



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number 299-84
to authorize the execution of an
agreement with Rogers Cable TV
Limited

The Council of The Corporation of the City of Brampton
ENACTS AS FOLLOWS:

1. The Mayor and Clerk are hereby authorized to execute an agreement dated the 1st day of November, 1984 between The Corporation of the City of Brampton and Rogers Cable TV Limited respecting the use of Rogers' cablesystem for traffic signal data transmission in conjunction with the City's computerized traffic signal control system.

READ A FIRST, SECOND AND THIRD TIME AND PASSED IN OPEN
COUNCIL THIS 10th DAY OF December, 1984.

Kenneth G. Whillans, Mayor

Robert D. Tufts, Acting Clerk

APPROVED
AS TO FORM
LAW DEPT.
BRAMPTON
WCC
DATE 16/12/84

PAYED December 10th 19 84



BY-LAW

No. 299-84

to authorize the execution

of an agreement with

Rogers Cable TV Limited

B4 Law
299-84

THIS AGREEMENT made as of the 1st day of November, 1984.

BETWEEN:

THE CORPORATION OF THE CITY OF BRAMPTON
in the Province of Ontario

(hereinafter referred to as the "Corporation")

OF THE FIRST PART

and

ROGERS CABLE TV LIMITED
a corporation incorporated under
the laws of Ontario

(hereinafter referred to as "RCTV")

OF THE SECOND PART

WHEREAS the Corporation has entered into an agreement with Guild Electric Limited (hereinafter referred to as the "Contractor") to provide a computerized traffic signal control system for the City of Brampton (hereinafter referred to as the "Project"),

AND WHEREAS the Corporation wishes to use coaxial cable as a communications medium for the Project,

AND WHEREAS, subject to the terms and conditions hereinafter set forth, RCTV is willing to allocate certain communications facilities on the Cablesystem (as defined in Schedule "D" hereto) for the use of the Corporation in connection with the Project,

AND WHEREAS Rogers Cable TV-Brampton is a division of RCTV, and it is RCTV's intention that Rogers Cable TV-Brampton will fulfill RCTV's obligations pursuant to this Agreement,

NOW, THEREFORE, THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

1. The Cablesystem:

1.1. Defined terms in this Agreement shall be denoted by initial capital letters and shall have the meanings ascribed to them in Schedule "D" hereto and, where applicable, in Broadcast Procedures 23.

1.2. RCTV shall provide the Cablesystem and shall allocate certain communication facilities thereon for the use of the Corporation, on the terms and subject to the conditions hereinafter set forth.

1.3. The Cablesystem shall permit bi-directional data transmission to and from the 95 Intersections in the Initial System listed in Schedule "B" hereto, with expansion capabilities for up to 250 Intersections. The Cablesystem shall permit:

- a) traffic control data transmission to and from the Central Site for each Intersection in the Initial System as described in Article 5;

- b) voice communications between the Central Site, the Region of Peel Offices and each Intersection in the Initial System as described in Article 7;
- c) traffic control data transmission and voice communications, as aforesaid, for up to 155 Intersections added to the Cablesystem in accordance with Article 11; and
- d) data communications between the Central Site and remote terminals at the Region of Peel Offices as described in Article 8.

1.4. All data provided by the Corporation for transmission through the Cablesystem shall be owned by the Corporation.

1.5. RCTV shall be responsible at no additional cost to the Corporation for providing and installing diplex filters and any other equipment which may be necessary to eliminate interference from homeowner's television sets to data transmission and voice communications by the Corporation.

1.6. The Corporation shall provide and install an RF Modem for each Intersection in the Cablesystem. RCTV shall approve the suitability of any RF Modems proposed for use in the Project prior to their installation and use. After installation, the Corporation shall ensure that the RF Modems continue to

meet the performance requirements of Broadcast Procedure 23 and Schedule "A" attached hereto.

1.7. RCTV shall be the sole and exclusive owner of the Cablesystem and all plant and equipment provided by RCTV and relating thereto except as provided herein. The Corporation shall be the sole and exclusive owner of the RF Modems, the voice communications equipment described in Article 7 and any other plant and equipment provided by the Corporation.

1.8. RCTV shall obtain all required licenses and permits for constructing and operating the Cablesystem and allowing the Corporation the use thereof (including, without limitation, pole attachment agreements and joint use agreements for conduits). If RCTV is unable to obtain all required licenses and permits, this Agreement may be terminated by either party on 10 days' written notice and RCTV shall have no liability whatsoever to the Corporation hereunder.

2. Term:

2.1. The term of this Agreement shall commence on the date hereof and shall expire at midnight, Eastern Standard Time, December 31, 1999.

3. Completion:

3.1. Subject to obtaining all required licences and permits, RCTV shall use all reasonable efforts to complete construction of the Initial System including, without limitation, provision of the Cable Drops to the Intersections in the Initial System, upgrading on the Cablesystem to provide bidirectional cable transmission capability and the connections to the Central Site and the Region of Peel Offices no later than May 1, 1985.

3.2 RCTV shall use all reasonable efforts to make available by March 1, 1985 fifty (50) Intersections as noted in Schedule B hereto for use by the Corporation or its designated representative for testing purposes.

4. Compensation:

4.1. In consideration of the right to use the communication facilities of the Cablesystem, the Corporation shall pay RCTV the sum of \$150,358.90 in respect of the Total Construction Cost, payable upon certification of completion by the Corporation or its designated representative as follows:

- a) twenty percent (20%) upon (i) commencement of construction of the Initial System and (ii) submission to and subsequent approval by the Corporation of a work schedule;

- b) twenty-five percent (25%) upon substantial completion of construction of one-half of the Cable Drops in the Initial System;
- c) twenty-five percent (25%) upon substantial completion of construction of the remaining one-half of the Cable Drops in the Initial System; and
- d) an additional thirty percent (30%) upon completion of subsequent acceptance testing pursuant to Section 9.7.

4.2. The Total Construction Cost represents the estimated cost for the construction of the Initial System including, without limitation, provision of the Cable Drops to the Intersections in the Initial System, and the connections to the Central Site and the Region of Peel Offices (including engineering, administration and overhead costs.)

4.3. Subject to Section 9.6, the Total Construction Cost shall not exceed \$150,358.90. The Total Construction Cost is based on (i) RCTV's cost of providing all equipment required to permit the communication facilities of the Cablesystem to meet the requirements of Broadcast Procedure 23 and Schedule A attached hereto, (ii) the standard construction specifications published by the Corporation, to the extent applicable, and (iii) the detailed technical plans submitted to the Corporation by RCTV and approved by the Corporation.

4.4. In further consideration of the right to use the communication facilities of the Cablesystem, the Corporation shall pay RCTV an aggregate fee per annum (hereinafter referred to as the "Annual Fee") equal to the number of Intersections connected to the Cablesystem times a per-Intersection fee of \$114.56 (effective for the calendar year commencing January 1, 1985 and thereafter subject to the percentage increase described in Section 4.6). The minimum Annual Fee payable hereunder after December 31, 1985 shall be \$10,883.20, representing the 95 Intersections in the Initial System.

4.5. Except as hereinafter provided the Annual Fee shall be due and payable in advance on January 1 in each year of the term of this Agreement. Subject to the availability of the test Intersections under section 3.2, the Annual Fee for the 50 Intersections referred to in Section 3.2 shall be prorated for the portion of the year from March 1, 1985 to December 31, 1985 and shall be due and payable in advance on March 1, 1985. The Annual Fee for the remaining 45 Intersections for the 1985 calendar year shall be prorated for the portion of the year from May 1, 1985 to December 31, 1985 and shall be due and payable on May 1, 1985.

4.6. On September 1st in each year, commencing on September 1, 1985, the Annual Fee and other charges hereunder shall be increased for the following calendar year by a percentage equal to the percentage increase in the Consumer Price Index (hereinafter referred to as the "CPI") for Canada (not seasonally adjusted, with 1981=100) as published by Statistics Canada for the twelve months ending in August immediately preceding such September 1st date over the CPI for the twelve months ending in August of the previous year. Pending

availability of the Statistics Canada data necessary to determine the percentage increase in the CPI in any year, the Corporation shall pay RCTV the Annual Fee based on the Annual Fee for the preceding year, and shall make such additional payments to RCTV as are necessary to reflect the CPI adjustment as soon as the required data are available.

4.7. The Annual Fee shall be deemed to include compensation for all costs, including, without limitation, maintenance and equipment amortization costs, incurred by RCTV in providing communication facilities hereunder and no other additional fees, charges or costs will be billed to the Corporation, except as provided for in this Agreement.

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4.8. The Corporation shall, in addition to the Annual Fee, pay RCTV the sum of Thirty Dollars (\$30.00) (effective for the twelve months commencing September 1, 1984 and subject to the percentage increases described in Section 4.6) per service call for each service call requested during normal work hours by the Corporation which is identified as a False Call. Between the hours of 5.30 p.m. and 8.00 a.m. and on Saturdays, Sundays and Statutory Holidays the costs of a False Call shall be \$200.00 (effective for the twelve months commencing September 1, 1984 and subject to the percentage increases described in Section 4.6). Such amounts shall be due and payable by the Corporation upon delivery of a monthly invoice in respect thereof.

4.9 . At the time any Intersection in addition to the Intersections in the Initial System is connected into the Cablesystem, the Corporation shall pay

RCTV in advance a pro rata portion of then applicable annual per-Intersection fee pursuant to Section 4.4, based on the number of days from the date of connection to the next following December 31.

4.10. Head End Equipment, if required, shall be provided and maintained by RCTV at no additional cost to the Corporation and the parties acknowledge that the costs thereof have been included in the computation of Total Construction Cost.

5. Allocation of Communication Facilities:

5.1. Subject to applicable regulatory requirements and the due performance by the Corporation of its obligations hereunder, RCTV shall provide the Corporation the use of communication facilities on the Cablesystem for the operation of the Project.

5.2. Subject to Section 11.2, RCTV shall make available additional communication facilities to allow the Corporation to expand the Initial System pursuant to Article 11.

5.3. RCTV may from time to time and at any time change the communication facilities used by the Corporation, provided, however, that RCTV shall be responsible for reasonable "out-of-pocket" material and labour expenses incurred by the Corporation as a result of any such change. The Corporation's "out-of-pocket" expenses shall include, without limitation, any costs to modify

the Corporation's RF Modems (either at any Intersection or the Central Site) and traffic control software. RCTV shall use reasonable efforts and shall work with the Corporation to minimize disruption resulting from any such change.

5.4. The Corporation shall not telecast or transmit, or permit others to telecast or transmit, any signals, services, or programming, over the Cablesystem other than the traffic signal control data and signals referred to herein.

6. Termination by Corporation:

6.1. If it is determined by the Corporation that use of the Cablesystem for the Project is unsatisfactory (other than as a result of non-performance by RCTV of any of its obligations hereunder), then the Corporation may terminate this Agreement on 30 days' written notice to RCTV. In the event of such termination, the Corporation shall reimburse RCTV for the net present worth of the remaining term of this Agreement. The "net present worth of the remaining term" shall be determined by (i) multiplying the number of years (including part years) remaining in the term by the then applicable Annual Fee and (ii) discounting the resulting product at the then prevailing prime rate charged by RCTV's bankers.

7. Voice Communications:

7.1. RCTV shall provide, at no additional cost to the Corporation, voice communications equipment consisting of four (4) portable handsets, a base station at the Central Site and a base station at the Region of Peel Offices, all of which use communication facilities provided by RCTV. The handsets and base stations shall, when delivered, become the sole and exclusive property of the Corporation.

7.2. Handset interface points in the Controller Cabinets shall be provided by RCTV at all Intersections connected to the Cablesystem. The modems to interface the handsets to the Cablesystem at such Intersections shall be integral to the handsets.

7.3. The voice communications system shall provide for ringing, as a party line service, at the Central Site both from the Region of Peel Offices and from any Intersection connected to the Cablesystem. The system shall also provide for ringing, as a party line service, at the Region of Peel Offices from both the Central Site and from any Intersection connected to the Cablesystem.

7.4 RCTV shall not be responsible for maintenance of the portable handsets and base stations.

8. Additional Services:

8.1. Data communications facilities shall be provided by RCTV from the Central Site to the Region of Peel Offices to allow for the connection of 3 high speed terminal devices for two-way operation.

9. Construction of Cable Drops:

9.1. RCTV shall be responsible for providing Cable Drops to the Controller Cabinets at the Intersections in the Initial System, to the Central Site and to the Region of Peel Offices.

9.2. The coaxial cable supplied and installed by RCTV shall be terminated at the Intersections in the Initial System on the inside of the Controller Cabinet wall. RCTV shall be responsible for providing an external test point-----at the Controller Cabinet. The Contractor shall be responsible for supplying and installing the required couplings and connections to the traffic signal controller located in each Controller Cabinet, including the RF Modem interface.

9.3. The terminations of the Cablesystem at the Central Site shall be on the 2nd floor in the Corporation Offices and on the 3rd floor of the Region of Peel Offices in enclosed facilities to be provided by RCTV. RCTV shall be responsible for supplying, installing and maintaining all termination

requirements of the Cablesystem at the Central Site and the Region of Peel Offices.

9.4. RCTV shall provide finalized plans showing the routing of all Cable Drops for approval by the Corporation before any construction is commenced. The Corporation shall promptly review any such plans provided by RCTV and shall give written notice of approval or disapproval, (with reasons, in the case of any disapproval) within 15 business days of receipt of such plans.

9.5. RCTV shall for the purposes of traffic control have the right to utilize existing conduit owned by the Corporation, the Region of Peel and the Ministry of Transportation and Communications (Ontario) for the installation of new coaxial cable to be used in the Cablesystem. RCTV shall provide sufficient cable to be pulled through the conduit and terminated at the Controller Cabinets. Responsibility for pulling the cable through any such conduit shall be determined prior to commencement of any installation in discussion between RCTV and the Corporation. If it is not possible to use all or any portion of existing conduit, as contemplated in the detailed technical plans submitted to the Corporation by RCTV, RCTV shall remain responsible for installing the cable to the Controller Cabinets.

9.6 The Corporation shall be responsible and shall reimburse RCTV for additional costs in excess of the Total Construction Cost incurred by RCTV, if any, because (i) it is unable to use all or any portion of existing conduit, as contemplated in the detailed technical plans submitted to the Corporation by RCTV, (ii) any change is made to Broadcast Procedure 23 or (iii) the

Corporation changes its standard construction specifications. The Corporation shall not be obligated to reimburse RCTV for such additional costs unless and until RCTV shall have notified the Corporation in writing that such costs will or have been incurred and the Corporation shall have approved such increased costs. With respect to costs incurred because of the unavailability of conduit, any such additional costs shall be payable only after submission and approval of revised cable routing plans and estimated costs. The calculation of costs for addition or deletion of work shall be based, to the extent possible, on the unit costs listed in Schedule E attached hereto.

9.7. Upon completion of construction of the Initial System including, without limitation, installation of all Cable Drops and terminations, supply of voice communications equipment, installation of Head End Equipment, if any, and completion of all upgrading required to make RCTV's cable bi-directional instead of uni-directional, the Cablesystem shall be tested by RCTV in the presence of Corporation representatives. This testing shall consist of satisfactorily demonstrating that the Cablesystem meets or exceeds the requirements of Broadcast Procedure 23 and Schedule A attached hereto and is satisfactory for data transmission, and shall be undertaken within two (2) weeks of completion of construction. The voice communications equipment shall also be tested to demonstrate that it satisfactorily performs at and between all locations.

9.8. When RCTV or its designated representatives require access to Corporation, Region of Peel or Ministry of Transportation and Communications (Ontario) maintained conduit, junction boxes or controller cabinets, the

Corporation shall be notified in a timely manner prior to RCTV undertaking such access. Access to any of the said facilities shall require the presence of corporation personnel or written confirmation of relaxation of this condition.

10. Maintenance of Cablesystem:

10.1. RCTV shall be responsible for the maintenance and repair of all Cablesystem plant and equipment supplied by RCTV, the Head End Equipment, amplifiers, cable connectors and related hardware to the Broadcast Procedure 23 specifications, including periodic specification measurements and signal level adjustments as noted in Schedule C hereto.

10.2. Preventive maintenance that necessitates signal interruption shall be scheduled for between 2.00 a.m. and 6.00 a.m. to minimize communication disconnections during peak traffic demand hours.

10.3. RCTV shall ensure that repair service is available twenty-four (24) hours a day, seven (7) days a week, and shall make all reasonable efforts to ensure that employees of RCTV will begin repairs to restore services within two (2) hours of the Corporation notifying RCTV of a fault.

10.4. RCTV shall maintain an up-to-date log of its maintenance activities in respect of the Cablesystem which shall be available to the Corporation's designated representatives during normal business hours, upon reasonable notice.

10.5. Standby power supplies currently used in RCTV's existing cablesystems in Brampton to maintain reliability during power failures shall be used for the Cablesystem.

10.6. Preventive maintenance routines shall be conducted every other month to ensure maximum standby time in the event of a power failure.

11. System Expansion:

11.1. The Corporation may, at its option and subject to Section 4.9, expand the Initial System by adding up to 125 additional Intersections.

11.2 In addition to Section 11.1, the Corporation may, at its option and subject to section 4.9, expand the Cablesystem by an additional 30 Intersections to an aggregate of 250 Intersections. If RCTV receives a bona fide offer during the term of this agreement from a third party wishing to use all or any of the additional communication facilities required for such 30 additional Intersections, RCTV shall notify the Corporation of such offer and the Corporation, at its option, may, within thirty (30) days of receiving the notice, require RCTV to continue to keep such additional communications facilities available for a number of Intersections to be specified by the Corporation, not exceeding 30 and not less than 8, provided that such additional facilities shall not exceed a single circuit in a forward and reverse direction. Any Intersection so specified shall be included in the calculation of the Annual Fee pursuant to Article 4 once the Cable Drop is constructed, provided that the Corporation shall pay a minimum fee for eight Intersections pursuant to section

4.9 from the date of such specification. Any additional communication facilities not so required by the Corporation may thereafter be used, leased or sold by RCTV in its sole discretion.

11.3. The construction of the Cable Drop for each additional Intersection shall conform to the requirements noted in Article 9 and shall be done in a timely manner by RCTV when requested in writing by the Corporation. If the construction is done by RCTV (or its designated agent) all applicable provisions of this Agreement shall apply and the Corporation shall reimburse RCTV for its reasonable costs in accordance therewith. At the completion of construction and upon successful completion of all testing as noted in Section 9.7 of this Agreement, the new Cable Drops shall be deemed to be included in the Cablesystem and subject to all the terms and conditions of this Agreement.

11.4. The Corporation reserves the right to use a communications medium from sources other than RCTV in connection with the Project. In that instance, RCTV shall not be responsible for construction, operation or maintenance of such medium so obtained. Any such communications medium shall not use or be connected to the communications facilities of the Cablesystem without the prior written consent of RCTV.

12. Cooperation:

12.1. RCTV shall cooperate fully with the Corporation and its designated representatives towards providing communication facilities hereunder. The Corporation shall co-operate, and shall cause the Contractor to cooperate, fully with RCTV towards providing communication facilities hereunder.

13. Written Notification:

13.1. Any notice, direction or other communication required or permitted to be given hereunder shall be in writing, and may be delivered by prepaid ordinary mail or delivered personally, addressed as follows:

If to RCTV:

Rogers Cable TV-Brampton
13 Hansen Road South
Brampton, Ontario
L6W 3H6
Attention: General Manager

With a copy to:

Rogers Cable TV Limited
Commercial Union Tower
P.O. Box 249
Suite 2602
Toronto-Dominion Centre
Toronto, Ontario
M5K 1J5
Attention: Secretary and General Counsel

If to the Corporation:

Corporation of the City of Brampton
150 Central Park Drive
Brampton, Ontario
L6T 2T8
Attention: Manager of Traffic Engineering Services

13.2. A notice shall be deemed to have been given on the second day following mailing, if mailed, or on the date delivered, if delivered personally.

13.3. The Corporation assumes no responsibility for oral instruction or suggestion. All official correspondence in regard to this Agreement should be directed to and shall be issued by the Commissioner of Public Works and Building for the City of Brampton or his designated agent.

14. Dispute:

14.1. All irreconcilable disputes and differences between the parties, whether arising during the term of this Agreement or at any time thereafter, which touch upon the validity, construction, meaning, performance or effect of this Agreement or the rights and liabilities of the parties hereto shall be submitted and decided by a sole arbitrator to be agreed to by the parties. If the parties cannot agree on a sole arbitrator then either party may apply to a judge to appoint an arbitrator as provided under the provisions of the Arbitration Act (Ontario). The said Act shall apply to any arbitration hereunder. The substantive decision of the arbitrator shall be final and

shall not be subject to appeal. No action or suit shall be commenced by either party hereto to enforce any of the provisions of this Agreement until the matter in dispute has been submitted to arbitration and the arbitrator has given his decision with respect thereto or has, after request, neglected or improperly refused same.

15. Force Majeure:

15.1. If RCTV is prevented from performing its obligations under this Agreement by reason of any cause beyond its reasonable control including, without limitation, any act of God, fire, explosion, electric power failure, floods, strikes, work stoppages or slowdowns or other industrial disputes, accidents, riots or civil disturbances, acts of civil or military authorities, and delays by suppliers or materials stoppages, RCTV shall not be liable for such breach or default or any damages flowing therefrom.

16. Indemnification:

16.1. RCTV agrees that it will, at all times hereafter, keep harmless and fully indemnify the Corporation from and against all claims and demands which may be brought against or made upon the Corporation and against all loss, liabilities, judgments, costs, damages or expenses (including legal fees and disbursements), which the Corporation may sustain, suffer, or be put to arising from any breach by RCTV of its obligations under this Agreement, other than indirect or consequential damages.

16.2. The Corporation agrees to hold RCTV harmless from and against any taxes (including, without limitation, retail sales taxes or communication taxes) or other like charges arising out of or in connection with the Corporation's use of communication facilities hereunder, including without limitation, provision by RCTV of the maintenance or repair services described herein.

16.3. The Corporation agrees that it will, at all times hereafter, keep harmless and fully indemnify RCTV from and against all claims and demands of any nature whatsoever which may be brought against or made upon RCTV and against all loss, liabilities, judgements, costs, damages or expenses (including legal fees and disbursements) which RCTV may sustain, suffer or be put to arising from the use by the Corporation of the Cablesystem to control traffic signals, other than indirect or consequential damages.

17. Regulatory Bodies

17.1. The Agreement is subject to any policies, rules and regulations of the Canadian Radio-Television Telecommunications Commission or other regulatory authority having jurisdiction over all or any part of the Cablesystem or its use.

18. Governing Law:

18.1 This Agreement shall be construed and interpreted in accordance with the laws of the Province of Ontario.

19. Headings:

19.1 The headings used in this Agreement are inserted only as a matter of convenience and in no way define, limit or describe the rights or obligations of the parties to this Agreement.

20. Entire Agreement:

20.1 This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and shall not be explained, modified or contradicted by any prior or contemporaneous agreements, negotiations, representations and proposals, either written or oral, relating to its subject matter. The Agreement may be amended only by a written instrument signed by each party.

21. Contract Documents:

21.1 It is understood that Schedule A, Performance Specifications; Schedule B, List of Signalized Intersections; Schedule C, Traffic Control Maintenance List; Schedule D, Definitions; and Schedule E, Unit Costs which are

attached hereto, form part of this Agreement.

22. Power and Authority:

22.1. Each of the parties warrants and represents that it has the power and authority to enter into the Agreement and that, when executed, the Agreement will be valid and binding upon it in accordance with the terms hereof.

23. Binding Agreement:

23.1. The Agreement, all its covenants, promises and conditions shall enure to the benefit of and be binding upon the respective successors and permitted assigns of the parties hereto.

24. Assignment:

24.1. The Agreement may not be assigned by either party hereto without the prior written consent of the other party.

WITNESSETH the respective Corporate Seals of the parties hereto, duly attested by the hands of their respective and proper signing officers.

THE CORPORATION OF THE CITY OF BRAMPTON

PER: _____
(Mayor)

AND: _____
(City Clerk)

ROGERS CABLE T.V. LIMITED

PER: _____

PER: _____

