

THE REGIONAL MUNICIPALITY OF YORK

**REPORT NO. 1 OF THE
COMMISSIONER OF FINANCE AND THE
COMMISSIONER OF TRANSPORTATION SERVICES**

**For Consideration by
The Council of The Regional Municipality of York
on June 25, 2009**

**1
WOODBINE AVENUE BY-PASS (PHASES 2B AND 3)
DEVELOPMENT CHARGE CREDIT AGREEMENT
AMENDED PRINCIPLES**

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council authorize the Town of Markham to tender and construct the Woodbine Avenue By-pass from north of Elgin Mills Road to Woodbine Avenue in sections prior to the execution of the prepaid development charge credit agreement authorized by Regional Council on December 13, 2007; and
2. Regional Council authorize staff to direct \$1.053 million in Development Charges collected to date in the North 404 Development area to the Town of Markham in accordance with the principles contained in this report.

2. PURPOSE

The purpose of this report is to obtain Council authorization to direct \$1.053 million in roads development charges collected in the North 404 Development area to the Town of Markham prior to the execution of the Prepaid Development Charge Credit Agreement with the North 404 Developer Group and the Town of Markham. The principles of the development charge credit agreement, approved by Council on December 13, 2007,

authorized the advanced construction timing of the Regional infrastructure required for the development of the North 404 Developer Group's lands. In addition, the report informs Council that the Town of Markham has requested the Region to permit the tender and construction of the roadway to be constructed in two sections.

3. BACKGROUND

On December 13, 2007, Regional Council approved the principles of the Woodbine Avenue By-pass Phases 2B and 3, tri-party agreement with the Region, Town of Markham and the North 404 Developer Group. The key principles of the agreement include:

- the construction of the Woodbine Avenue By-pass from north of Elgin Mills Road to Woodbine Avenue;
- the Town of Markham to be the project manager for the delivery of the Woodbine Avenue By-pass,
- Vetmar Ltd., a land holder in the North 404 Development Area, was to be party to the agreement for the sole purpose of transferring lands to the Region; and
- the North 404 Developer Group (namely Rice Group) to be the funding agent for the construction of the roadworks.

Regional and Town of Markham staff have negotiated the terms of the prepaid development credit agreement based on the principles adopted by Regional Council on December 13, 2007. A final version of the agreement has been drafted and is ready for execution.

4. ANALYSIS AND OPTIONS

Town of Markham has conditionally awarded construction of roadway

In an effort to accommodate the proposed opening of the new Honda Headquarters in September 2009, the Town of Markham has tendered and conditionally awarded the contract for the construction of Phases 2 and 3A. It is anticipated that the construction of the Woodbine Avenue Phases 2 and 3A, which stretch north of Elgin Mills road to proposed Honda Blvd. (Attachment 1) needs to commence in June 2009. The Town of Markham cannot award the contract because the funding for the Woodbine Avenue By-pass (phases 2 and 3A) has not been fully secured by the Developer Group.

In accordance with the original principles of the agreement, the Region is to forward development charges collected in the North 404 Development area of \$1.053 million to the Town of Markham upon execution of the Prepaid Development Charge Credit Agreement. The development charges are to be directed and used as part of the funding formula for the construction of the By-pass. As the agreement has not been executed by

all parties, the Region cannot forward these funds to the Town of Markham without amending the original principles of the agreement to permit Regional staff to forward the development charges collected to the Town of Markham.

Town of Markham Council passes resolution to provide direction to the Region regarding the Woodbine Avenue By-pass

On May 12, 2009, Town of Markham Council, passed a resolution (Attachment 2) to provide direction to York Region regarding the Woodbine Avenue By-pass. The proposed amendment of the agreement principles, if approved by Regional Council would permit the Town of Markham to award the construction of the Woodbine Avenue By-pass from north of Elgin Mills Road to proposed Honda Boulevard immediately and to tender/award the balance of the works in the summer of 2009.

The Region previously approved principles for the complete delivery of the Woodbine Avenue By-pass Phase 2 to 3 with the North 404 Developer Group. At the time of approval of the principles, the sole participant for funding the advanced construction of the by-pass was the Rice Group. As lands were required from Vetmar Ltd., Vetmar Ltd. agreed to be party to the agreement and joined the North 404 Developer Group with the sole purpose of transferring lands to the Region. Recently, Vetmar Ltd. expressed an interest in financially participating in the advanced construction of the By-pass in exchange for servicing allocation from Markham Council. Markham Council conditionally allocated servicing capacity to Vetmar Ltd. in recognition of their funding commitment. The late addition and need for the developer group to negotiate details of this new funding partnership has delayed the execution of the prepaid development charge credit agreement.

The need for the Regional portion of the funding and the execution of the agreement is now impacting the Town of Markham's ability to delivery the By-pass by September 2009. Therefore, it is recommended that the Town of Markham proceed with a phased construction approach of the By-pass in an effort to afford more time for the North 404 Developer Group to finalize the funding arrangement. Although, Regional staff agree with a phased construction approach to facilitate the scheduled opening of the Honda Headquarters, subject to the revised principles set out in Section 5 of this report, this requires an amendment to the Council adopted principles in December 2007, which contemplated the complete delivery of the Woodbine Avenue By-pass.

5. FINANCIAL IMPLICATIONS

On December 13, 2007, Regional Council approved the principles of the Prepaid Development Charge Credit agreement for the advanced construction of Woodbine Avenue By-pass Phases 2b and 3. The Town of Markham has proposed that they be able to construct this portion of the By-pass in two sections to meet timelines. Section 1 will be the portion of the By-pass north of Elgin Mills to Honda Boulevard (Phases 2a, 2b and

3a). Section 2 is the portion north of Honda Boulevard to tie back into the existing Woodbine Avenue. Regional staff have reviewed this request and are in agreement subject to the following conditions:

- The North 404 Developer Group shall provide 100% of the balance of the security required to award the construction of the Woodbine Avenue By-pass from north of Elgin Mills to Honda Boulevard;
- Upon receipt of the above funding or some other acceptable arrangement to the satisfaction of the Town of Markham, the Town of Markham shall award the contract;
- York Regional staff shall forward \$1.053 million, the Regional road component of the development charges collected within the North 404 Development Area, to the Town of Markham upon receipt of copies of progress payments made up to contractor;
- The North 404 Developer Group shall continue to work towards finalizing the Prepaid Development Charge Credit Agreement as contemplated in the December 13, 2007 principles report; and
- Upon the earlier of execution of the December 13, 2007 prepaid development charge credit agreement or expenditures of \$2 million, toward the construction of Phases 2 and 3a of the Woodbine Avenue By-pass, by the Town of Markham, the Region shall forward all development charges collected in the North 404 benefiting area to the Town of Markham.

With the exception of permitting the transfer of the development charges collected in the North 404 benefiting area to the Town of Markham prior to the execution of the Prepaid Development Charge Credit Agreement, the principles set out in the December 13, 2007 Council authorization remain unchanged.

6. LOCAL MUNICIPAL IMPACT

The phased construction of the Woodbine Avenue By-pass from north of Elgin Mills to Honda Boulevard is required to facilitate the scheduled opening of the Honda Canada Head Office. The advancement of the road works provides road capacity and permits development to occur in the area in a timely manner.

7. CONCLUSION

The North 404 Developer Group agreed to enter into a prepaid development charge credit agreement for the advanced construction of the Woodbine Avenue By-pass Phases 2b and 3. Council has approved the principles of the development charge credit agreement, and staff have finalized the agreement.

The Town of Markham has requested that the construction of Woodbine Avenue By-pass be constructed in two sections. Section 1 extends north of Elgin Mills to Honda Boulevard and Section 2 extends north of Honda Boulevard to tie-back into Woodbine Avenue. The phasing of construction will accommodate the scheduled opening of the new Honda Headquarters in September 2009. As an interim measure, the Region shall forward \$1.053 million, the development charges collected in the North 404 Development area to the Town of Markham to fund the construction of the by-pass subject to the terms and conditions set-out in this report.

For more information on this report, please contact Kelly Strueby, Director of Business Planning and Budgets at Ext. 1611, Beth Kodama, Manger of Capital and Development Financing.

The Senior Management Group has reviewed this report.

Respectfully submitted,

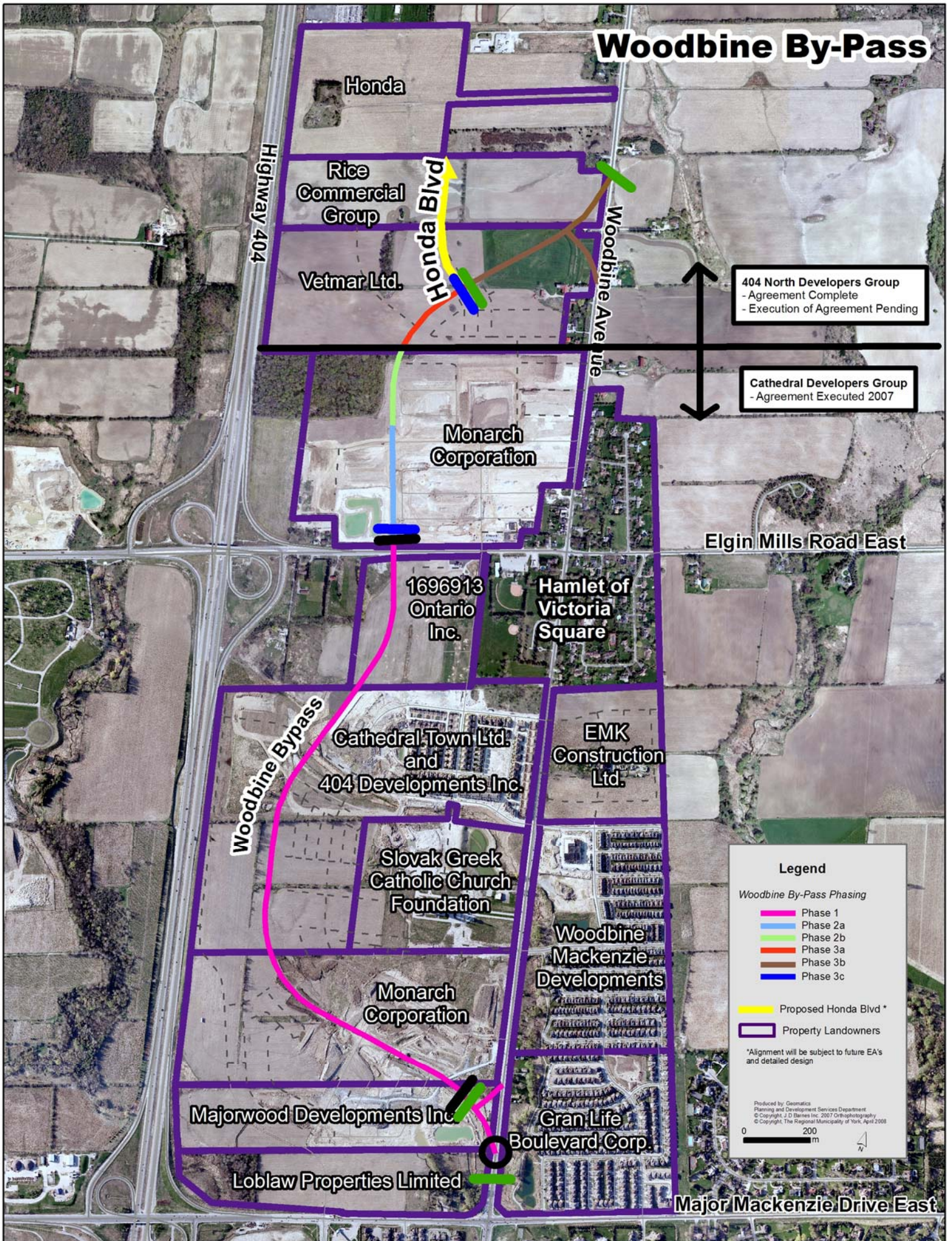
**L. Russell
Commissioner of Finance**

**K. Llewellyn-Thomas
Commissioner of
Transportation Services**

Newmarket, Ontario

(Report No. 1 of the Commissioner of Finance and the Commissioner of Transportation Services was adopted without amendment, by the Council of The Regional Municipality of York at its meeting on June 25, 2009.)

Woodbine By-Pass



404 North Developers Group
 - Agreement Complete
 - Execution of Agreement Pending

Cathedral Developers Group
 - Agreement Executed 2007

Legend

Woodbine By-Pass Phasing

- Phase 1
- Phase 2a
- Phase 2b
- Phase 3a
- Phase 3b

- Proposed Honda Blvd *
- Property Landowners

*Alignment will be subject to future EA's and detailed design

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 Planning and Development Services Department
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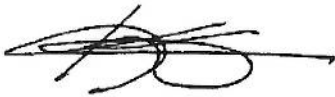
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RESOLUTION OF COUNCIL MEETING NO. 8 DATED MAY 12, 2009

IN CAMERA ITEMS

**(2) WOODBINE BY-PASS UPDATE
ELGIN MILLS TO EXISTING
WOODBINE AVENUE (5.10)**

- 1) That the update on the Woodbine By-pass be received; and,
- 2) That staff be authorized to provide direction to the Region of York as approved by Council; and further,
- 3) That staff be authorized to do all things necessary to give effect to this update.

A handwritten signature in black ink, appearing to read 'Kimberley Kitteringham'.

Kimberley Kitteringham
Town Clerk

Copy to: Alan Brown, Director of Engineering

Note: Alan, please confirm that you will be writing to the Region of York with respect to this matter.