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TO:	CHAIR AND MEMBERS CIVIC WORKS COMMITTEE MEETING ON JANUARY 23, 2012
FROM:	RON STANDISH, P. Eng. DIRECTOR, WASTEWATER AND TREATMENT PLANNING, ENVIRONMENTAL AND ENGINEERING SERVICES
SUBJECT:	SANITARY SERVICING AGREEMENT FOR NORTH PARK COMMUNITY CHURCH

RECOMMENDATION

That, on the recommendation of the Director of Wastewater and Treatment, Planning, Environmental and Engineering Services, the following actions **BE TAKEN** with respect to the sanitary servicing for the North Park Community Church, Municipal Number 1510 Fanshawe Park Road East, London, Ontario, N5X 4A3:

- a) The attached Servicing Agreement between the Corporation of the City of London and 1510 Fanshawe Park Road East for sanitary servicing **BE APPROVED**.
- b) The Mayor and City Clerk **BE AUTHORIZED** to execute this Agreement and all documents required to fulfill this Agreement.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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2010-12-13. BNEC, Item 11. Local Improvement – Sanitary Sewer - Fanshawe Park Road E.

BACKGROUND

Purpose:

To recommend for approval the attached Servicing Agreement that would allow the North Park Community Church (the "Church") to contribute to the cost of municipal sanitary servicing in coordination with the City's Transportation project at the intersection of Highbury Avenue North and Fanshawe Park Road East.

Context:

The North Park Community Church is located at 1510 Fanshawe Park Road East, within the limits of Transportation Planning and Design Division's intersection widening improvements proposed at Highbury Avenue North and Fanshawe Park Road East, which are scheduled to commence in Spring 2012 (See location map - Appendix "A").

The Transportation intersection widening improvement is funded by the Growth Management Implementation Strategy (GMIS), while the sanitary sewer is a non-growth project. The road structure including granular and asphalt will be applied as part of Transportation intersection widening project. It is preferred that the sanitary sewer on Fanshawe Park Road East be constructed in conjunction with the Transportation improvements at the intersection to realize the benefit of reduced costs for road restoration.

In 2010, PEESD had offered a Local Improvement (LI) for sanitary sewers and watermain to the property owners on Fanshawe Park Road East, extending approximately 400 meters east of Highbury Avenue North. The LI petition was successful for the municipal watermain, however, the sanitary sewer was petitioned against. During the LI process, the Church expressed a strong interest to obtain sanitary and storm sewers to service the existing building as well as facilitate future development of the property; however, churches (and other institutions) are exempt from LI charges and Sewer Rental Fees. As a result, the Church did not have a vote in the LI process since it would have received servicing at no cost if the LI process had been successful.

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Discussion:

PEESD has a budget of \$275,000 (ES2472) to construct the sanitary sewer on Fanshawe Park Road East under the Local Improvement process, which would have included financial contributions from the benefiting property owners. Typically when an LI process fails, PEESD will not install the services, since without contribution from local property owners there would not be adequate budget to complete the construction. Therefore, when the LI process failed, there were two options: to eliminate the sewer project or to ask the Church if it would be willing to contribute to the project cost as a benefiting property owner.

The Church has agreed to cover its portion of the sanitary servicing cost at a rate that is comparable to the Local Improvement fee. The attached Agreement reflects the terms and conditions for the City to provide municipal sanitary servicing to the property line of the Church (Appendix "B"). As with all properties in the City, the Church is responsible for all private site costs to connect to the municipal system. At the request of the Church, the Agreement also includes a provisional item to lower the sanitary sewer by up to 2 meters to promote a gravity connection for future development on the Church lands. The provisional item would be fully covered by the Church as it is estimated to be an additional \$125,000 over the original sewer budget. A private drain (PDC) connection to the storm sewer will also be installed as part of the project for the standard institutional rate for a storm PDC of \$4000.

As a result of the Agreement, the cost of the sanitary sewer on Fanshawe Park Road East can be constructed within the City's current budget, subject to the results of the Tender award. Additional cost recovery for the sanitary sewer should be realized by contribution of Sewer Rental Fees from fronting property owners as they connect in future.

Conclusions:

PEESD recommends proceeding with the sanitary sewer construction with financial contribution from the Church to meet the needs of the non-growth customers and benefit from the savings of the road restoration costs.

Acknowledgements:

This report was prepared within the Wastewater and Drainage Engineering Division by Shawna Milanovic, P.Eng., and reviewed by Tom Copeland, P.Eng. The proposed Servicing Agreement has been reviewed by the City Solicitor's Office.

SUBMITTED BY:	RECOMMENDED BY:
TOM COPELAND, P. ENG. DIVISION MANAGER WASTEWATER AND DRAINAGE ENGINEERING	RON STANDISH, P.ENG. DIRECTOR, WASTEWATER AND TREATMENT, PLANNING, ENVIRONMENTAL AND ENGINEERING SERVICES
REVIEWED & CONCURRED BY:	
PAT MCNALLY, P.ENG. EXECUTIVE DIRECTOR, PLANNING, ENVIRONMENTAL AND ENGINEERING SERVICES	

January 25, 2012

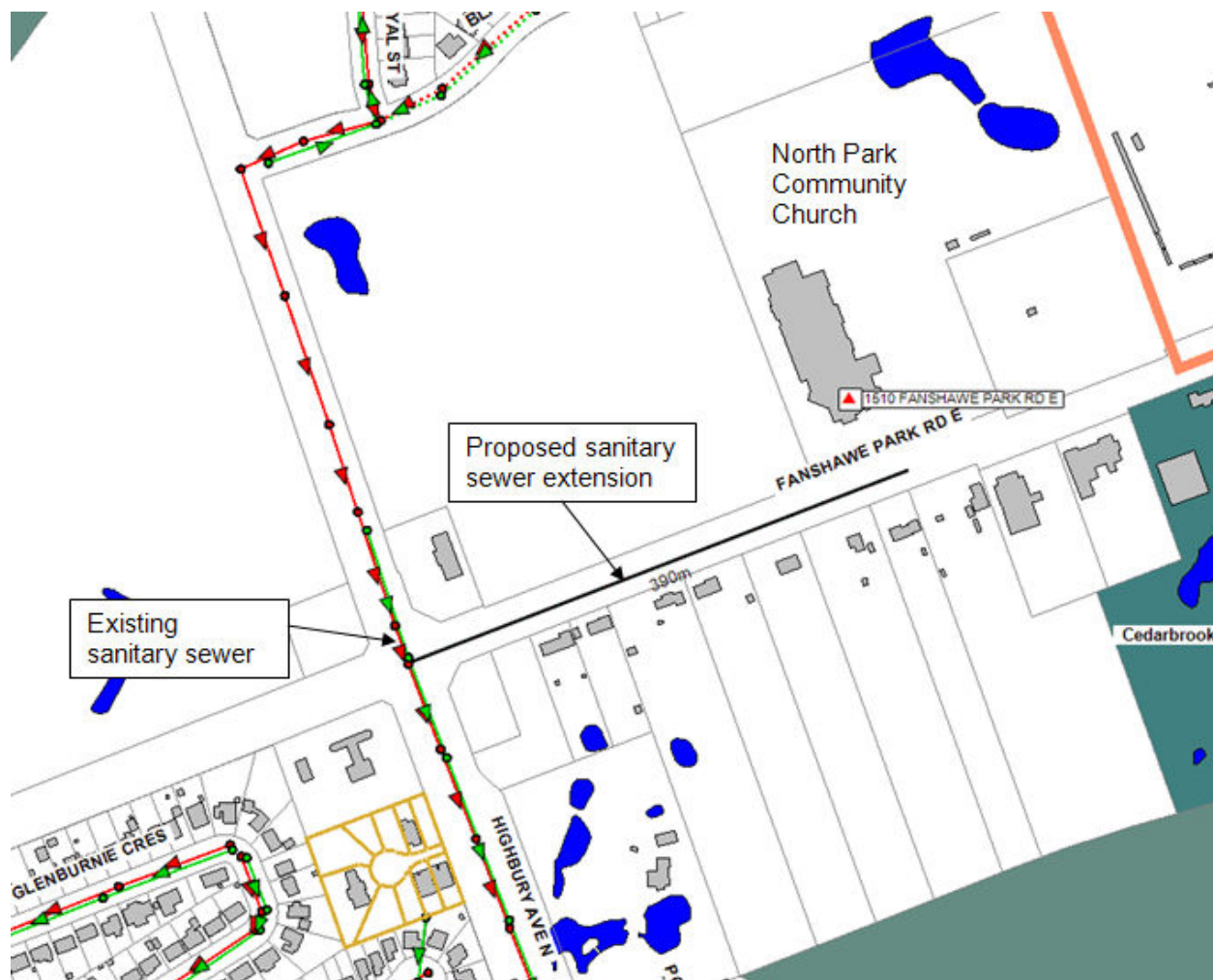
Attach: Appendix "A" – Location Map
Appendix "B" – Servicing Agreement

c.c. J. Braam, J. Leunissen, N. Pasato, D. Ailles, J. Ramsay, D. MacRae, D. Munteer

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APPENDIX "A"



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APPENDIX "B"

THIS SERVICING AGREEMENT made this _____ day of _____, 2012.

BETWEEN:

THE CORPORATION OF THE CITY OF LONDON
(hereinafter called "the City")

OF THE FIRST PART

AND

NORTH PARK COMMUNITY CHURCH
(hereinafter called the "Church")

OF THE SECOND PART

WHEREAS the Fanshawe Park Road East Local Sanitary Sewer (ES2472) (hereinafter called "the Project") will be constructed by the City;

AND WHEREAS the Church is the registered owner of the lands in the City of London described as Part of Lot 8, Concession 5 (formerly Township of London), more particularly known as 1510 Fanshawe Park Road East, London (the "Lands");

AND WHEREAS the Church has requested permission to connect its facilities to the Project upon completion;

AND WHEREAS the City will incur additional costs in order to connect the Church's facilities to the Project;

AND WHEREAS the Church has agreed to pay the additional costs related to connecting its facilities to the Project;

AND WHEREAS the City has consented to the Church's request, upon the terms and conditions contained herein;

NOW THEREFORE IN CONSIDERATION of the mutual covenants herein, and the sum of two (\$2.00) dollars of lawful money of Canada now paid by the Church to the City (the receipt and sufficiency of which is hereby acknowledged), the parties agree as follows:

1. CONSTRUCTION OF WORKS

- a) The City shall complete the design, tendering, construction, and commissioning of a local sanitary sewer on Fanshawe Park Road East that will be extended approximately 390 meters east from the existing sanitary sewer at the intersection of Highbury Avenue and Fanshawe Park Road East (the "Works").
- b) The City agrees to construct a sanitary private drain connection (PDC) within the municipal Right-of-Way from the Works to the southern property line of the Lands in a location that is agreed to by both parties.
- c) The Church agrees to connect its facilities to the Works for purposes of providing sanitary sewage servicing to the North Park Community Church.
- d) The City will include the Works in its Tender at elevations between 254.335 meters and 256.0 meters. The City will also include a provisional item in its Tender to lower the elevations of the Works by a maximum of two (2) meters ("Provisional Works"). The City will coordinate with the Church to determine the exact elevations. The Provisional Works

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will be a provisional item in the Tender that may be constructed, subject to written confirmation and receipt of payment from the Church.

- e) The Church will design, construct and commission all private site works on the Lands required to connect its facilities to the sanitary sewer PDC at its own cost, in accordance with the Ontario Building Code and all applicable City Standards.

2. COST CONTRIBUTIONS

- a) The City's estimated cost for construction of the Works in the municipal Right-of-Way is \$245,068, including all construction work (permits, materials, labour, equipment rental, sub-contracted work, temporary works for traffic control), as required.
- b) The Church shall share in the cost of the Works based on 75% of the estimated total sanitary sewer frontage fee ($\$285.61/m \times 75\% = \$214.21/m$). Based on the Lands frontage of 147.828 meters, the Church's estimated contribution to the cost of the Works shall be \$32,223.18, including HST. The Church's actual contribution to the cost of the Works shall be determined based on the "as constructed" costs of the Works.
- c) Payment of the Church's estimated contribution towards the cost of the Works shall be due within thirty (30) days of signing this Agreement. If the Project does not proceed for any reason, the City will refund this amount to the Church without interest. Any adjustment in the Church's contribution to the cost of the Works shall be determined following completion of the Works and paid by, or refunded to the Church forthwith as required.
- d) The City's estimated additional cost for the Provisional Works in the municipal Right-of-Way is approximately \$125,000, including all construction work (permits, materials, labour, equipment rental, sub-contracted work, temporary works for traffic control), as required. The Church shall pay all costs associated with the Provisional Works as quantified by the successful Tenderer.
- e) The Church shall provide written notice to the City of its decision to assume the costs of the Provisional Works within fifteen (15) days following the closing of the Tender.
- f) The Church shall pay the City for the estimated costs of the Provisional Works within thirty (30) days following closing of the Tender. If the Project does not proceed for any reason, the City will refund this amount to the Church without interest. Any adjustment in the Church's contribution to the cost of the Provisional Works shall be determined following completion of the Provisional Works and paid by, or refunded to the Church forthwith as required.
- g) The Church shall be responsible to pay monthly sewage use charges as set out in the applicable City by-laws at the prevailing Institutional rate, as it may be amended from time to time.

3. GENERAL

- a) The City may withdraw from this Agreement without penalty for any reason at any time prior to the commencement of provision of sanitary servicing to the Church by providing notice in writing to the Church thirty (30) days in advance of such withdrawal. The written notice shall include the reason(s) for withdrawal, which may include, but not be limited to, the cost of the Project; the inability to resolve technical issues; the failure to obtain approvals from external agencies such as the Ministry of the Environment; or the failure of negotiations to establish the final cost of the Works.
- b) If the Church undertakes work on lands or easements owned by the City, such work and all incidental matters shall be undertaken at the sole risk and expense of the Church and completed to the satisfaction of the City Engineer.
- c) The Church shall not assign this Agreement in whole or in part without the written consent of the City.

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- d) The Church shall indemnify and save the City and any of its officers, servants, contractors or agents harmless from and against all actions, suits, claims, and demands which may be brought against or made upon the City or any of its officers, servants, contractors, or agents and from all loss, costs, damages, and expenses which may be paid, sustained or incurred by the City and any of its officers, servants, contractors or agents in consequence of the construction, operation and maintenance of any works on Church property.
- e) Words importing the singular only shall include the plural; words importing the masculine only shall include the female, and words importing a person shall include corporation.

This Agreement shall ensure to the benefit of the parties and shall be binding upon their respective successors and assignees.

IN WITNESS WHEREOF the parties have executed this agreement as evidenced by the authorized signing officers thereof.

THE CORPORATION OF THE CITY OF LONDON

Joseph Fontana, Mayor

Cathy Saunders, City Clerk

NORTH PARK COMMUNITY CHURCH

I/We have the authority to bind the Church