Agenda - Executive Policy Committee – July 14, 2010

Report - Standing Policy Committee on Property and Development – July 6, 2010

Item No. 5 Amendment to Servicing Agreement AG 37/2008 - Tuxedo Yards Development (Charleswood-Tuxedo Ward) File DASZ 37/2008

STANDING COMMITTEE RECOMMENDATION:

On July 6, 2010, the Standing Policy Committee on Property and Development concurred in the recommendation of the Assiniboia Community Committee and submits to Council that Servicing Agreement AG 37/08 be amended as follows:

1. By adding to Paragraph 1. Definitions; new item f), namely;

    f) "Privately Owned Land" means all the land other than City- or Developer-Owned Land benefiting from services installed to serve the Planned Area.

2. By inserting new Paragraph 23 as follows;

    23. Privately Owned Lands

    a) Where privately owned lands benefit from any improvement(s) to be provided by the Developer, the City agrees to, upon written request by the Developer, endeavour to enact (a) Local Improvement By-law(s) in respect of those lands for said improvement.

    b) If the City enacts (a) Local Improvement By-law(s) to levy taxes against the privately owned lands described in a) above, then, upon completion of the improvement(s), or within a reasonable time following Council's approval of capital funds for the improvement (s), the City shall pay the Developer the lesser of the cost to the Developer of improving privately owned lands and the amount calculated on the basis of the City's Local Improvement rate prevailing upon construction completion.

    c) Where the Council does not pass (a) Local Improvement By-law(s), the Developer agrees, notwithstanding any petition(s) against the proposed By-law(s), to install the improvement at its cost, and the City agrees to endeavour, within its powers, not to allow the owner of the privately owned lands to utilize the improvement unless and until the owner has paid its proportionate share of the cost of any such improvement, which the City further agrees to pay to the Developer.

d) The Developer agrees not to petition against, or sign or support any petition against, any local improvement to be installed under the provisions of this Agreement.

e) The Developer acknowledges that, in voting on any Local Improvement By-law, each Councillor must vote as he or she sees fit, and that the City cannot assure the Developer that City Council will enact a Local Improvement By-law.

3. By deleting items v) and vi) of Clause 10 a) in Schedule "C", in their entirety and renaming vii) and viii) to v) and vi), respectively.

4. By deleting item ix) of Clause 10 a) in Schedule "C", in it's entirety, and inserting new item vii) as follows;

"vii) the installation of advance full-span overhead lane designation/guide signs for northbound Kenaston Boulevard prior to Sterling Lyon Parkway, southbound Kenaston Boulevard prior to Sterling Lyon Parkway, eastbound Sterling Lyon Parkway prior to Kenaston Boulevard, and side-mounted cantilever signs on northbound Kenaston Boulevard prior to Lowson Crescent and southbound Shaftesbury Boulevard prior to Wilkes Avenue"

5. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Agenda - Executive Policy Committee – July 14, 2010

Report - Standing Policy Committee on Property and Development – July 6, 2010

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On July 6, 2010, the Standing Policy Committee on Property and Development concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On June 15, 2010, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded the matter to the Standing Policy Committee on Property and Development.

ADMINISTRATIVE REPORT

SUBJECT: **DASZ 37/08 AMEND SERVICING AGREEMENT AG 37/08 ACC**

Critical Path: **Assiniboia Community Committee – Standing Policy Committee on Property and Development – Executive Policy Committee - Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
K. Raban Land Development Administrator	n/a	n/a	n/a

RECOMMENDATIONS

That Servicing Agreement AG 37/08 be amended as follows;

1. By adding to Paragraph 1. Definitions; new item f), namely;

   f) "Privately Owned Land" means all the land other than City- or Developer-Owned Land benefiting from services installed to serve the Planned Area.

2. By inserting new Paragraph 23 as follows;

   23. Privately Owned Lands

   a) Where privately owned lands benefit from any improvement(s) to be provided by the Developer, the City agrees to, upon written request by the Developer, endeavour to enact (a) Local Improvement By-law(s) in respect of those lands for said improvement.

   b) If the City enacts (a) Local Improvement By-law(s) to levy taxes against

the privately owned lands described in a) above, then, upon completion of the improvement(s), or within a reasonable time following Council's approval of capital funds for the improvement (s), the City shall pay the Developer the lesser of the cost to the Developer of improving privately owned lands and the amount calculated on the basis of the City's Local Improvement rate prevailing upon construction completion.

c) Where the Council does not pass (a) Local Improvement By-law(s), the Developer agrees, notwithstanding any petition(s) against the proposed By-law(s), to install the improvement at its cost, and the City agrees to endeavour, within its powers, not to allow the owner of the privately owned lands to utilize the improvement unless and until the owner has paid its proportionate share of the cost of any such improvement, which the City further agrees to pay to the Developer.

d) The Developer agrees not to petition against, or sign or support any petition against, any local improvement to be installed under the provisions of this Agreement.

e) The Developer acknowledges that, in voting on any Local Improvement By-law, each Councillor must vote as he or she sees fit, and that the City cannot assure the Developer that City Council will enact a Local Improvement By-law.

3. By deleting items v) and vi) of Clause 10 a) in Schedule "C", in their entirety and renaming vii) and viii) to v) and vi), respectively.

4. By deleting item ix) of Clause 10 a) in Schedule "C", in it's entirety, and inserting new item vii) as follows;

"vii) the installation of advance full-span overhead lane designation/guide signs for northbound Kenaston Boulevard prior to Sterling Lyon Parkway, southbound Kenaston Boulevard prior to Sterling Lyon Parkway, eastbound Sterling Lyon Parkway prior to Kenaston Boulevard, and side-mounted cantilever signs on northbound Kenaston Boulevard prior to Lowson Crescent and southbound Shaftesbury Boulevard prior to Wilkes Avenue"

REASON FOR REPORT

Council approval is required to make possible agreement amendments contemplated to Servicing Agreement AG 37/08.

IMPLICATIONS OF THE RECOMMENDATIONS

This amendment clarifies the Developer's overhead traffic signage obligations, amends turning lane clauses and provides for recovery payments from benefiting privately-owned lands. There is no cost to the City.

HISTORY

On March 25, 2009 the Developer, Tuxedo Yards Development Corp. entered into Servicing Agreement AG 37/08 with the City establishing development conditions to serve the planned area for their Tuxedo Yards Development adjacent Sterling Lyon Parkway immediately west of Kenaston Boulevard.

The Developer has requested amendments to the Servicing Agreement that are mutually acceptable to the Winnipeg Public Service in accordance with Appendix "A", report to the Assiniboia Community Committee, attached for additional information and background.

FINANCIAL IMPACT

Financial Impact Statement

Date:

Project Name:

First Year of Program

	0	1	2	3	4
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

original signed by
Department Controller

CONSULTATION

In preparing this Report there was consultation with:

Public Works Department

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Development and Inspections
Prepared by:	Rob Deighton, Land Development Coordinator
Date:	June 7, 2010
File No.	Servicing Agreement AG 37/08 (DASZ 37/08)

Appendix A – Report to Assiniboia Community Committee from the Land Development Branch

V:\Rob\Rob Agreement Amendment-reports\AG 37-08 Amendment Request - RIS.doc

APPENDIX "A" – LAND DEVELOPMENT BRANCH - AG 37/08 AMENDMENT REPORT

RE: REQUEST TO AMEND SERVICING AGREEMENT AG 37/08 – TUXEDO YARDS DEVELOPMENT CORP.

FOR SUBMISSION TO THE ASSINIBOIA COMMUNITY COMMITTEE

"original signed by R.Deighton"
R.R. Deighton, P. Eng.
Land Development Coordinator

June 7, 2010

RE: REQUEST TO AMEND SERVICING AGREEMENT AG 37/08 – TUXEDO YARDS DEVELOPMENT CORP.

On March 25, 2009 the Developer, Tuxedo Yards Development Corp. entered into Servicing Agreement AG 37/08 with the City establishing development conditions to serve the planned area for their Tuxedo Yards Development adjacent Sterling Lyon Parkway immediately west of Kenaston Boulevard.

The Developer has requested amendments to the Servicing Agreement that are mutually acceptable to the Winnipeg Public Service. Updated traffic analysis demonstrates that additional right-turn cut-off lanes for traffic southbound onto Kenaston Boulevard and westbound onto Sterling Lyon Parkway are not required as part of the Kenaston Boulevard/Sterling Lyon Parkway Intersection Improvements. Additional amendments include clarifying requirements for the associated overhead designation/guide traffic signs, and reinserting the standard clause inadvertently omitted from the original agreement that allows for future potential cost recoveries from benefiting privately-owned lands.

It is therefore recommended that Servicing Agreement AG 37/08 be amended as follows;

1. By adding to Paragraph 1. Definitions; new item f), namely;

   f) "Privately Owned Land" means all the land other than City- or Developer-Owned Land benefiting from services installed to serve the Planned Area.

2. By inserting new Paragraph 23 as follows;

   23. Privately Owned Lands

   a) Where privately owned lands benefit from any improvement(s) to be provided by the Developer, the City agrees to, upon written request by the Developer, endeavour to enact (a) Local Improvement By-law(s) in respect of those lands for said improvement.

   b) If the City enacts (a) Local Improvement By-law(s) to levy taxes against the privately owned lands described in a) above, then, upon completion of the improvement(s), or within a reasonable time

following Council's approval of capital funds for the improvement (s), the City shall pay the Developer the lesser of the cost to the Developer of improving privately owned lands and the amount calculated on the basis of the City's Local Improvement rate prevailing upon construction completion.

c) Where the Council does not pass (a) Local Improvement By-law(s), the Developer agrees, notwithstanding any petition(s) against the proposed By-law(s), to install the improvement at its cost, and the City agrees to endeavour, within its powers, not to allow the owner of the privately owned lands to utilize the improvement unless and until the owner has paid its proportionate share of the cost of any such improvement, which the City further agrees to pay to the Developer.

d) The Developer agrees not to petition against, or sign or support any petition against, any local improvement to be installed under the provisions of this Agreement.

e) The Developer acknowledges that, in voting on any Local Improvement By-law, each Councillor must vote as he or she sees fit, and that the City cannot assure the Developer that City Council will enact a Local Improvement By-law.

3. By deleting items v) and vi) of Clause 10 a) in Schedule "C", in their entirety and renaming vii) and viii) to v) and vi), respectively.

4. By deleting item ix) of Clause 10 a) in Schedule "C", in it's entirety, and inserting new item vii) as follows;

"vii) the installation of advance full-span overhead lane designation/guide signs for northbound Kenaston Boulevard prior to Sterling Lyon Parkway, southbound Kenaston Boulevard prior to Sterling Lyon Parkway, eastbound Sterling Lyon

Parkway prior to Kenaston Boulevard, and side-mounted cantilever signs on northbound Kenaston Boulevard prior to Lowson Crescent and southbound Shaftesbury Boulevard prior to Wilkes Avenue"

THIS REPORT SUBMITTED BY:

Land Development Branch
File No. AG 37/08
June 7, 2010

"original signed by R.Deighton"
R.R. Deighton, P. Eng.,
Land Development Branch

"original signed by R.Hartmann"
R. J. Hartmann, P. Eng.
Public Works Department, Transportation Division

V:\Rob\Rob Agreement Amendment-reports\AG 37-08 Amendment Request - RD(1)- (o).doc