



City of Richmond

Report to Committee

To: Public Works and Transportation Committee **Date:** December 22, 2014
From: John Irving, P.Eng. MPA **File:** 10-6600-10-01/2014-Vol 01
 Director, Engineering
Re: **Municipal Access Agreement with Lulu Island Energy Company Inc.**

Staff Recommendation

That the Chief Administrative Officer and the General Manager, Engineering & Public Works be authorized to execute, on behalf of the City, a Municipal Access Agreement (MAA) between the City and Lulu Island Energy Company Inc., a fully owned City corporation, containing the material terms and conditions set out in the staff report titled, "Municipal Access Agreement with Lulu Island Energy Company Inc.," dated December 22, 2014, from the Director, Engineering.

John Irving, P.Eng. MPA
 Director, Engineering
 (604-276-4140)

REPORT CONCURRENCE		
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER
Law	<input checked="" type="checkbox"/>	
REVIEWED BY STAFF REPORT / AGENDA REVIEW SUBCOMMITTEE	INITIALS: 	APPROVED BY CAO

Staff Report

Origin

In June 2014, the City and Lulu Island Energy Company (LIEC) executed a District Energy Utilities Agreement assigning LIEC the function of establishment and operation of district energy systems and the provision of thermal energy services on behalf of the City. To be able to provide this function, LIEC will need access to dedicated highways, streets, roads, road allowances, lanes and bridges under the City's jurisdiction as well as the City's applicable statutory rights of way on private properties (collectively, the "Statutory Rights of Way") to install, operate and maintain district energy infrastructure and equipment.

At the Closed Council meeting of April 28, 2014, Council endorsed the Material Terms specified in the report titled "River Green District Energy Utility - Business & Infrastructure Terms," dated April 17, 2014, from the Director, Engineering for the purpose of endorsing Lulu Island Energy Company and Corix Utilities Inc. entering into a Concession Agreement.

Analysis

LIEC is a wholly-owned local government corporation, with the City of Richmond as its sole shareholder. Council appoints a board to administer daily operations of DEUs, and Council approves utility rates, policies, and practices. The corporation was established for the purposes of managing district energy utilities on the City's behalf. LIEC will need to install district energy infrastructure and equipment within the City of Richmond's Statutory Rights of Ways. It must obtain the City's consent to use the Statutory Rights of Way and this is typically accomplished through a MAA.

The proposed MAA protects the City's interests and establishes the roles and responsibilities of both parties, as well as provides a right to LIEC to assign this MAA to Corix Utilities on the same terms and conditions. The proposed MAA will:

- Specify locations where the agreement will be applicable (i.e. the Statutory Rights of Ways);
- Permit LIEC to grant Corix Utilities Inc. a sub-licence to carry out the work in the service corridors on the same terms and conditions as in this MAA;
- Specify required consent for constructing, maintaining, operating, repairing and removing LIEC's equipment, and define the scope of the City's consent;
- Require LIEC to pay causal¹ costs to the City at the City's discretion;
- Define the conditions under which LIEC may carry out work;
- Specify cost allocations for LIEC equipment to be relocated as a result of any municipal and third party projects;
- Minimize the City's liability due to LIEC's work or equipment;
- Identify the term of the MAA to be 30 years;

¹ Causal costs are costs incurred as a result of additional effort and materials spent working around a private utility installation while maintaining or constructing public infrastructure

- Define and impose fees and charges (eg. lost productivity costs, permit and inspection costs, and pavement degradation) and their annual CPI increase;
- Require LIEC to assume environmental liability for any hazardous substances that they bring to or cause to be brought to the Statutory Rights of Ways;
- Identify the insurance requirements LIEC must maintain; and
- Include indemnity clauses.

Financial Impact

None. Electric light, electric power, telephone, water, gas or closed circuit television utility companies that utilize City property as utility corridors pay an annual 1% tax to the City as per Section 192 of the *Community Charter* and Section 353 of the *Local Government Act*. However, LIEC as a thermal energy utility company would be exempted from this tax.

Conclusion

A Municipal Access Agreement between the City and LIEC will allow the LIEC to install district energy infrastructure and equipment within the City of Richmond's Statutory Rights of Ways in order to perform its function – establishment and operation of district energy systems and the provision of thermal energy services on behalf of the City.



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