



Report to: General Committee

Meeting Date: March 22, 2021

SUBJECT: Amendment to By-Law 2013-113 to Delegate Authority to
Convey Easements to Alectra
PREPARED BY: Jacqueline Chan, Assistant City Solicitor

RECOMMENDATION:

- 1) THAT the report entitled “Amendment to By-Law 2013-113 to Delegate Authority to Convey Easements to Alectra” be received;
- 2) THAT By-Law 2013-113 – “A By-Law to Delegate Authority to Conduct Certain Real Property Transactions” be amended to authorize the Senior Manager of Real Property to:
 - (a) execute any documents and/or agreements required to convey easements over City-owned lands to Alectra Utilities Corporation (“Alectra”) and/or its affiliates where such easements are required by Alectra to provide services to City-owned property, provided the form of the easement is satisfactory to the Senior Manager of Real Property and the City Solicitor or his/her designate; and
 - (b) to determine the purchase price to be paid by Alectra for easements over City-owned lands as described in resolution #2(a), provided that the purchase price is at least 90% of Fair Market Value; and
 - (c) to determine the purchase price paid by Alectra, including a nominal purchase price where the requirement for easements as described in #2(a) are not prompted by third party development or construction;
- 3) THAT Council adopt the By-law attached as Attachment No.1 of this Report to amend By-Law 2013-113 “A By-Law to Delegate Authority to Conduct Certain Real Property Transactions” at the next Council meeting; and
- 4) THAT Staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

Not Applicable.

PURPOSE:

To obtain Council approval to delegate authority to execute documents and/or agreements or to grant permanent easements in favour of Alectra and/or its affiliates over City-owned lands outside of the City-owned rights-of-way.

BACKGROUND:

Alectra typically installs its infrastructure within municipal rights-of-ways and gains access to such rights-of-way through its statutory rights.

Occasionally, Alectra may need to install its infrastructure over other City-owned lands that are not rights-of-way. For continued access to these lands, Alectra may require permanent easements to construct, operate, maintain, repair and replace the infrastructure. For example, an easement may be required by Alectra to provide electricity to illuminate a City park. The requirement for such an easement may be prompted by the initial development of the City park or due to relocation of Alectra's infrastructure promoted by third party development. Another example where Alectra may request easements over City lands is where the City signs a standard form known as "Offer to Connect" agreements with Alectra, to provide electrical services to a City-owned facility. This form of standard agreement includes a requirement for the land owner to provide easements to Alectra over the lands being serviced, at nominal consideration, for the purpose of constructing, maintaining, repairing and replacing Alectra's infrastructure required to service such facilities.

OPTIONS/ DISCUSSION:

Previously, conveying easements to Alectra over City owned lands required approval from Council, even where such easements are required solely to provide service to City facilities and lands. To improve efficiency, staff recommend that the Senior Manager of Real Property be delegated the authority to convey easements to Alectra where it is necessary to provide electricity service to City-owned lands and facilities. The proposed delegation of authority to the Senior Manager of Real Property will reduce the use of staff time associated with preparing Council reports.

Staff also recommend that the Senior Manager of Real Property be authorized to determine the purchase price paid by Alectra for such easements, provided that the purchase price is at least 90% of Fair Market Value (as such term is already defined in By-Law 2013-113 – "A By-Law to Delegate Authority to Conduct Certain Real Property Transactions"). However, in cases where the requirement for such easements are not prompted by third party development, but are exclusively required by Alectra to service City-owned lands and facilities, staff recommend that the Senior Manager of Real Property be authorized to charge a nominal purchase price. The conveyance of such easements to Alectra at a nominal purchase price may be required by Alectra as a condition of servicing such sites.

FINANCIAL CONSIDERATIONS

In the event that easements are required by Alectra to provide service to City facilities through the City's obligation in an Offer to Connect Agreement or was prompted by City development, the City will be responsible for all costs in connection with the conveyance of the easement, including the cost of any reference plans and any legal costs. In all other cases, Alectra shall be responsible for the foregoing costs.

Staff recommend that the Senior Manager of Real Property be authorized to determine the purchase price to be paid by Alectra for easements over City-owned lands, provided that the purchase price is at least 90% of Fair Market Value. However, where the requirement for such easements is not prompted by third party development and construction, staff recommend that the Senior Manager of Real Property be authorized to charge Alectra a nominal purchase price.

HUMAN RESOURCES CONSIDERATIONS

Not Applicable.

ALIGNMENT WITH STRATEGIC PRIORITIES:

The recommendations in this report align with the strategic goal of Exceptional Services by Exceptional People.

BUSINESS UNITS CONSULTED AND AFFECTED:

The Finance Department has reviewed this report and their comments have been incorporated.

RECOMMENDED BY:

Claudia Storto, City Solicitor and Director of Human Resources
Hersh Tencer, Senior Manager of Real Property

ATTACHMENTS:

Attachment No. 1 - Draft By-Law to Amend By-Law 2013-113