

226 Wilson Avenue - Bell Mobility Incorporated License Agreement Amendment for an Extension Option

Date: June 24, 2020

To: North York Community Council

From: Executive Director, Corporate Real Estate Management

Wards: Ward 8 – Eglinton-Lawrence

SUMMARY

The purpose of this report is to obtain authority to amend an existing Encroachment Agreement dated July 24, 2017 (the "Encroachment Agreement") between the City of Toronto (the "City") and Bell Mobility Incorporated (the "Licensee") by adding one renewal option of five years (the "Option") in favour of the Licensee. The Encroachment Agreement is for an encroachment on City-owned land and adjacent lands over which the City has an easement. The encroachment is required for the location of underground cables, and comprises a land area of 99 square meters, at the south-east corner of City-owned land at 226 Wilson Avenue, being a three meter wide strip centered on the cable location (the "Encroachment"), as outlined in Appendix C. The Encroachment Agreement, which commenced in August 2014, requires the encroachment fee for the period of August 2019 to August 2024 (the "Remainder Term") be determined by the City based on fair market value. In connection with negotiation of the encroachment fee for the Remainder Term, the Option was agreed to. Community Council has delegated authority to make a final decision with respect to encroachments.

RECOMMENDATIONS

The Executive Director, Corporate Real Estate Management, recommends that:

1. North York Community Council grant authority to amend the Encroachment Agreement with Bell Mobility Incorporated, substantially on the terms and conditions outlined in Appendix A and Appendix B of this report, with such revisions to it, and such other terms and conditions acceptable to the Executive Director, Corporate Real Estate Management, or his or her designate, from time to time, in consultation with the General

Manager of Toronto Water, or his or her designate, from time to time, and in a form acceptable to the City Solicitor.

FINANCIAL IMPACT

The total compensation to the City for the Remainder Term, ending on August 11, 2024, is \$53,091 (net of Harmonized Sales Tax). If the Option is exercised, the total compensation for the option term of five years will be \$61,547 (net of Harmonized Sales Tax). Please see Appendix B for a detailed breakdown.

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

DECISION HISTORY

Bell Mobility Incorporated built a communication tower on adjoining lands and installed underground cables on both former Metropolitan Toronto ("Metro") lands and the City's easement lands, without Metro's consent. In 1992, Metro Council gave its approval to enter into an Encroachment Agreement with Bell Mobility Incorporated to regularize the occupation.

By adoption of Clause No.24 of Report No. 27 of the Management Committee by the former Metro Council on August 12, 1992, authority was granted to enter into an Encroachment Agreement with Bell Mobility Incorporated for the underground cable installation for a period of five years, commencing on August 12, 1992, and ending on August 11, 1997, with an option to extend for a further five year period.

By adoption of Clause No. 35 of Report No. 19 of the Corporate Administration Committee by the former Metro Council, on August 13, and 14, 1997, authority was granted to extend the existing Encroachment Agreement for a further five year term, commencing on August 12, 1997, and ending on August 11, 2002.

At its meeting of March 22, 2011, North York Community Council granted authority to renew the Encroachment Agreement for a further term of seven years commencing on August 12, 2002, and expiring on August 11, 2014.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.NY5.4Authori>

At its meeting of August 12, 2014, North York Community Council granted authority to renew the Encroachment Agreement for a further term of 10 years commencing on August 12, 2014, and expiring on August 11, 2024.

COMMENTS

The Encroachment Agreement expires on August 11, 2024. The Encroachment Agreement states that the fee for the Remainder Term will be determined at the

discretion of the City of Toronto, acting reasonably, provided that such annual fee will not be lower than the previous period, and will be based on fair market rent. The annual encroachment fee represents current market value according to market research and evaluation conducted by Corporate Real Estate Management staff. When setting the encroachment fee for the Remainder Term, the Licensee requested an option to renew for an additional five year period.

CONTACT

Alison Folosea, Director, Transaction Services, Corporate Real Estate Management,
416-338-6943, Alison.Folosea@toronto.ca

SIGNATURE

Patrick Matozzo
Executive Director, Corporate Real Estate Management

ATTACHMENTS

Appendix A – Major Terms and Conditions
Appendix B – Financial Impact
Appendix C – Site Plan

Appendix A – Major Terms and Conditions

Licensors:
City of Toronto

Licensee:
Bell Mobility Incorporated

Premises:
Approximately 99 square metres (1,066 square feet) of encroached upon land at the south-east corner of City-owned land at 226 Wilson Avenue, Toronto, Ontario. Additional encroachment on easement that City of Toronto has over neighboring property to the east.

Term:
Ten (10) years commencing on August 12, 2014.

Option to Renew:
One option to renew for a term of five years.

License Fee:
License fees for the remainder of the current term as set out in Appendix B.
Licence fees for the option term as set out in Appendix B.

Use:
Underground encroachment to connect cables (phone/fibre optics/etc. lines) to Bell Mobility Incorporated's main tower on the neighboring property to the north.

Appendix B – Financial Impact

Remainder Term						
August 12, 2019 - August 11, 2024	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Compensation	\$10,000	\$10,300	\$10,609	\$10,927	\$11,255	\$53,091
Dollars per square foot	9.38	9.66	9.95	10.25	10.56	
Percentage increase over prior year		3.00%	3.00%	3.00%	3.00%	
Taxes	\$1,300.00	\$1,339.00	\$1,379.17	\$1,420.55	\$1,463.16	\$6,901.88
Total	\$11,300.00	\$11,639.00	\$11,988.17	\$12,347.82	\$12,718.25	\$59,993.23
One additional option of 5 years to renew. Please see table directly below.						
If option to renew is exercised						
August 12, 2024 - August 11, 2029	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Compensation	\$11,593	\$11,941	\$12,299	\$12,668	\$13,048	\$61,547
Dollars per square foot	10.87	11.20	11.54	11.88	12.24	
Percentage increase over prior year	3.00%	3.00%	3.00%	3.00%	3.00%	
Taxes	\$1,507.06	\$1,552.27	\$1,598.84	\$1,646.80	\$1,696.21	\$8,001.17
Total	\$13,099.80	\$13,492.79	\$13,897.57	\$14,314.50	\$14,743.94	\$69,548.60

Appendix C – Site Plan

