

Report Date: September 23, 2009
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Meeting Date: October 6, 2009

TO: Vancouver City Council

FROM: General Manager of Engineering Services

SUBJECT: Municipal Access Arrangements for Rogers Cable Communications Inc. for the Installation of Telecommunications Equipment in Streets

RECOMMENDATION

- A. THAT the General Manager of Engineering Services and the Director of Legal Services be authorized to conclude negotiations and execute and deliver interim legal arrangements with Rogers Cable Communications Inc., to permit the company to install and operate a 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 or B 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 the foregoing.

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's approval to enter into arrangements with Rogers Cable Communications Inc. ("Rogers"), to permit them to build and operate a telecommunications network in the streets of Vancouver.

BACKGROUND

On September 26, 2006, City Council reviewed the initial draft of the "Street Utilities By-law", intended to regulate all utilities in City streets, and authorized its circulation to the various utilities for their information and comment. This was done and a number of suggested changes will be brought forward to Council later this year.

Referral of the revised draft By-law to Council for its consideration had been postponed pending the outcome of a significant legal proceeding commenced by MTS Allstream Inc. against the City before the Canadian Radio-television and Telecommunications Commission ("CRTC"). The parties received the CRTC decision in May of this year. The CRTC decision has settled most of the terms and conditions for access by telecommunications companies to City streets (including the fees payable to the City). Staff are currently revising the draft Street Utilities By-law in light of this CRTC decision.

Prior to Council considering the revised Street Utilities By-law, it is still necessary for the City to grant access to telecommunications companies to City streets in a timely manner. To date, we have been doing this by letter agreements and Council has authorized such arrangements with several of the telecom providers, starting with Shaw Communications in July 2006.

DISCUSSION

Rogers have recently contacted staff requesting access to City streets to build a network of ducts connecting their existing and planned cellular phone antennae. To some extent, they will be utilizing duct space from other telecommunications companies but will also need to build several new sections of conventional trench and duct construction.

There is some urgency to this request as Rogers have stated that the work is needed to support communications for the 2010 Olympics.

To accommodate this request, staff recommends continuing our practise of using a series of letter agreements, signed for each individual project that 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 and when enacted.

Staff intend that the new Street Utilities By-law will cover the arrangement with Rogers, however there is the possibility of a CRTC order to enter into a Municipal Access Agreement ("MAA"). If the Street Utilities By-law is not enacted or if a general MAA is not entered into, either of two scenarios will happen:

1. Rogers and the City will enter into an individual site-specific MAA, as we have done in the past, for work done under this arrangement, or
2. Rogers (or the City) will apply to the CRTC, which will impose an MAA, including the terms and conditions under which Rogers may construct and operate its network, which we expect would parallel the recent CRTC decision with respect to MTS Allstream.

FINANCIAL IMPLICATIONS

There are no significant financial implications.

CONCLUSION

Staff recommends that Council approve entering into legal arrangements with Rogers Cable Communications Inc., as generally described in this report, to permit them to install and use a conventional duct network in the City streets.

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