

## **Assumption of Services – For a portion of the Morningside Heights Community**

<b>Date:</b>	July 29, 2010
<b>To:</b>	Scarborough Community Council
<b>From:</b>	City Solicitor
<b>Wards:</b>	Ward No. 42 – Scarborough Rouge-River
<b>Reference Number:</b>	RSA1-700-069-00

### **SUMMARY**

---

This report requests Council's authority for the City to assume certain core services with respect to the above development within Morningside Heights Community.

### **RECOMMENDATIONS**

---

The City Solicitor recommends that:

1. City Council assume the services installed under the Core Services Agreement within the Morningside Heights Community, save and except the Outstanding Works listed in an Amending Agreement, to be entered into between the City and the original five Subdividers ("the Owners").
2. City Council authorize the City Solicitor to finalize the Amending Agreement, to her satisfaction, and to arrange for its execution by the City and the Owners.
3. City Council direct that an assumption By-law be prepared to assume the public highways and municipal services in the Core Services Agreement upon execution of the Amending Agreement by all parties.

4. The City Solicitor be authorized and directed to register the assumption By-law in the Land Registry Office, at the expense of the Owner
5. City Council authorize the City Solicitor to release the performance guarantees held in respect of the municipal services covered under the Core Services Agreement with the exception of the following:  
  
\$2,135,000.00 – to be held to cover outstanding core work as set out in the Core Services Amending Agreement  
  
\$15,000.00 – to be held with respect to street lighting rectification on behalf of Toronto Hydro Electric System
6. City Council authorize the City Clerk and Treasurer to execute the Amending Agreement, and to sign any release or other documentation necessary to give effect thereto.
7. City Council authorize the appropriate City officials to transfer ownership of the street lighting system constructed within the Morningside Heights Community to Toronto Hydro.

## **FINANCIAL IMPACT**

---

The Recommendations have no financial impact beyond what has already been approved in the current year's budget.

## **ISSUE BACKGROUND**

554056 Ontario Limited, Mattamy (Neilson) Limited, Mattamy (Staines) Limited, Neilson-Finch Residential Developments Inc. and Trans-Gate Inc. (the "Owners") entered into a Core Servicing Agreement dated February 22, 2002, with the City of Toronto, wherein the Owners agreed to provide certain core servicing with respect to their lands.

Performance guarantees for this core servicing were submitted by the Owners. The Owners have completed the bulk of the works set out in the Core Services Agreement, save and except certain works. These residual works (the "Outstanding Works") have been specified in an Amending Agreement, prepared by the Legal Services division, in consultation with the Technical Services division of the Scarborough District. In the Amending Agreement, the Outstanding Works are deemed to be a continuing obligation of the Owners, to be completed on the same terms and conditions of the Core Servicing Agreement. The Owners have requested that the City assume the completed services and release a portion of the performance guarantees held by the City in respect of the completed servicing works.

## **COMMENTS**

All obligations of the Core Services Agreement, save and except the Outstanding Works, have been completed; all relevant City Divisions have signed the Development Acceptance Form; and it is now appropriate for the City to assume the services and for Legal Services Division to authorize the release of a portion of the performance guarantees held in respect of this Core Servicing Agreement. Security, in the amount of \$2,150,000 dollars will be retained until the Outstanding Works have been completed to the satisfaction of the Executive Director of Technical Services.

## **CONTACT**

Gary McKay  
Planning and Administrative Tribunal Law, Legal Services  
Tel: (416) 397-5422  
Fax: (416) 397-5624  
E-mail [gmckay@toronto.ca](mailto:gmckay@toronto.ca)

## **SIGNATURE**

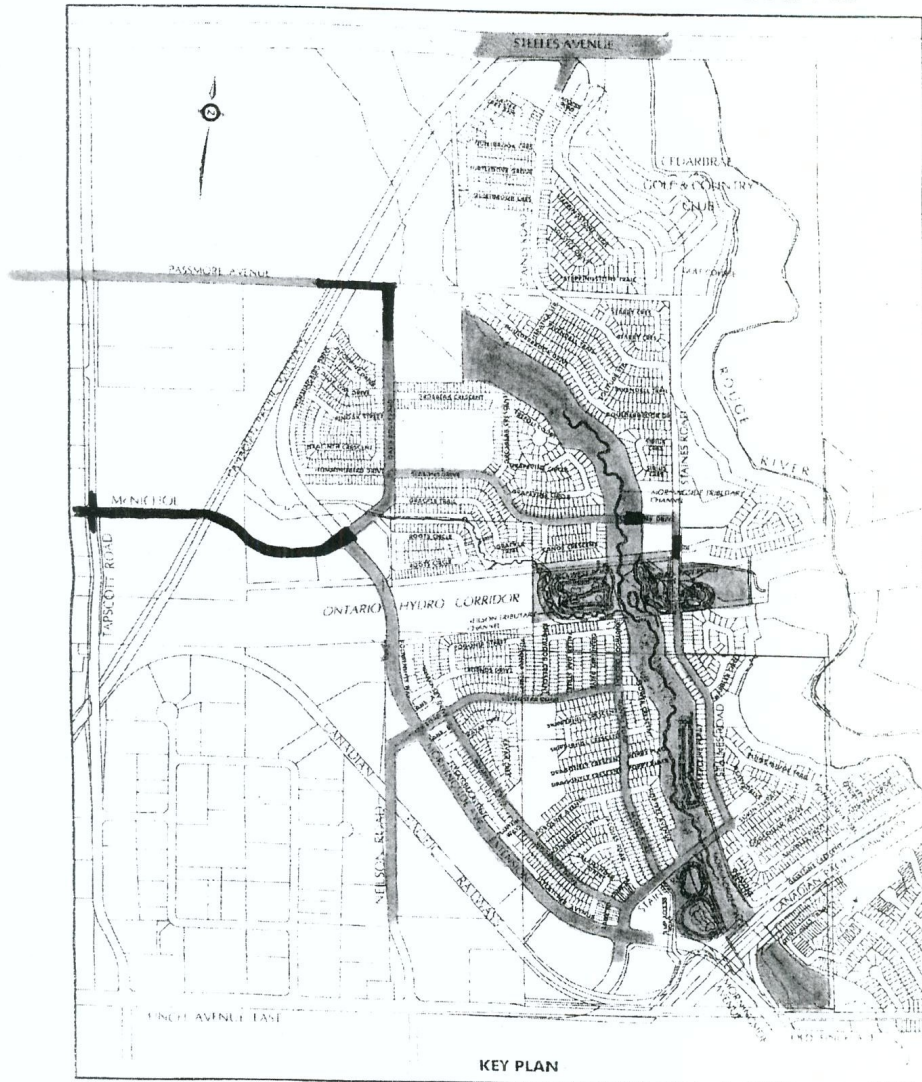
---

Anna Kinastowski  
City Solicitor

## **ATTACHMENT**

1. Site Map.

# MORNINGSIDE HEIGHTS - SUBDIVISIONS



## Morningside Heights CORE Servicing Agreement

- work completed as of May 31, 2010
- work outstanding as of May 31, 2010