



CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Report Date: November 24, 2006
Author: John Evans
Phone No.: 604.873.7288
RTS No.: 06395
VanRIMS No.: 06-3200-10
Meeting Date: December 12, 2006

TO: Vancouver City Council

FROM: General Manager of Engineering Services

SUBJECT: Interim Site-Specific Municipal Access Agreements - Novus Entertainment Inc.

RECOMMENDATION

- A. THAT the General Manager of Engineering Services and Director of Legal Services be authorized to conclude negotiations, and execute and deliver legal agreements with Novus Entertainment Inc. to permit it to extend its telecommunications network under City streets at the eight locations identified and on terms and conditions generally as described in this report, and such other terms and conditions satisfactory to the General Manager of Engineering Services and Director of Legal Services.

- B. THAT no legal rights or obligations will arise or be created by Council's adoption of Recommendation A unless and until all legal documentation has been executed and delivered by the respective parties.

GENERAL MANAGER'S COMMENTS

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

COUNCIL POLICY

Where Council's pre-existing standing authority for the execution of contracts by City staff is not applicable, specific Council authorization is required.

PURPOSE

This report seeks Council approval for staff to negotiate and execute agreements with Novus Entertainment Inc. to allow them to build eight additions to their telecommunications systems, on or under City streets, at the specified locations within the City of Vancouver.

BACKGROUND

Novus Entertainment Inc. is a privately owned, local telecommunications company, primarily offering cable television and broadband services in the downtown area.

City of Vancouver staff has recently prepared a utility bylaw to regulate all utilities in City streets. A draft of this bylaw was presented to Council on September 26, 2006, seeking Council authority to have it circulated to the industry for comment, which was approved and the process is underway. The expected enactment date for this bylaw is spring 2007.

In the meantime, it is still necessary for the City to grant access to utility companies to City streets in a timely manner. Until City Council approves a long term policy for access to City streets by utility companies, interim Municipal Access Agreements (MAA) are entered into for specific locations, as and when required.

DISCUSSION

Novus is planning new civil works within the City streets for which they require interim MAAs, which require approval of Council.

At this time, they seek permission to construct at eight locations:

	<u>Location</u>	<u>Length (m)</u>
1.	Beach Avenue @ Hornby Street	128
2.	Bute Street @ Harwood Street	41
3.	Beach Ave @ Burrard St	20
4.	Helmcken St @ Seymour St	15
5.	Nelson St @ Howe St	20
6.	Alberni St @ Jervis St	260
7.	Alberni St @ Cardero St	260
8.	Alberni St @ Broughton St	20

For the first seven locations listed above, the proposed work would involve a relatively non-conventional technology that we term "surface inlaid fibre" (SIF). In this case, the company would use a concrete saw to cut a small slot in the pavement/curb/sidewalk into which the small diameter fibre optic cable would be placed and the slot sealed. (Conventional technology would see the sidewalk/pavement dug up and a duct placed 18 to 24 inches below grade, then the surface restored.) Advantages to this method of service include less public disruption during construction and lower cost of service. Disadvantages include increased exposure to damage during municipal or other utility work and there is some risk that the surface sealant will deteriorate over time.

To protect the City from these disadvantages, the Interim MAA for these seven locations will include terms unique to SIF installations that will require that the telecom company both indemnify the City with respect to any claims by third parties against the City as a result of such installations and release the City from any claims that the telecom company may have against the City for damages caused to the SIF by any work in the street undertaken by the City or other utility companies.

The City already has had an MAA with one company using this technology successfully since 1999 and it is our intent to continue to facilitate this type of construction.

The remaining terms for the SIF construction and the terms for the eighth location would be substantially the same as interim MAAs that have been signed with a number of telecom companies, which include the following:

- City to approve the location and design of installations, particularly as it affects other utilities and the City street
- Novus to pay City costs for inspection, lost parking meter revenue, traffic signing and pavement/sidewalk repairs to City standards
- Novus to provide as-built information for their new facilities
- Novus to release and indemnify the City to the satisfaction of the Director of Legal Services
- Agreement may be terminated by either party on 180 days notice

FINANCIAL IMPLICATIONS

There are no financial implications.

CONCLUSION

Staff recommends that Council authorize the City to enter into site-specific interim MAAs with Novus Entertainment Inc. for eight expansions to their telecommunications network on or under City streets in the locations identified and as generally described in this report.

* * * * *