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TO:	CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE MEETING ON AUGUST 28, 2017
FROM:	GEORGE KOTSIFAS MANAGING DIRECTOR, DEVELOPMENT AND COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL
SUBJECT:	DEVELOPMENT CHARGES (DC) CLAIMABLE WORKS FOR 3080 BOSTWICK ROAD AMEND CONSENT AGREEMENT

RECOMMENDATION

That, on the recommendation of the Managing Director, Development and Compliance Services, and Chief Building Official, the following actions **BE TAKEN** with respect to the consent agreement between The Corporation of the City of London and 731675 Ontario Ltd (York Developments) for the land municipally known as 3080 Bostwick Rd;

- (a) Civic Administration **BE DIRECTED** to amend the registered consent agreement as attached in Appendix 'A'; and
- (b) the financing for this project **BE APPROVED** as set out in the Source of Financing Report attached in Appendix 'B'.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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"Claimable Works for 3080 Bostwick Road – Consent Agreement 731675 Ontario Ltd, Planning and Environment Committee, February 22, 2016

"Southdale Road West – Environmental Assessment: Pine Valley Blvd. to Colonel Talbot Rd. Including Bostwick Road North of Pack Rd., Appointment of Consulting Engineer, Civic Works Committee, January 10, 2017"

DISCUSSION

Unlike subdivisions, the provisions of a consent agreement are handled administratively through delegated authority and generally do not involve the construction of claimable infrastructure. Most of the required construction costs are direct to the developer according to the local service standards contained in Schedule 8 of the City's Development Charges By-law (C.P.-1496-244).

Contained in the initial consent agreement York Developments was to construct the Bostwick Growth Area Watermain and an oversized sanitary sewer to service the Southwest Community Centre development, both of which were eligible for reimbursement from the DC Reserve Funds. At that time, the developer requested consideration of DC claim eligibility for traffic signals and a left hand turn lane at the intersection of Southdale Road and the north/south street abutting the Community Centre.

Upon review of the local service standards mentioned above, it was determined that neither the signalization nor the turn lane were to be eligible for reimbursement from DC Reserve Funds. It was anticipated that a future subdivision application with 3080 Bostwick Road would involve the ultimate design of traffic signals and lane channelization. The terms were agreed upon by both parties at that time to allow construction of the Southwest Community Centre to progress. Subsequent to the consent agreement, in January 2017 a consulting engineer was appointed by the City to conduct an environmental assessment relating to the Southdale Road West widening

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project timed for 2022 (DC14-RS00030). Initial feedback has been received that some of the work associated with constructing the turn lane for the Southwest Community Centre will be of benefit to the future road project. As such a cost sharing approach is being recommended between the developer and the City. The City will bear the costs for the granular material as it is classified as permanent works benefitting the Southdale Road project. The developer will bear the costs for the surface works, i.e. asphalt because it is considered temporary and will eventually be removed as part of the future road project.

IBI Group has submitted a work plan on behalf of the developer for the left turn lane on Southdale Rd., the cost estimate is \$142,800 including 10% contingency. The claimable portion of the work has been determined to be \$87,700 in construction costs and \$13,159 in engineering fees for a total of \$100,859.

CONCLUSION

The costs outlined above have capital budgeting implications and staff are recommending that Council approve the attached Source of Financing Report in Appendix 'B' to enable a future claim for the minor roadworks.

PREPARED BY:	REVIEWED AND SUBMITTED BY:
ADAM LANGMUIR, COORDINATOR, FINANCIAL INFORMATION DEVELOPMENT FINANCE UNIT, DEVELOPMENT SERVICES	PAUL YEOMAN, RPP, PLE DIRECTOR, DEVELOPMENT SERVICES
RECOMMENDED BY:	
GEORGE KOTSIFAS, P. ENG MANAGING DIRECTOR, DEVELOPMENT AND COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL	
CONCURRED IN BY:	
ANNA LISA BARBON, CPA, CGA MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER	

August 28, 2017

cc.: Doug MacRae, Division Manager, Roads and Transportation
 Jason Senese, Manager, Financial Planning & Policy
 John M. Fleming, Managing Director Planning & City Planner

Appendix 'A': Amendment to the Consent Agreement
 Appendix 'B': Source of Financing Report

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APPENDIX 'A'

THIS AGREEMENT made on this xx day of August, 2017

BETWEEN:

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

OF THE FIRST PART

AND

731675 ONTARIO LIMITED
a Company incorporated under the laws
of the Province of Ontario
(hereinafter called the Owner)

OF THE SECOND PART

WHEREAS the Parties hereto have entered into a certain Consent Agreement dated the 1st day of August, 2016, and registered in the Land Registry Office for the Land Titles Division of Middlesex East (No. 33) on the 27th day of February, 2017, as Instrument Number ER1090126, respecting the lands more particularly described in Schedule "A" attached hereto and other lands;

AND WHEREAS it is deemed expedient to amend the said Agreement dated the 1st day of August, 2016 as hereinafter set out;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the sum of ONE DOLLAR (\$1.00) of lawful money of Canada now paid by the Owner to the City, the receipt whereof is hereby acknowledged, the City and the Owner covenant and agree that the Consent Agreement dated the 1st day of August, 2016 and registered in the Land Registry Office for the Land Titles Division of Middlesex East (No. 33) as Instrument Number ER1090126, be and the same is hereby amended as follows:

1. That Section **21.2 – CLAIMS**, be amended to read as follows:
 - (a) Where the Owner undertakes construction of works as a capital cost incurred on behalf of the City and as authorized by the City in accordance with this agreement, and which are eligible for a claim and the claim is made against a development charge Reserve Fund or the Capital Works Budget, the Owner must conform with the By-law and policies governing the administration thereof as included in the requirements of City of London By-law C.P.-1496-244 Schedule 8, as amended (the "Development Charges By-law") including but not limited to requirements for a work plan, tendering of construction work and completeness of claims.
 - (b) If the Owner an entitlement to any reimbursement or payment from a development charge Reserve Fund as a result of the terms hereof, the Owner may, upon approval of this Agreement and completion of the works, make application to the Director – Development Finance for payment of the sum alleged to be owing, and as confirmed by the City Engineer (or designate) and the Director – Development Finance and the payment will be made pursuant to any policy

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established by Council to govern the administration of the said development charge Reserve Fund.

The anticipated reimbursements from the development charge Reserve Funds are:

- (i) for the construction of oversized sanitary sewers (300mm), the estimated cost of which is \$5,450; and,
- (ii) for the construction of the Bostwick Growth Area watermain (DC14-WD00025), the estimated cost of which is \$702,674; and,
- (iii) for the construction of a channelized left turn lane on Southdale Rd (DC14-RS00030), the estimated cost of which is \$100,859.

The estimated amounts herein will be adjusted in accordance with contract prices in the year in which the work is carried out.

Funds needed to pay the above claims will be committed (on a development by development basis) from approved capital budgets at the time of approval of this agreement, unless funds in approved capital budgets are insufficient to accommodate the commitment to the full extent of the estimated claims. In this case (ie. insufficient capital budget), the excess of the estimated claim over the approved budget shall be submitted for Council approval in the next following budget year.

Claims approvals shall generally not materially exceed approved and committed funding in the capital budget for the estimated claims listed in this agreement.

Any funds spent by the Owner pending future budget approval (as in the case of insufficient capital budget described above), shall be at the sole risk of the Owner pending Council approval of sufficient capital funds to pay the entire claim.

- (c) Upon approval of an application for a claim to a development charge reserve fund, the City shall pay the approved claim in full to the Owner subject to the limits discussed above and in accordance with the Council approved "Source of Financing Report" and the then in force Development Charges By-law and any policies established thereunder.
- (d) Where the proposed development call for the construction of works, and where the Owner is of the opinion that such works are eligible to be funded in whole or in part from development charges as defined in the DC by-law, and further, where such works are not oversized pipe works (sanitary, storm or water – the reimbursement of which is provided for in subsidy tables in the DC by-law), then the Owner shall submit through their consulting engineer an engineering work plan for the proposed works satisfactory to the City Engineer (or designate) and City Treasurer (or designate). The Owner acknowledges that:
 - (i) no work subject to a workplan shall be reimbursable until both the City Engineer (or designate) and City Treasurer (or designate) have reviewed and approved the proposed work plan; and
 - (ii) in light of the funding source and the City's responsibility to administer development charges funds collected, the City retains the right to request proposals for the work from an alternative consulting engineer.
- (e) The following works required by this subdivision shall be subject to a work plan:
 - (i) Bostwick Growth Area Watermain (DC14-WD00025).

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(ii) Southdale Rd Channelized Left Turn Lane (DC14-RS00030).

2. All other provisions and conditions of the said Consent Agreement dated the 1st day of August 2016, and registered in the Land Registry Office for the Land Titles Division of Middlesex East (No. 33), the 27th day of February, 2017, as Instrument Number ER1090126, shall remain in full force and in effect and this Agreement shall alter the said Agreement only as far as is stated herein and the said Agreement in all other respects is hereby confirmed.

IN WITNESS WHEREOF the Parties hereto have hereunto caused to be affixed their respect corporate seals duly attested by the hands of their respective proper signing officers.

SIGNED, SEALED AND DELIVERED)

In the presence of

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THE CORPORATION OF THE CITY OF LONDON

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John M. Fleming,
Managing Director, Planning and City Planner

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George Kotsifas,
Managing Director, Development and Compliance
Services & Chief Building Official

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731675 ONTARIO LIMITED

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I have the authority to bind the Corporation.

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SCHEDULE 'A'

This is Schedule "A" to the Agreement dated this 1st day of August, 2016 between The Corporation of the City of London and 731675 Ontario Limited to which it is attached and forms a part.

THE LANDS:

3080 Bostwick Road being Part off Lots 38 & 39, Concession 2 (Geographic Township of Westminster) in the City of London County of Middlesex more particularly described as:

Being Part of Lots 38 & 39, Concession 2, Geographic Township of Westminster
Designated as Parts 1, 2, 3, 4 and 5 on Plan 33R-19682.

APPENDIX 'B'

Chair and Members
Planning and Environment Committee

#17162
August 28, 2017
(Amend Consent Agreement)

**RE: Development Charges (DC) Claimable Works for 3080 Bostwick Road
Subledger 2409645
3080 Bostwick Road/501 Southdale Road West - York Developments
Capital Project TS1629-1 - Southdale Road West Widening Farnham to Pine Valley**

FINANCE & CORPORATE SERVICES REPORT ON THE SOURCE OF FINANCING:

Finance & Corporate Services confirms that the cost of this project can not be accommodated within the financing available for it in the Capital Works Budget and that, subject to the adoption of the recommendations of the Managing Director, Development and Compliance Services and Chief Building Official, the detailed source of financing for this project is:

<u>ESTIMATED EXPENDITURES</u>	Approved Budget	Additional Funding and Adjustment	Revised Budget	Committed to Date	This Submission
Engineering	\$25,000	\$231,029	\$256,029	\$242,638	\$13,391
Construction	175,000	(85,756)	89,244		89,244
City Related Expenses		260	260	260	
NET ESTIMATED EXPENDITURES	\$200,000	\$145,533	\$345,533	\$242,898	\$102,635

<u>SOURCE OF FINANCING:</u>						
Debenture By-law No. W.-5618-64 Additional Debenture tsf from TS1477-2 - Hyde Park Rd Widening-Ph 2 CP Rail Crossing to Fanshawe	2&4)	\$18,000	13,098	31,098	21,861	9,237
Drawdown from City Services - Roads Reserve Fund (Development Charges) - Addn'l tsf from TS1477-2 - Hyde Park Rd. Widening-Ph 2 CP Rail Crossing to Fanshawe	3&4)	182,000	132,435	314,435	221,037	93,398
TOTAL FINANCING		\$200,000	\$145,533	\$345,533	\$242,898	\$102,635

1) **Financial Note**

	Construction	Engineering	Total
Contract Price	\$87,700	\$13,159	\$100,859
Add: HST @13%	11,401	1,711	13,112
Total Contract Price Including Taxes	99,101	14,870	113,971
Less: HST Rebate	9,857	1,479	11,336
Net Contract Price	\$89,244	\$13,391	\$102,635

NOTE TO CITY CLERK:

- The City Clerk be authorized to increase Debenture By-law No. W.-5618-64 by \$13,098 from \$18,000 to \$31,098.
- Development charges have been utilized in accordance with the underlying legislation and the Development Charges Background Studies completed in 2014.
- The additional financing requirement of \$145,533 is available as a transfer of debenture quota in the amount of \$13,098 and a transfer of a drawdown from City Services - Roads component (DC) in the amount of \$132,435 from TS1477-2 - Hyde Park Rd. Widening - Ph 2 CP Rail Crossing to Fanshawe. This project is substantially complete with a surplus and is therefore available as a source of funding for the Development Charges Claimable Works for 3080 Bostwick Road project.

Larry Palarchio

Larry Palarchio
Director of Financial Planning & Policy