



**STAFF REPORT  
ACTION REQUIRED  
Confidential Attachment**

**Response to Applicant's Request for Funds,  
Proposed Remediation of the former Treatment Plant  
Lands adjacent to Mystic Pointe Developments:  
Manitoba Street, Grand Avenue and Legion Road**

<b>Date:</b>	June 8, 2009
<b>To:</b>	Government Management Committee
<b>From:</b>	City Solicitor
<b>Wards:</b>	Ward No. 6 – Etobicoke Lakeshore
<b>Reason for Confidential Information:</b>	This report is about potential litigation that affects the City or one of its agencies, boards, and commissions and contains advice that is subject to solicitor-client privilege.
<b>Reference Number:</b>	Mystic Pointe: Proposed Remediation of Adjacent Treatment Plant Lands

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## **SUMMARY**

This report recommends that the City decline the applicant's request, pursuant to a 2003 Development Agreement, that the City provide additional funds for the applicant to remediate the City's Treatment Plant Lands, which lands are adjacent to the development site.

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## **RECOMMENDATIONS**

The City Solicitor recommends:

1. that Council decline the request of Sunrise West Building Group Inc., arising under the 2003 Development Agreement, for the City to provide additional funds for the applicant to remediate the City's adjacent Treatment Plant Lands.
2. that the confidential information in Attachment 1 not be made public.

## **FINANCIAL IMPACT**

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The recommendations of this report will have no financial impact beyond what has already been approved in the current year's budget.

## **DECISION HISTORY**

The former McGuinness Distillery site is approximately 6.05 hectares (14.95 acres) and has been under phased development since at least 1996. The subject matter of this report, being environmental remediation of the City's adjacent, former Treatment Plant Lands, arises under a 2003 Development Agreement. That Agreement was authorized as a result of a Final Report of the Director, Community Planning, West District dated January 9, 2002, addressing a proposed Official Plan amendment and zoning by-law.

## **ISSUE BACKGROUND**

The 2003 Development Agreement provided that the development applicant ("Sunrise") would satisfy its parkland dedication requirements in a number of manners. One option entitled Sunrise to perform certain works to address environmental contaminants in the City's adjacent, former Treatment Plant Lands.

The funds that Sunrise might spend on this proposed remediation were capped at \$314,000.00 in the 2003 Development Agreement. However, the Agreement provided that Sunrise could request the City to commit City funds if further amounts were required and Sunrise would use these additional funds to continue the work to address contaminants in the City lands. If the City declined to commit additional funds, Sunrise would have satisfied this element of the 2003 Development Agreement by demonstrating expenditures up to the \$314,000.00 cap. Any shortfall in demonstrated expenditures would be made up from other sources, such as cash-in-lieu of parkland.

Sunrise wrote to the City in October, 2007, indicating the funds spent to date and requesting additional funds. There was a time line for the City to respond. However, Sunrise and City representatives have engaged, since that time, in analysis of the funds spent to date, the results achieved for those funds, the budget for future work, should Sunrise continue its remediation efforts, and review of alternative proposals suggested by Sunrise to address environmental remediation of the City lands.

In September, 2008, City staff wrote to Sunrise indicating disagreement with the value of the expenditures claimed by Sunrise and indicating that the alternative remediation approach proposed by Sunrise is not acceptable. Sunrise was requested to confirm that it intended to move forward with remediation using the approach set out in the 2003 Development Agreement. Since that time Sunrise has not addressed the City staff concerns.

## COMMENTS

City staff are of the opinion that remediation work performed to date under the 2003 Development Agreement has not achieved the intended goals as they relate to the Treatment Plant Lands.

Staff have assessed the alternate remediation approach proposed by Sunrise. This alternative does not conform to the remediation measures intended under the 2003 Development Agreement and staff do not recommend that the City accept the alternative approach.

Staff recommend that the City not commit City funds to Sunrise to continue remediation efforts. Instead, staff propose to explore approaches for the City itself to address the Treatment Plant Lands.

## CONTACT

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## SIGNATURE

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Anna Kinastowski  
City Solicitor

## ATTACHMENTS

1. Confidential Information