



## CITY OF VANCOUVER

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### Administrative Report

Date: January 10, 2006  
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TO: Vancouver City Council

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

SUBJECT: 111 Alexander Street - Columbia Pump Station - Proposed Amendment to  
Terms of Encroachment Agreement

#### RECOMMENDATION

THAT Council authorize the Director of Legal Services in consultation with the General Manager of Engineering Services to vary the terms of an Encroachment Agreement previously approved by Council to be entered into for the above and below grade encroachments on City street to be built by the Greater Vancouver Sewerage and Drainage District (the "GVS & DD") for its Columbia Pump Station, which pump station will be located on City-owned lands at 111 Alexander Street, legally described as (PID 026-183-897) Parcel A, Block 1, District Lot 196, Plan BCP15610 (the "City Lands") such that:

1. Termination of the Encroachment Agreement be after a minimum of two (2) years' notice and only once Council has approved such termination; and
2. In the event of termination of the Encroachment Agreement from any cause whatsoever, the GVS & DD will, at its own expense, and within a period of 36 months from the date of such termination, or such longer period as may be specified by Council, remove the Works and repair any damage to property for which the City has responsibility, and restore the encroachment area, to the satisfaction of the City Engineer.

#### COUNCIL POLICY

There is no Council policy directly related to this matter.

The Encroachment By-law establishes the requirement for any agreement to contain termination provisions and other items such as annual fees, registration in the Land Title Office and security.

On February 19, 2002 Council approved the GVS & DD Statutory Right-of-Way to allow for the anticipated upgrade to the Columbia Pump Station.

On July 8, 2003 to allow for the design of the Columbia Pump Station, Council approved a land exchange (the "Land Exchange") of approximately one (1) square metre of City-owned land for approximately one (1) square metre of Canadian Pacific Railway Company land.

On January 18, 2005 Council authorized the Director of Legal Services to enter into an Encroachment Agreement for portions of the proposed above and below grade improvements appurtenant to the City Lands, to be built on City street, by the GVS & DD subject to conditions including:

- "3. Cancellation to be after a minimum of one (1) year's notice and only upon Council approval."

## PURPOSE

The purpose of this report is to achieve Council approval to modify the termination provisions and to increase the length of time for removal of the Columbia Pump Station from City street should the Encroachment Agreement be terminated.

## BACKGROUND

The Greater Vancouver Regional District (GVRD) through the GVS & DD has identified a need to upgrade the existing Columbia Pump Station currently located on the City Lands at 111 Alexander Street. On February 19, 2002, Council approved the registration of a Statutory Right-of-Way in favour of the GVS & DD, currently registered as BT205931, (the "GVS & DD Statutory Right-of-Way") to accommodate the sewer pump station, to be built onto the City Lands. The design of the new Columbia Pump Station has been on-going since.

On July 8, 2003 Council approved the Land Exchange to accommodate the design of the new pump station building to be built on the City Lands. The Land Exchange completed on January 26, 2005. The design of the pump station is such that it will encroach onto Alexander Street above and below grade. Staff was to report back for the authorities to allow the encroachment.

On January 18, 2005 Council authorized the Director of Legal Services to enter into an Encroachment Agreement for portions of the proposed above and below grade improvements appurtenant to the City Lands, to be built on City street, by the GVS & DD subject to conditions including:

- "3. Cancellation to be after a minimum of one (1) year's notice and only upon Council approval"

## DISCUSSION

When building encroachments onto City street are proposed, the City Surveyor, on behalf of the General Manager of Engineering Services reviews the proposal to determine whether or not the encroachment is supportable. The Encroachment By-Law requires that for these types of encroachments the registered owner enter into an encroachment agreement. The Encroachment By-Law establishes the requirement for annual fees, registration in the Land Title Office, security (generally in the form of an Equitable Charge) and termination provisions. Termination provisions included in encroachment agreements are normally immediate with six (6) months to remove the encroachment.

The proposed building wall is to encroach onto Alexander Street above grade by seven (7) feet plus a roof level cornice. The maximum distance of the proposed below grade encroachment is 23 feet. Engineering Services staff has reviewed the encroachments and have concluded that they can be accommodated, with very little risk that the encroachment area will ever be needed for civic purposes.

On February 2, 2004 the Development Permit Board approved the development permit application DE407706 for the pump station with several prior-to conditions to be fulfilled by the applicant prior to issuance of the development permit. Condition A.2.1 in part requires the applicant to make arrangements to the satisfaction of the General Manager of Engineering Services to enter into the "appropriate agreement for use of road right of way below and above grade".

The proposed construction and upgrade of this GVS & DD facility is supported by Engineering Services as it is needed (critical) infrastructure within the regional sewer utility system. The City Lands are only 15 feet deep at their maximum and the Canadian Pacific Rail yards immediately to the north of the site restrict options for pushing the structure further north.

The General Manager of Engineering of Services and the Director of Legal Services has been working with representatives of the GVS & DD on finalizing the Encroachment Agreement for over a year. The terms and conditions of the Encroachment Agreement are generally settled except for the termination provisions.

On January 18, 2005 in approving the Encroachment Agreement Council supported the recommendations of the General Manager of Engineering Services including that the annual fee be waived, the agreement not contain an Equitable Charge, nor further security and that the encroachment be allowed to remain with a minimum one (1) year's notice of cancellation and only upon approval by Council or if the existing GVS & DD Statutory Right-of-Way for the pump station is cancelled.

The GVS & DD has expressed concern over the termination provisions approved by Council and the time period they would be afforded to remove the encroachments should the Encroachment Agreement be terminated. They have sought a total of 5 years between termination and final removal of the Works.

The General Manager of Engineering Services has considered carefully the GVS & DD request. The processes for site selection, design, permit approval and tendering of the current project has taken more than 3 years. Given that there is not another known

site in the area that could accommodate the project and acknowledging the difficulty that would be encountered by the GVS & DD to relocate the pump station should Council ever decide to terminate the Encroachment Agreement the General Manager of Engineering Services, in consultation with the Director of Legal Services is prepared to recommend to Council that the terms of the encroachment agreement be varied from those previously approved by Council such that:

1. Termination of the Encroachment Agreement be after a minimum of two (2) years' notice and only once Council has approved such termination; and
2. In the event of termination of the Encroachment Agreement from any cause whatsoever, the GVS & DD will, at its own expense, and within a period of 36 months from the date of such termination, or such longer period as may be specified by Council, remove the Works and repair any damage to property for which the City has responsibility, and restore the encroachment area, to the satisfaction of the City Engineer.

The General Manager of Engineering Services makes these recommendations in acknowledgment that the Columbia Pump Station is a critical piece of regional utility infrastructure and required for the proper functioning of the regional sewer disposal network. The new Columbia Pump Station is a once in a generation construction project and vital to the City's needs.

#### **CONCLUSION**

The General Manager of Engineering Services in consultation with the Director of Legal Services RECOMMENDS approval of the foregoing.

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