



**STAFF REPORT
ACTION REQUIRED**
with Confidential Attachment

**Telecommunication Towers and Antennae Agreements
between Rogers Communication Inc. and the City of
Toronto**

Date:	October 31, 2013
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	All
Reason for Confidential Information:	This report involves the security of property belonging to the City or one of its agencies, boards, and commissions
Reference Number:	P:\2013\Internal Services\RE\Gm13029re – (AFS #18015)

SUMMARY

This report seeks Council approval for the City of Toronto to:

- (a) Enter into a new licence agreement with Rogers Communication Inc. ("Rogers") which would replace existing, expired licence agreements with Rogers Wireless (a predecessor corporation to Rogers) for telecommunication equipment on various City properties as listed in Appendix "A".
- (b) Approve the major terms and conditions as set out in Appendix B of new licence agreements with other wireless communications carriers on sites to be authorized in the future.

RECOMMENDATIONS

The Chief Corporate Officer recommends that City Council:

- 1. Authorize the City to enter into a master licence agreement with Rogers for the installation, operation and maintenance of telecommunication equipment (the "Agreement") for the sites set out in Appendix "A" and for further sites as may be authorized in the future, substantially on the terms set out in Appendix "B" and

Confidential Attachment 1, and such other terms and conditions acceptable to the Chief Corporate Officer (the "CCO"), in a form satisfactory to the City Solicitor.

2. Authorize that the confidential information contained in this Attachment 1 - Confidential Information will be made public once Council approves this report.
3. Approve the licence fees contained in Attachment 1 – Confidential Information and the major terms and conditions contained in Appendix "B" along with such other and terms and conditions as may be added or amended by the CCO, in a form satisfactory to the City Solicitor with respect to licence agreements between the City and other wireless communications carriers (the "Other Agreements") for the installation, operation and maintenance of telecommunication equipment on sites which may be authorized in the future pursuant to the delegated approval process.
4. Authorize the CCO to administer and manage the Agreement, including the provision of any consents, approvals, waivers, notices and notices of termination, provided that the CCO may, at any time, refer consideration of such matters to City Council for its determination and direction.
5. Authorize the CCO and the Director of Real Estate Services be authorized severally to execute the Agreement on behalf of the City.
6. Authorize and direct the appropriate City Officials to take the necessary action to give effect thereto.

Implementation Points

Following Council's authorization City Staff will work with Rogers and other wireless communications carriers to bring the licence agreements in compliance with the schedule of fees and major terms and conditions. Additionally where agreements have been in overhold for more than one year the City will apply a retroactive graduated rental increase to escalate the rates the carriers have been paying in overhold up to the newly authorized schedule of fees.

The licence fee schedule found in Attachment 1- Confidential Information are the fees effective January 1, 2014 and they will be escalated annually at 3 % for each subsequent year, so that fees are consistent among current tenants and future tenants.

Financial Impact

In 2013, the City earned \$188,500 in telecommunications licence agreement revenues from wireless communications carriers. These revenues are included in the revenue budget for Real Estate Services.

The financial impact for the Agreement and the Other Agreements is set out in Confidential Attachment 1.

The proposed annual Licence Fees under the Agreement and Other Agreements will be determined by 3 factors:

- 1) City Zone Location - The city will be divided into Three zones A, B, and C
- 2) Proximity to Highways
- 3) Installation Type – Including towers, roof tops and in building installation

A schedule of proposed fees is attached in Confidential Information - Appendix "A".

The schedule of Licence Fees for 2014 are subject to an annual adjustment of 3 percent.

Licence Fees set within the licence agreement will increase every year by 3 percent. Settlement of this matter would eliminate further costs of continued arbitration proceedings to set the rent for further renewal terms.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

On March 3-5, 2008, the City of Toronto adopted a Telecommunications Protocol prepared by City Planning for the installation of new telecommunications tower and antenna proposals in the City of Toronto (the "Telecommunications Protocol").

Staff Report: Supplementary Report - Proposed Protocol for the Installation of Telecommunication Towers (Item PG13.2)

<http://www.toronto.ca/legdocs/mmis/2008/pg/reports/2008-02-13-pg13-cr.pdf>

At the same meeting, City Council also adopted the Prudent Avoidance Policy on Siting of Telecommunication Towers and Antennas ("PA Policy") as recommended by the Board of Health. This policy requests that wireless carriers keep radiofrequencies from telecommunication towers and antennas 100 times below Safety Code 6 (being Health Canada's guidelines for exposure to radiofrequencies) ("Safety Code 6") in areas where people normally spend time. The PA Policy requires this 100 times more stringent standard on City-owned property.

Staff Report and Council Actions: Prudent Avoidance Policy on Siting Telecommunication Towers and Antennas (Item HL 10.3)

<http://www.toronto.ca/legdocs/mmis/2007/hl/reports/2007-12-04-hl10-cr.pdf>

ISSUE BACKGROUND

Rogers is currently an overholding licensee on the properties listed in Appendix "A"; the existing licence agreements for those sites have expired. The City has negotiated a new agreement with Rogers which includes compliance with the PA Policy. Excluded from the Appendix "A" list is Rogers equipment located within Union Station, as the agreement for this equipment will be incorporated at a later date into the Station's Revitalization Project.

Rogers and other wireless carriers are regulated by Industry Canada which approves installations of antenna systems and recognizes Safety Code 6. When City Council adopted the current Telecommunications Protocol and the PA Policy, City Council directed staff to use the Prudent Avoidance guideline to evaluate cell tower and antenna applications.

The PA Policy is voluntary when it relates to cell towers proposed for private lands as reviewed through the Telecommunications Protocol. City staff approving licence agreements for wireless telecommunication equipment on City-owned sites however, have required compliance with the PA Policy pursuant to Council's directive in 2008.

Toronto Public Health is currently reviewing the health evidence and assessing the need and benefit of continuing the PA Policy. Toronto Public Health expects to report to the Board of Health on November 4, 2013. The Medical Officer of Health's report will be considered at Council concurrently with this staff report.

COMMENTS

The demand for bandwidth to satisfy users (due to uses such as data transmission, high definition video streaming, gaming, media and increased use of mobile applications, smart phone, tablet and laptop devices), has increased dramatically in the City of Toronto. To satisfy these public and business requirements, Rogers needs to secure its current equipment locations throughout the City of Toronto by entering into the Agreement.

Rogers and other wireless carriers have come to the City with interest in licensing City-owned property for their equipment to meet this growing need. Discussions with the wireless carriers were protracted in relation to adhering to the PA Policy requirements enforced for antenna systems on City-owned properties.

In addition to the Agreement, Rogers also seeks permission to license 60 stand-alone utility poles with associated cabinets, within the City's Rights of Way (the "TS Sites"). After negotiations with Transportation Services and Real Estate Services, Rogers has advised City staff in writing that it will ensure full compliance with the PA Policy. The licence agreement for the TS Sites will align with the major terms and conditions of the Agreement described in this report.

Transportation Services has submitted a report to Public Works and Infrastructure Committee to seek authority for the TS Sites, scheduled for City Council consideration concurrently with this Staff Report.

CONTACT

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SIGNATURE

Josie Scioli
Chief Corporate Officer

ATTACHMENTS

Attachment 1 – Confidential Information
Attachment 1 – Confidential Information - Appendix "A"
Appendix "A" – Locations of Rogers Installations on Various City Properties
Appendix "B" – Major Terms and Conditions of the Agreement