLAN LIES WITHIN THE GREATER VANCOUVER REGIONAL DISTRICT

GRID BEARINGS ARE DERIVED FROM PLAN BCP20720.

DRP P-11 CITY OF VANCOUVER (604) 873-7330

FIGURE 1