



CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Report Date: April 03, 2007
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VanRIMS No.: 13-3000-20
Meeting Date: April 17, 2007

TO: Vancouver City Council

FROM: General Manager of Engineering Services

SUBJECT: Interim Municipal Access Arrangements - Various Telecommunications Companies

RECOMMENDATION

- A. THAT the General Manager of Engineering Services and Director of Legal Services be authorized to conclude negotiations and execute and deliver a series of legal agreements with each of Bell Canada, MTS Allstream Inc. and Novus Entertainment Inc., to permit them to extend their telecommunications network under City streets by installing ducts in various new locations, 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 arrangements with each of Bell Canada ("Bell"), Novus Entertainment Inc. ("Novus") and MTS Allstream Inc. ("Allstream") to allow them to build various additions to their respective telecommunications duct system on terms as described in this report.

BACKGROUND

City of Vancouver staff has prepared the initial draft of the "Street Utilities Bylaw", intended to regulate all utilities in City streets. This draft was presented to Council on September 26, 2006, at which time City Council authorized its circulation to the various utilities for their information and comment. We have received those comments and are currently analyzing them. Enactment is still planned for mid-year.

In the meantime, it is still necessary for the City to grant access to the 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, short-term agreements have been sought, either for specific locations as and when required, or on a City wide basis.

A number of telecommunications companies have been signing these agreements but City staff note that such agreements are time consuming as they require individual Council approval and agreement preparation and execution.

In 2005, two companies petitioned the CRTC seeking longer term access agreements and terms as proposed in the Ledcor decision. Allstream is one of those companies and also one of the companies for which we are seeking authority for alternate interim arrangements in this report.

In September 2005, the CRTC released its decision. In summary, the decision required the City to conclude negotiations with the named companies on a new MAA within 60 days on terms guided by the Ledcor decision and including a 15 year term. These agreements have yet to be concluded but the parties are working cooperatively toward a conclusion. The terms of these agreements are expected to be very similar to the proposed City bylaw.

Therefore, while work on long term arrangements is continuing, either an MAA for those companies named in the CRTC order, or the Street Utilities Bylaw for the remainder, staff is recommending that we proceed with interim City-wide agreements, making this work retroactively subject to the ultimate arrangements.

Council approved an arrangement on this basis for Shaw Cablesystems Limited at its meeting on July 11, 2006, and we seek to extend that principle to these three other companies. It is expected that, subject to Council approval, we would extend the arrangement to any other utility company that requested such an arrangement.

DISCUSSION

As noted, we are in the process of negotiating a long term agreement with Shaw Cablesystems Limited and have entered into an interim letter agreement with them to allow access to City streets in the interim.

We now wish to extend a similar arrangement to Allstream, the other company with whom we are negotiating a long term agreement. The interim letter agreements will be signed individually for each project, and will provide that works built under this arrangement will be retroactively subject to the terms and conditions of the anticipated long term agreement.

Additionally, we now propose to extend a similar arrangement for a series of letter agreements to other utility companies, namely Bell and Novus, which letter agreements would provide that works built under the interim arrangement will be retroactively subject to the terms and conditions of the Street Utilities By-law, if enacted.

There is very little risk in proceeding with these arrangements. Should we be unsuccessful negotiating the anticipated long term agreement for Allstream, or should Council not enact the Street Utilities By-law, either of two things will happen:

1. The utility companies and the City will enter into individual site specific MAAs, as we have done in the recent past, for work done under this arrangement, or
2. The CRTC may intervene and impose an agreement upon the City for the whole of the network for each utility company, which would include this work."

FINANCIAL IMPLICATIONS

There is a minor financial benefit having the work that is the subject of this report retroactively covered by the future MAA since we would be able to capture a number of fees (e.g. Plan Review Fees, Inspection Fees) that we are currently not able to collect.

CONCLUSION

Staff recommends that Council approve an interim arrangement to facilitate these companies installing various unspecified extensions to their telecommunications network in Vancouver, as generally described in this report.

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