

**TOWN OF MARKHAM
WOODBINE AVENUE BY-PASS PHASES 2B AND 3
PREPAID DEVELOPMENT CHARGE CREDIT AGREEMENT PRINCIPLES**

Subject to receipt of all necessary planning approvals, the following are the principles of the prepaid development charge credit agreement between the Town of Markham, 404 North Developer Group and the Regional Municipality of York required to advance the Woodbine Avenue By-pass Phases 2b and 3:

1. Woodbine Avenue By-pass right-of-way of 36 metres plus additional widenings where required, for Phase 3 must be dedicated by the 404 North Developer Group to the Region at the earlier of: the completion of the property plan or execution of the prepaid development charge credit agreement;
2. The participating landowners will provide land for a 20 metre right-of-way free of all cost and encumbrances. The Region is to compensate, by way of development charge credits, the 404 North Developer Group for the additional property required beyond the 20 metre dedication (i.e. 16 metres of right-of-way DC Credit compensation) as the By-pass has a 36 metre basic right-of-way designation.
3. The DC Credit compensation for the property shall be based upon the following:
 - The appraisal date for the land value based on the earlier of, one month prior to draft plan approval or execution of the prepaid development charge credit agreement in accordance with Regional practice,
 - The DC Credit for the land is calculated on the appraisal date, and
 - The appraiser shall be approved by the Region.
4. Street lighting and sidewalks will be designed and constructed as part of the same construction contract and will be funded by the Town of Markham from their Area Specific Development Charges for the North 404 Secondary Plan Area.
5. Costs for road works shall be appropriately apportioned between the Town of Markham, Developer Group and the Region for all utilities, underground services, grading, etc.
6. It is proposed that the Town of Markham will be responsible for overall management and delivery of the project including: the detailed design, property acquisition, approvals, tender, award and contract administration, construction and maintenance of Phase 2(b) and Phase 3. The design must be in conformity with York Region Road Design Guidelines, processes, standards and current quality assurance/quality control requirements. Provisions for Regional design sign-offs and construction acceptance will be included.
7. The operation and maintenance costs of the Woodbine Avenue By-pass Phase 2(b) and Phase 3 shall be the responsibility of the Town of Markham.
8. The Town of Markham will undertake the property acquisition including the property plan, detailed design, legal plan and tender documents for the Woodbine By-pass, which shall be financed by the 404 North Developer Group.

9. The 404 North Developer Group shall finance 100% of the costs for design utilities/relocation, permitting, approvals and construction required to complete the works.
10. The 404 North Developer Group will be responsible for providing the required funding to advance the Woodbine By-pass from the north limit of Lord Melbourne Street to Woodbine Avenue south of 19Th Avenue, at an estimated cost of \$6 million including land (Phase 2(b) and Phase 3).
11. The Town of Markham will tender and provide contract administration for the construction of the Woodbine Avenue By-pass.
12. The 404 North Developer Group will provide the required funding, letters of credit in a format acceptable to the Town Treasurer, in accordance with the following schedule:
 - Minimum 7% at the time of execution of the agreement, and
 - 93% prior to awarding the contract for construction of the Phase 2(b) and Phase 3 works.
13. The final 93% of the required funding will be adjusted up or down in accordance with the tendered price, and would be required by the Town prior to proceeding to Council for approval of the award.
14. The developer group undertakes to provide any additional funding within 15 days of a written request from the Region, and conversely, will be refunded any project savings upon project completion to the satisfaction of the Town.
15. Such Letters of Credit are intended to be drawn upon during construction to pay contractor progress payments and other costs associated with the project.
16. The Region shall forward any road development charges collected from the 404 North Developer Group to date within the North 404 Development Community to the Town of Markham and such development charges collected shall be part of the total funding required for the works.
17. The Region will direct to 404 North Developer Group any road development charges collected by the Region from non-participating developers within the 404 North benefiting area.
18. The 404 North Developer Group will be entitled to recover the growth component of the road widening of the cost of the works, by way of development charge credits against the road component of the Regional development charge at time of subdivision(s) registration.
19. The 404 North Developer Group will be eligible to recover a portion of the non-growth component of the project costs in a lump sum payment subject to completion of the Phases of the Woodbine By-pass that have been constructed to the Satisfaction of the General Manager, Transportation and Works – Roads.
20. The Region will not compensate by way of development charge credits for works that are deemed to be “throw away” costs, in accordance with the Regional DC Credit

Policy (i.e. not in ultimate location). The Region will work with the Town and the 404 Developer Group in order to reduce throw away costs.

21. Construction of the Woodbine Avenue By-pass and development of the adjacent lands shall be coordinated through the Town of Markham.
22. If the Town/land Owner works are tendered in conjunction with Region works the costs shall be appropriately apportioned between the Town, the 404 North Developer Group and the Region for utilities, underground services, grading, etc.
23. Existing Woodbine Avenue will remain a Regional Road until the entire By-pass has been completed. Once the entire Woodbine Avenue By-pass has been completed to the satisfaction of the General Manager, Transportation and Works - Roads, the Town of Markham will assume existing Woodbine Avenue, and York Region will assume the newly constructed By-pass.
24. The 404 North Developer Group will be required to provide a detailed transportation/development staging plan to the satisfaction of the Town of Markham and the Region, as it relates to the interim arrangement/connection until the By-pass has been constructed.
25. The Town of Markham will phase the development of the 404 North development area in accordance with the approved phasing plan if required. For any lots abutting the Woodbine Avenue By-pass the following shall apply:
 - No-presales agreement shall be entered into with the developer for lots abutting the Woodbine Avenue By-pass until the design of the By-pass has been completed, and
 - A Hold provision shall be placed on lots abutting the Woodbine Avenue By-pass until the design of the By-pass has been completed.
26. The 404 North Developer Group will agree to pay, by certified funds, for the Region's legal costs (external or internal) to prepare the agreement.
27. A fee equal to 0.5%, by certified funds, of the capital cost of the works shall be payable by the 404 North Developer Group for the preparation and administration of the agreement.