



Governance and Priorities Committee Report

For the Meeting of August 28, 2014

To: Governance and Priorities Committee **Date:** August 22, 2014
From: Robert Woodland
Director of Legislative & Regulatory Services
Subject: 748 Yates Street (Millie's Lane) – Statutory Right of Way

Executive Summary

The purpose of this report is to seek Council consent to grant a statutory right of way (SRW) over City property at 748 Yates Street, known as Millie's Lane, to BC Hydro ("BCH") for an electrical duct and vault.

In order to service a new development at 726-744 Yates, BCH needs to install electrical ducts and a vault on the adjacent City property (Millie's Lane). A location plan and SRW plan are in Schedules 'A' and 'B' respectively.

As shown in Schedule 'B', the proposed duct and kiosk require a SRW area of 31.3 square metres. The BCH SRW area overlaps the area where a concrete planter will be placed as part of the approved landscaping scheme for the adjacent development.

BCH requires the SRW area be kept clear of all obstructions, and will not agree to modify the terms of the SRW document to take account of the planter. This presents some risk to the City in the event that the planter causes damage to the duct and vault from water leaks or another unforeseen event. BCH has offered to provide the City with a letter authorizing the planter to be installed; however, this may not provide the same level of protection to the City as a modification to the SRW document.

Further delay in granting the SRW may impact the scheduled provision of hydro service to the new building. Council's consent to the proposed BCH SRW, without a term that fully protects the City from any future claim that may arise from the presence of the planter is being sought.

Recommendation:

That Council authorizes the Mayor and Corporate Administrator to execute a statutory right of way at 748 Yates Street (Millie's Lane) with British Columbia Hydro and Power Authority (BCH) in the standard form sought by BCH over an area no greater than 31.3 square metres, and subject to the publication of the statutory notices required by the Community Charter.

Respectfully submitted

A blue ink signature of Robert Woodland, written in a cursive style.

Robert Woodland
Director of Legislative & Regulatory Services

Report accepted and recommended by the City Manager:

Date:

A blue ink signature of the City Manager, written in a cursive style.
August 22, 2014

Purpose

The purpose of this report is to seek Council consent to grant a statutory right of way (SRW) over City property at 748 Yates Street, known as Millie's Lane, to BC Hydro ("BCH") for an electrical duct and vault.

Background

BCH needs to install an electrical duct and vault on City property (Millie's Lane) to supply electricity to an adjacent new development at 726-744 Yates. A location plan and SRW plan are in Schedules 'A' and 'B' respectively.

As shown in Schedule 'B', the proposed duct and kiosk require a SRW area of 31.3 square metres. The location of the works, as agreed with Engineering staff, takes account of the fact that a concrete planter will be situated over the hydro duct. This is one of four such planters positioned along Millie's Lane as part of the approved landscaping scheme for the adjacent development.

The planters are three metres square and will each contain shrubs and an ornamental tree. Because of the position of the subject planter, the BCH duct will be encased in concrete to bear the extra weight. The hydro vault will be located alongside the planter on the north side so that it is less visible from Yates Street.

Issues & Analysis

BCH's standard SRW terms require that the SRW area be kept clear of any obstruction that might interfere with or cause potential damage to the electrical duct and vault. Both parties have been fully aware of the location of the planter from the outset and the duct has been specifically designed to bear the weight of it. However, BCH will not modify these terms to take account of the planter. Instead, BCH has offered to provide the City with a letter authorizing the planter to be installed within the SRW area.

BCH's proposed letter will not protect the City's legal position to the same extent as an amendment to the SRW. The risk to the City is that over time, the planter may interfere with BCH service work, or that damage may be caused to BCH's equipment from water leaking from the planter.

In anticipation of the SRW, the developer and BCH have constructed the duct and part of the new deck and planters Millie's Lane. BCH will not energize the duct until the SRW is executed. Further delay in entering into the SRW will delay electrical service to this new downtown building.

Options & Impacts

The following options are presented for Council's consideration:

1. Not grant the SRW stipulated by BCH. This will result in a delay in electrical service to the new building while the developer, City and BCH construct a new service.
2. Grant the SRW on BCH's terms and accept a letter from BCH authorising the City to install the planter within the SRW area. This presents a potential risk to the City in future, but results in the scheduled electrical service installation.

3. Continue to negotiate SRW terms acceptable to the City. If successful, this will help to reduce the future risk to the City, but will likely delay electrical service installation.

Conclusion

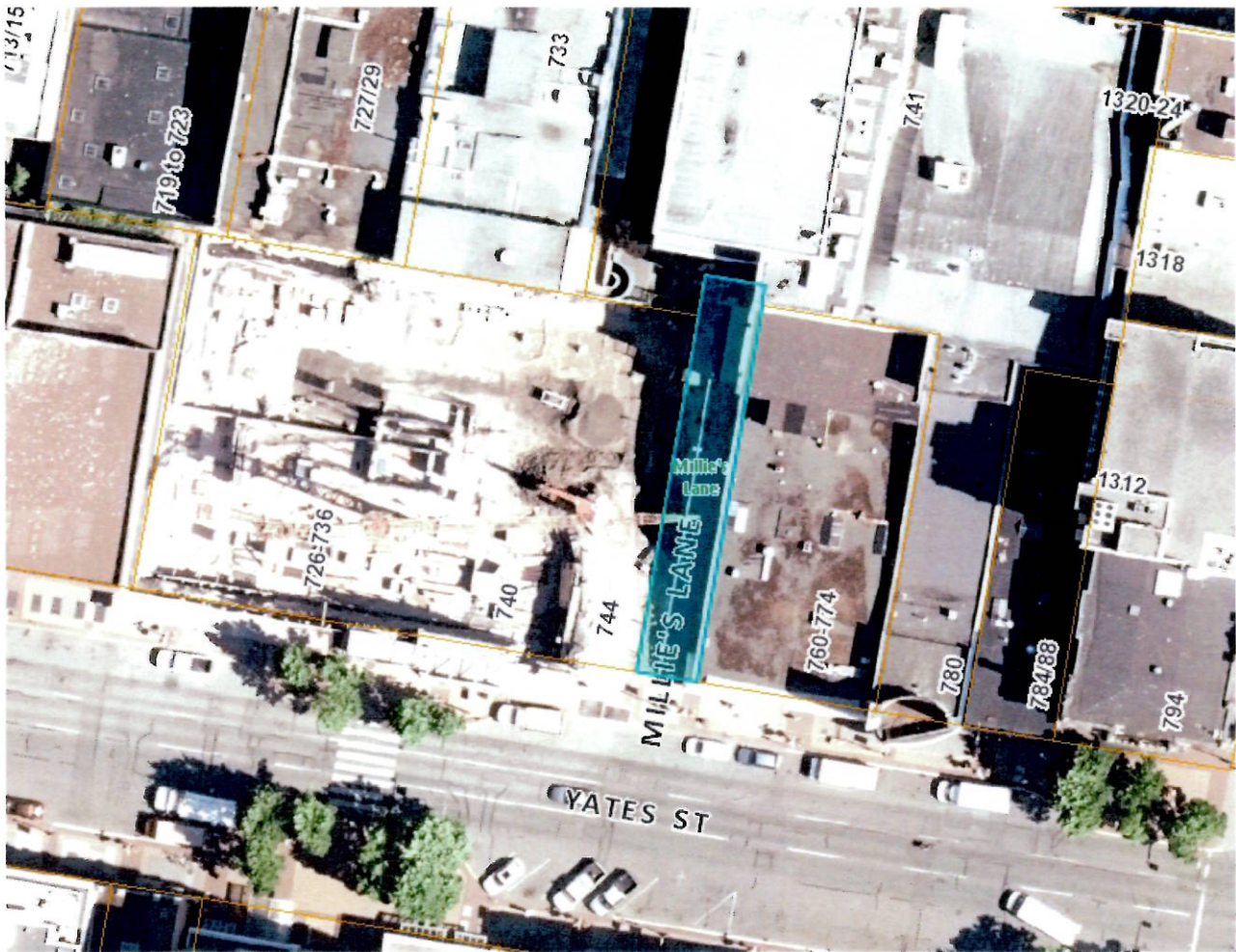
Given the negotiations to date, Option 2 appears to be the most practical option that provides timely provision of electrical service to the building. While this option presents some future risk to the City, it appears that BCH will not accept a legal transfer of risk through an amendment to the SRW.

In future, it would be prudent for City staff to ensure that developers design and install public realm improvements so that they do not present potential interference with, or risks to, utility infrastructure.

Recommendation

That Council authorizes the Mayor and Corporate Administrator to execute a statutory right of way at 748 Yates Street (Millie's Lane) with British Columbia Hydro and Power Authority (BCH) in the standard form sought by BCH over an area no greater than 31.3 square metres, and subject to the publication of the statutory notices required by the Community Charter.

Schedule 'A'
Location Plan



Schedule 'B' SRW Plan

All distances are in metres and decimals thereof.

The intended plot size of this plan is 280mm in width by 432mm in height (B size) when plotted at a scale of 1:200.

LEGEND

Integrated Survey Area No. 17, City of Victoria,
NAD83 (CSRS) 3.0.0.BC.1.CRD.

Grid bearings are derived from Plan VIP63051.

This plan shows horizontal ground-level distances unless otherwise specified. To compute grid distances, multiply ground-level distances by the average combined factor of 0.9996087 which has been derived from Plan VIP63051.

