AREA-SPECIFIC DEVELOPMENT CHARGES BACKGROUND STUDY UPDATE

City of Markham

HEMSON Consulting Ltd.

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EXECUTIVE SUMMARY

Hemson Consulting Ltd. was retained by the City of Markham to complete an update to three area-specific charges, namely; Area 9, Area 42B-6 and Area 42B-8, as identified in the 2013 Development Charges (DC) Background Study. The following summarizes the findings of the 2015 Area-Specific Development Charges (ASDC) Background Study Update:

A. BACKGROUND AND OVERVIEW

- Council adopted ASDC by-laws for Areas 9, 42B-6 and 42B-8 in June, 2013 recognizing that the costs related to the Highway 7 Sanitary Sewer, a project shared between all three areas, was not complete at the time of the enactment and would require an update at a later time.
- Hemson Consulting Ltd was subsequently retained by the City to complete a new Background Study to update the enacted ASDC by-laws (Area 9 By-law 2013-109; Area 42B-6 By-law 2013-110; and Area 42B-8 By-law 2013-111); the City also retained SCS Consulting Group Ltd to provide the updated project costs for inclusion in the study.

B. THE STUDY IS CONSISTENT WITH THE DEVELOPMENT CHARGES LEGISLATION

- The study calculates ASDCs in compliance with the provisions of the *Development Charges Act, 1997 (DCA)* and its associated regulation *Ontario Regulation 82/98*.
- The 2015 ASDC Background Study Update has been prepared with reference to:
  - a forecast of the amount, type and location of development; the ASDCs are calculated and levied on a net land area basis ($/ net hectare) and the development forecast is determined by the total developable land area;
  - a review of future capital projects including an analysis of gross expenditures, funding sources, credit agreements, reserve fund balances and net expenditures incurred or to be incurred by the City to provide for the expected development, including the determination of the development and non-development-related components of the capital projects; and

    - an examination of the long-term capital and operating costs for the capital infrastructure required for each service to which the ASDC by-laws would apply.

- The projects that provide benefit to more than one area have been apportioned between areas based on shares of population and employment growth and cost assumptions provided by SCS Consulting Group Ltd.

- The calculated rates are completed on a net hectare basis which is consistent with the City's current practice for calculating ASDCs.

C. UPDATED DEVELOPMENT-RELATED COSTS FOR ENGINEERED SERVICES HAS BEEN INCLUDED IN THE ANALYSIS

The following types of projects are included in the area-specific engineered-related services and the ASDC calculations:

- Intersections;

- Roads;

- Special Projects (i.e. Bike Lane Improvements);

- Stormwater Management; and

- Sanitary Sewers.

D. IDENTIFIED PLANNING PERIOD AND DEVELOPMENT FORECAST

- The residential and non-residential development forecast has been determined for the planning period of 2015 to buildout.

- The forecast area-specific projects are based on the anticipated development occurring within the net developable land areas over the planning period:

    - Area 9 is forecast to receive the greatest amount of growth that will be accommodated within 9.57 hectares, or 47 per cent, of the total net developable land over the planning period between the three benefitting areas;

    - Area 42B-6, represents a more modest forecast of 6.20 hectares, or 30 per cent, of the total net developable land; and

- In contrast, Area 42B-8 is forecast to develop the least amount of land for a total of 4.8 net hectares, or 23 per cent, of the total net developable land area available.

Land Area	Available Land 2015-Buildout			Total
	Area 9	Area 42B-6	Area 42B-8	
Total Net Developable Area	9.57	6.20	4.80	20.57

E. TOTAL PROJECT COSTS FOR ASDC DEVELOPMENT-RELATED CAPITAL PROGRAM

- The total gross development-related capital program are summarized for each area as follows:
  - Area 9 $23.0 million
  - Area 42B-6 $20.8 million
  - Area 42B-8 $23.0 million
- The *DCA* requires that gross capital costs be reduced by grants, subsidies, and recoveries from other governments; capital replacements or other benefits provided to the existing community; existing reserve fund balances; amounts that exceed historical service levels; and a statutory ten per cent reduction for eligible soft services when calculating development charges.
- No capital replacements, benefit shares or recoveries from other governments have been identified for the three areas and therefore is not reduced from the total ASDC eligible development-related costs.
- In accordance with the *DCA*, the total gross costs have been allocated based on benefitting shares to the three areas and further adjustments have been made to account for reserve fund balances and credit agreements.
- After these adjustments, the total ASDC development-related recoverable costs for the three benefitting areas amount to $21.7 million.

Area Name	Area #	Total ASDC Development-Related Recoverable Costs (Less Adjustments)
PD 1-7	9	$ 6,732,364
Markham Centre - South Hwy 7	42B-6	$ 8,010,138
Markham Centre - Sciberras	42B-8	$ 7,024,707
Total		**$ 21,767,209**

F. AREA-SPECIFIC CHARGES ARE PROPOSED TO INCREASE OR DECREASE OVER PRESENT CHARGES

- The ASDC approach has been employed in order to more closely align costs and benefits for services where benefits are more localized and can be identified.

- The ASDCs calculated for the purposes of the study are summarized below.

Comparison of Current and Calculated ASDC Charges

Area Name	Service Area	Current Charge per Net Ha [1]	Calculated Charge per Net Ha	Difference ($)
PD 1-7	Area 9	$ 763,560	$ 703,457	$ (60,103)
Markham Centre - South Hwy 7	Area 42 B-6	$ 1,074,075	$ 1,292,166	$ 218,091
Markham Centre - Sciberras	Area 42 B-8	$ 311,718	$ 1,463,786	$ 1,152,068

[1] *Current Charge per Net Ha reflects the 2013 enacted ASDC rates, indexed to July 1, 2015*

- As illustrated in the above table, the calculated development charges per net hectare are anticipated to:
  - Increase for Area 42B-6 by $218,091 per net hectare;
  - Increase for Area 42B-8 by $1,152,068 per net hectare; and
  - Decrease in Area 9 by $60,103 per net hectare.

G. UPDATED AREA-SPECIFIC DEVELOPMENT CHARGE BY-LAWS ARE PROPOSED

- The ASDC update will result in the repeal of existing and the enactment of new ASDC by-laws for Areas 9, 42B-6 and 42B-8.

- No significant policy or administrative changes are proposed in the draft ASDC by-laws. However, the applicable ASDC rates and benefitting area boundaries have been amended to reflect the findings from the study.

- The proposed draft ASDC by-laws are provided in Appendix D of the study.

I INTRODUCTION & BACKGROUND

The Council of the City of Markham passed area-specific development charge (ASDC) By-laws for Area 9 (2013-109), Area 42B-6 (2013-110) and Area 42B-8 (2013-111) on June 17th, 2013, for the recovery of capital costs associated with meeting the increase in needs arising from development. The Highway 7 Sanitary Sewer was a critical project shared between all three benefitting areas. At the time of the enactment of the by-laws, the total cost of the sewer had not yet been determined and as such, the City agreed to the update of the by-laws at a later time.

As permitted under the *Development Charges Act (DCA)*, the City entered into an agreement with a local developer to front-end the work related to the Highway 7 Sanitary Sewer. Since finalizing the costs, the City has been asked to update the existing 2013 ASDC By-laws to allow for the full recovery of the costs from other benefitting landowners. As part of the process, Hemson Consulting Ltd. was retained to undertake the required calculations and to produce the 2015 ASDC Background Study Update (herein referred to as "the study"). In addition, SCS Consulting Group Ltd. was retained to finalize costing data for the Highway 7 Sanitary Sewer and other relevant projects.

The study is presented as part of a process to lead to the approval and enactment of new ASDC By-laws for Areas 9, 42B-6 and 42B-8 in compliance with the *DCA*. The *DCA* and *Ontario Regulation 82/98 (O. Reg. 82/98)* require that a development charges background study be prepared in which development charges are determined with reference to:

- A forecast of the amount, type and location of development based on the total amount of net developable land to buildout;
- A review of capital works in progress and anticipated future capital projects, including an analysis of gross expenditures, funding sources and net expenditures incurred or to be incurred by the City or its local boards to provide for the expected development, including the determination of the development and non-development-related components of the capital projects; and
- An examination of the long-term capital and operating costs for the capital infrastructure required for each service to which the development charges by-laws would relate.

The study presents the results of the review which determines the development-related net capital costs, also referred to as the total ASDC development-related recoverable

costs, attributable to the three benefiting areas as determined through the analysis of localized benefits received for the identified services. The charge is then calculated on a per net hectare basis.

The *DCA* provides for a period of public review and comment regarding the proposed ASDCs. Following completion of the study process in accordance with the *DCA* and Council's review of the study and the comments it receives regarding the study or other information brought to its attention about the proposed charges, it is intended that Council will pass new ASDCs for Area 9, 42B-6 and 42B-8.

The remainder of the study sets out the information and analysis upon which the proposed ASDCs are based. In this respect, the study will:

1. identify the designation of services for which ASDCs are proposed;
2. present a summary of the forecast amount of developable land available to occur to build-out;
3. summarize the area-specific calculations including a review of the development-related capital forecasts and a summary of allocated capital projects between the three areas; the calculation of ASDCs; an examination of the long-term operating and capital impacts; and a comparison of the existing ASDC rates and the rates proposed in the study; and
4. provide a review of ASDC administrative matters and the proposed ASDC by-laws.

II AREA-SPECIFIC BY-LAW UPDATE PROCESS AND SCOPE

Both ASDC and DC by-laws expire five years after enactment unless they are repealed and replaced at an earlier time. In accordance with the *DCA,* municipalities are allowed to update their existing by-laws prior to expiry. The same process is utilized for the update of a municipal-wide or area-specific by-law. For some services the City provides, the need for development-related capital additions to support anticipated development is more localized. For services where costs and benefits are characterized by this benefit, an alternative technique known as the area-specific approach, is employed.

As demonstrated in Table 1, the ASDCs for Areas 9, 42B-6 and 42B-8 relate to the provision of engineered services including sanitary sewer facilities, roads and related improvements, stormwater management works, and projects undertaken by credit agreements. The proposed updates to these charges, as determined in the study, are consistent with the City's existing approach for calculating development charges for works that provide a localized benefit.

Table 1
ASDC Services Provided by Area

Area Description	Area Reference	Services Provided
PD 1-7	Area 9	Intersection Improvements Roads Stormwater Management Sanitary Sewers Special Projects – Bike Lanes
Markham Centre – South Hwy 7	Area 42B-6	Stormwater Management Sanitary Sewers
Markham Centre - Sciberras	Area 42B-8	Roads Stormwater Management Sanitary Sewers

A. DEVELOPMENT CHARGES FOR AREA 9, 42B-6 AND 42B-8 ARE PROPOSED

The area-specific approach for the aforementioned services reflects the fact that the demand for, and benefit from, the projects provided by the City is much more localized than that for other City services. Area-specific charges result in a more accurate distribution of costs among developers than the City-wide approach. The geographic areas that are identified coincide with the specific or shared service areas for each project.

The area-specific approach also facilitates future front-end financing or credit agreements for the designated services if the City chooses to use these provisions of the *DCA*. As an alternative that is more commonly used in Markham, the area-specific charges also facilitate the use of developer group agreements.

B. KEY STEPS IN DETERMINING AREA-SPECIFIC DEVELOPMENT CHARGES FOR FUTURE DEVELOPMENT-RELATED PROJECTS

Several key steps are required in calculating ASDCs for the localized development-related projects. These steps are summarized as follows.

1. Developable Land Area Forecast

Consistent with the City's current and historical approach to calculating ASDCs, the total net developable land has been forecast for each area. The forecasts have been developed with input from City staff and its consultants to determine the location and amount of total net developable land over the planning period from 2015 to buildout.

For the purposes of the ASDC calculation, the total developable land for each area, net of areas that include main roads, flood plains etc. is used for the purpose of the calculation.

2. Service Categories and Historical Service Levels, If Applicable

The *DCA* provides that the increase in the need for service attributable to anticipated development:

> ... must not include an increase that would result in the level of service exceeding the average level of that service provided in the municipality over the 10-year period immediately preceding the preparation of the background study...(s. 5. (1) 4.)

This provision of the *DCA* is typically applicable to general services and requires a detailed review of capital service levels for buildings, land, vehicles and related and facilities. For engineered services, such as water, wastewater, stormwater management and roads (including road-related works), historical service levels are less applicable and reference is made to the City's engineering standards as well as Provincial health and environmental requirements.

Given that the increase in need for service identified for the three areas relate to engineered services, the ASDC calculations are not subject to the same service level restrictions applied for general services, thus no funding level caps have been applied.

3. Development-Related Capital Forecast and Analysis of Net Capital Cost to be Included in the ASDCs

The development-related capital forecast has been updated with costing information provided by SCS Consulting Group Ltd and reviewed by City staff. The forecast identifies development-related projects and their gross and net costs, after any deductions for contributions made under s.5(2) of the *DCA*. The capital forecast provides another cornerstone upon which development charges are based. The *DCA* requires that the increase in the need for service attributable to the anticipated development may include an increase:

> ... only if the council of the municipality has indicated that it intends to ensure that such an increase in need will be met. (s. 5. (1) 3.)

For some projects in the development-related capital forecast, a portion of the project may confer benefits to existing residents. As required by the *DCA*, s. 5. (1) 6., these portions of projects and their associated net costs are the funding responsibility of the City from non-development charges sources. There is also a requirement in the *DCA* to reduce the applicable development charge by the amount of any "uncommitted excess capacity" that is partially available to meet the future servicing requirements. As the capital projects identified for the benefitting areas are entirely eligible for recovery through development charges, and given that no excess capacity has been identified, no reductions have been made.

Finally, in calculating development charges, the development-related net capital costs must be reduced by ten per cent for all services except for engineering services identified under s.5(1)8 of the *DCA*. As the area-specific capital programs only include engineering related capital projects, no ten per cent reduction is required.

a. Allocation of Capital Costs Between Area 9, 42B-6 and 42B-8

Several projects identified in the capital forecast for Areas 9, 42B-6 and 42B-8 are shared between the three areas and in some cases with the Region of York. The allocation of projects is calculated based on shares of population and employment growth and shares of capital costs related to the works provided in the benefiting areas. These allocations are more fully discussed in Section IV and Appendices A and B of the study.

b. Adjustments for Projects Undertaken by Credit Agreement

In accordance with s.38(1) of the DCA:

> … if a municipality agrees to allow a person to perform work that relates to a service to which a development charges by-law relates, the municipality shall give the person a credit towards the development charge in accordance with the agreement"

Section 38(2) further states:

> …the amount of the credit is the reasonable cost of doing the work as agreed by the municipality and the person who is to be given the credits.

Projects included in the area-specific capital programs that have been undertaken by way of a credit agreement and issued to the land developer, have been reduced from the total eligible development-related costs. This adjustment is done to avoid the over recovery of costs related to a specific project.

4. Attribution to Net Developable Areas

Once the total gross capital project costs have been allocated to the benefitting areas and all necessary reductions and adjustments have been made, the ASDCs are calculated on the net developable land area on a per hectare basis. This is reflective of the same approach presently used by the City and the charge is judged to equitably apply only against lands that can be developed.

C. PUBLIC & STAKEHOLDER CONSULTATION

In accordance with the *DCA*, the City has scheduled a public meeting on November 10, 2015 for a formal presentation of the study and calculated ASDC rates. In particular, additional consultation beyond the statutory requirements of the *DCA* has also been completed. As part of the study process, an information session with benefitting land owners (i.e. development industry stakeholders) was held on September 11, 2015 to provide additional opportunities for comments and input.

Input received from the statutory public meeting will be considered prior to the passage of the draft ASDC by-laws.

III AREA-SPECIFIC DEVELOPMENT FORECASTS

This section provides the basis for the total net developable land area forecasts used in calculating the ASDCs and provides a summary of the forecast results by area. The total developable land areas have been informed through discussions with City staff from the Planning and Finance Departments, and has also been reviewed with SCS Consulting Ltd. This practice aligns with the provisions of the *DCA*, which require that development charges be determined with reference to "the amount, type and location of development for which development charges can be imposed…" (s.5.(1)1.)

This section portrays a summary of the results of the total net developable land areas, net of undevelopable lands such as roads and flood plains. Additional supporting details that relate to the area-specific residential and non-residential forecasts are provided in Appendix A.

A. TOTAL NET DEVELOPABLE LAND AREA

Net developable land area is the total land area of a site excluding land used for the purposes of main roads, buffer zones, identified flood plains lands etc. The total net developable land area has been determined on an area-by-area basis for the purposes of calculating the total applicable ASDCs payable on a per net hectare basis. In addition, the net development land area is also used to calculate corresponding population and employment forecasts based on the availability of land, as further discussed in Appendix A.

Table 2 provides a comparison of the total net development land available by area as calculated in the 2013 DC Study and the current study.

Table 2
Comparison of Net Developable Land Area
Current 2013 DC Study vs. Calculated 2015 ASDC Study Update

Background Study	Total Hectares of Net Developable Land Area			Total
	Area 9	Area 42B-6	Area 42B-8	
Net Developable Land (2015 Study)	9.57	6.20	4.80	**20.57**
Net Developable Land (2013 Study)	13.46	8.83	16.93	**39.22**
Difference (#)	*-3.89*	*-2.63*	*-12.13*	

As summarized in Table 2, approximately 18.65 hectares (39.22 hectares – 20.57 hectares) of land has either been developed or removed from the three benefitting areas. The total net developable land for Area 9 has been reduced by approximately 3.89 hectares of land, reflective of development applications received by the City. In review of the benefitting lands for Area 9, and through discussions with City staff, it was identified that nine additional residential lots were to be added to the total net developable land forecast from 2015-buildout. The total net developable land of 9.57 hectares reflects both the reduction in developable land and the addition of new lots.

The decrease in net developable land area 42B-6 is directly related to the development of land in the area. Since the previous study, approximately 2.63 hectares have been identified for development and therefore is removed from the total net developable land.

Of the three areas, 42B-8 illustrates the greatest change in the net developable land forecast with approximately 12.13 hectares removed since the last study. The area contains a significant amount of undevelopable flood plain land which was included as net developable land during the last ASDC update. Consistent with other ASDC calculations, the identified undevelopable flood plain land has been removed. It should be noted that since the last ASDC update, no development applications have been received for the area.

IV AREA-SPECIFIC DEVELOPMENT CHARGE CALCULATION

A. THE DEVELOPMENT-RELATED CAPITAL FORECAST IS PROVIDED FOR COUNCIL'S APPROVAL

The *DCA* requires the Council of a municipality to express its intent to provide future capital facilities at the level incorporated in the development charges calculation. As noted above in Section II, *Ontario Regulation 82/98*, s. 3 states that:

> For the purposes of paragraph 3 of subsection 5 (1) of the Act, the council of a municipality has indicated that it intends to ensure that an increase in the need for service will be met if the increase in service forms part of an official plan, capital forecast or similar expression of the intention of the council and the plan, forecast or similar expression of the intention of the council has been approved by the council.

One of the recommendations contained in the study is for Council to adopt the development-related capital forecast developed for the purposes of the ASDC calculations. It is assumed that future capital budgets and forecasts will continue to bring forward the development-related projects contained herein that are consistent with the growth occurring in the City. It is acknowledged that changes to the forecast presented here may occur through the City's normal capital budget process.

B. THE DEVELOPMENT-RELATED CAPITAL FORECAST BY AREA

The following section provides a summary of the development-related capital forecast for area-specific services. The projects included in the capital programs for each area are identified in greater detail in Appendix B.

1. Capital Project Costs Have Been Updated

While the intent of the study is to provide updated area-specific rates to reflect finalized costs for the Highway 7 Sanitary Sewer, other capital project costs have also been updated.

Table 3 provides a summary of the infrastructure projects for the three benefitting areas. As part of the update, no significant changes have been identified relating to the nature and scope of the projects. With respect to costs, no changes have been made to intersection, roads and dedicated bike lane related projects. In contrast, the cost of the Sheridan Pond Construction project has increased slightly, by three per cent, whereas the Highway 7 Storm Sewer, Sheridan Storm Sewer and Area 42B-8 Stub to Pond costs have decreased from the 2013 costs by seven, five and six per cent, respectively.

TABLE 3
CITY OF MARKHAM

COMPARISON OF CURRENT 2013 AND PROPOSED 2015 GROSS CAPITAL PROJECT COSTS

PROJECT DESCRIPTION		BENEFITTING AREAS [1]	2015 GROSS COST	2013 GROSS COST	CHANGE	
					($)	(%)
Intersection						
Roundabout		**9**	**$ 400,250**	**$ 400,250**	**$ -**	**0%**
Roads						
Village Parkway	Southbound dedicated left turn lane @ hwy 7	9	**$ 44,553**	**$ 44,553**	**$ -**	**0%**
Sciberras Dr (ROW)	Highway 7 to Rouge River	42B-8, Other	**$ 2,132,284**	**$ 2,132,284**	**$ -**	**0%**
Special Projects						
Village Parkway	Dedicated Bike Lanes	9	**$ 206,409**	**$ 206,409**	**$ -**	**0%**
Storm Water Management						
Sheridan Pond (Construction)		All Areas	**$ 1,582,964**	**$ 1,541,949**	**$ 41,015**	**3%**
Highway 7 Storm Sewer	Villiage Pkwy to East of Street G	9, Other	**$ 1,607,823**	**$ 1,724,230**	**$ (116,407)**	**-7%**
Sheridan Storm Sewer	Highway 7 to Sheridan Pond	All Areas	**$ 1,810,704**	**$ 1,896,080**	**$ (85,376)**	**-5%**
Area 42B-8 Stub to Pond		42B-8	**$ 49,945**	**$ 53,125**	**$ (3,180)**	**-6%**
Sanitary Sewers						
Highway 7 Sanitary Sewer	Village Parkway to Main Street Unionville	9, 42B-8, 42B-6	**$ 16,630,334**	**$ 12,832,266**	**$ 3,798,068**	**30%**
Highway 7 Sanitary Sewer	Hwy 7 to YDSS	9, 42B-8, 42B-6	**$ 762,093**	**$ 762,093**	**$ -**	**0%**
Total Gross Cost			**$ 25,227,361**	**$ 21,593,239**	**$ 3,634,122**	**15%**

[1] *"All Areas" refers to Area 9, Area 42B-8 and Area 42B-6*

2. The Updated Capital Project Costs Have Been Allocated to the Benefitting Areas

Many of the area-specific projects provide benefits to more than one area, thus the recovery of the cost of these projects is shared. Table 4 provides a summary of how the updated gross project costs have been allocated between Areas 9, 42B-6 and 42B-8.

The approach of allocating cost between the benefitting areas varies by project. For example, the Highway 7 Sanitary Sewer is allocated across the three areas based on shares of population and employment growth to buildout. This reflects that the development potential of each area has a direct relationship with the utilization of the proposed infrastructure.

The other projects relating to stormwater management including the Sheridan Pond Construction, Sheridan Storm Sewer and Highway 7 Storm Sewer are allocated based on the shares of total construction cost, as provided by SCS Consulting Group Ltd., relative to the developable lands in each area.

Appendix B provides additional details on the calculation of the allocations. Details on the population and employment estimates used in the allocation of specified projects are provided in Appendix A.

TABLE 4
CITY OF MARKHAM

ALLOCATION OF GROSS 2015 CAPITAL COSTS TO SPECIFIC AREAS

PROJECT DESCRIPTION		2015 GROSS CAPITAL COSTS	ASDC & OTHER SHARES (%)				
			9	42.B-6	42.B-8	Region/ Other[1]	Total
Intersection							
Roundabout		$ **400,250**	100.0%	0.0%	0.0%	0.0%	**100.0%**
Roads							
Village Parkway	Southbound dedicated left turn lane @ hwy 7	$ **44,553**	100.0%	0.0%	0.0%	0.0%	**100.0%**
Sciberras Dr (ROW)	Highway 7 to Rouge River	$ **2,132,284**	0.0%	0.0%	85.7%	14.3%	**100.0%**
Special Projects							
Village Parkway	Dedicated Bike Lanes	$ **206,409**	100.0%	0.0%	0.0%	0.0%	**100.0%**
Storm Water Management							
Sheridan Pond (Construction)		$ **1,582,964**	67.5%	1.3%	22.3%	8.9%	**100.0%**
Highway 7 Storm Sewer	Villiage Pkwy to East of Street G	$ **1,607,823**	89.6%	0.0%	0.0%	10.4%	**100.0%**
Sheridan Storm Sewer	Highway 7 to Sheridan Pond	$ **1,810,704**	92.9%	1.7%	1.7%	3.7%	**100.0%**
Area 42B-8 Stub to Pond		$ **49,945**	0.0%	0.0%	100.0%	0.0%	**100.0%**
Sanitary Sewers							
Highway 7 Sanitary Sewer	Village Parkway to Main Street Unionville	$ **16,630,334**	15.7%	60.5%	23.8%	0.0%	**100.0%**
Highway 7 Sanitary Sewer	Hwy 7 to YDSS	$ **762,093**	15.7%	60.5%	23.8%	0.0%	**100.0%**

[1] *Includes Region of York and projects shared with the City-wide Hard Services*

C. THE PROPOSED AREA-SPECIFIC DEVELOPMENT CHARGES ARE CALCULATED IN ACCORDANCE WITH THE *DCA*

As shown in Table 5, the total cost of the works being considered amount to $66.8 million of which $23.0 million, $20.7 million and $23.0 million relate to Areas 9, 42B-6 and 42B-8, respectively. These costs reflect the total of each of the area-specific projects prior to the allocation of localized benefits between the areas. Once the identified costs have been distributed, the ASDC development-related amounts are reduced to $7.6 million, $10.6 million and $6.4 million, respectively.

However, not all of these costs can be recovered through the proposed ASDC by-laws. Any available reserve fund balances have been applied to the development-related costs and in addition, any credits relating to projects included in the area-specific capital forecasts have been appropriately accounted for.

Internal site components have also been considered in the ASDC calculation. For example, costs that a development would have to pay for local servicing requirements are not included in the calculation as the City is able to collect these amounts through the normal subdivision process. Shares of projects that are non-development related or provide a benefit to the existing community are to be deducted from the calculation and funded from other municipal revenue sources. The costs shown in Table 5 under the column entitled, "ASDC Development-Related Costs" are net of local costs and non-development related shares. These adjustments are also illustrated in the area-specific capital programs in Appendix B.

As summarized in Table 5, the total allocated ASDC recoverable share for all three areas amount to $24.5 million, and this amount forms the basis for the ASDC calculations.

1. Area 9

The total gross project costs for Area 9 amount to $23.0 million. The ASDC recoverable share is then calculated based on the allocated ASDC development-related costs, the recovery of a $1.3 million negative reserve fund balance relating to past commitments for development-related projects, and a reduction of $2.1 million in credits provided in relation to the Highway 7 Sanitary Sewer and the Highway 7 Storm Sewer and Storm Water Management Pond. As such, the total ASDC development-related recoverable amount after reductions amounts to $6.7 million.

2. Area 42B-6

With respect to Area 42B-6, the gross project costs total $20.8 million, with approximately $10.6 million allocated to the ASDC development-related costs. A positive reserve fund balance of $0.6 million is available and has been netted off the development-related share. In addition, approximately $2.0 million in credits has been issued by the City in relation to sanitary sewers and, as such, is also removed from the eligible costs. After these deductions, the total ASDC development-related recoverable costs amount to $8.0 million.

3. Area 42B-8

Finally, of the $23.0 million in gross project costs identified for Area 42B-8, approximately $6.4 million relates to the ASDC development-related share. The total ASDC recoverable amount is then further adjusted to recover for a negative reserve fund balance of $0.6 million for a total recoverable share of $7.0 million. No credits have been identified for this service area.

TABLE 5

SUMMARY OF DEVELOPMENT-RELATED CAPITAL FORECAST FOR AREA-SPECIFIC SERVICES 2015-BUILDOUT

Area Name	Area #	Gross Project Costs[1]	ASDC Development-Related Costs	Adjustments		Total ASDC Development-Related Recoverable Costs (Less Adjustments)
				Reserve Fund Balance[2]	Credits In Agreement	
PD 1-7	9	$ 23,045,131	$ 7,565,306	$ 1,313,436	$ (2,146,378)	$ 6,732,364
Markham Centre - South Hwy 7	42B-6	$ 20,786,096	$ 10,582,519	$ (586,665)	$ (1,985,716)	$ 8,010,138
Markham Centre - Sciberras	42B-8	$ 22,968,325	$ 6,400,393	$ 624,315	$ -	$ 7,024,707
Total		**$ 66,799,553**	**$ 24,548,218**	**$ 1,351,085**	**$ (4,132,094)**	**$ 21,767,209**

[1] *Includes the total sum of the gross project costs identified for each area before the allocation of costs*

[2] *Negative reserves are shown as positive values and positive reserves are shown as negatives*

D. CALCULATED DEVELOPMENT CHARGES

The City's intention is to continue to calculate and collect ASDCs on the basis of net developable land area.

The final step in the ASDC calculation is to identify the applicable charge per net hectare. This is calculated by dividing the total ASDC recoverable amount by the net developable area.

As shown in Table 6, the calculated ASDCs range from a low of $703,457 per net hectare for Area 9 to a high of $1,463,786 per net hectare for Area 42B-8. The total area-specific charge for Area 42B-6 is calculated at a rate of $1,292,166 per net hectare.

Table 6
Summary of Area-Specific Development Charges

Area Name	Service Area	Total ASDC Recoverable[1]	Land Area (Ha)	Calculated Charge per Net Ha
PD 1-7	Area 9	$ 6,732,364	9.5704	$ 703,457
Markham Centre - South Hwy 7	Area 42 B-6	$ 8,010,138	6.199	$ 1,292,166
Markham Centre - Sciberras	Area 42 B-8	$ 7,024,707	4.799	$ 1,463,786

[1] Based on area-specific calculations and reflect of adjustments in to account for DC credits and reserve fund balances

E. COMPARISON OF CALCULATED AND CURRENT DEVELOPMENT CHARGES

Table 7 presents a comparison of the calculated ASDCs, by area, in comparison with the City's current charges (as indexed to July 1st, 2015). The changes in the rates are due to a number of factors including revised project costs, updated forecast assumptions, and the determination of total net developable land area.

Table 7
Comparison of Current and Calculated Development Charges

Area Name	Service Area	Current Charge per Net Ha[1]	Calculated Charge per Net Ha	Difference ($)
PD 1-7	Area 9	$ 763,560	$ 703,457	$ (60,103)
Markham Centre - South Hwy 7	Area 42 B-6	$ 1,074,075	$ 1,292,166	$ 218,091
Markham Centre - Sciberras	Area 42 B-8	$ 311,718	$ 1,463,786	$ 1,152,068

[1] Current Charge per Net Ha reflects the 2013 enacted ASDC rates, indexed to July 1, 2015

The calculated charge for Area 9 of $703,457 per net hectare represents a decrease of $60,103 from the current rate of $763,560. This is due to the adjusted allocation of the Highway 7 Sanitary Sewer costs from the previous 2013 DC Background Study. In

particular, the current Area 9 boundary has been amended to include new developable lands located along Fitzgerald Avenue.

In contrast, the calculated charge for Area 42B-6 amounts to $1,292,166 per net hectare and represents an increase of $218,091 (or an increase of 20 per cent) over the existing rate of $1,074,075. Similar to Area 9, the increase is a result of a higher allocation of the Highway 7 Sanitary Sewer costs.

Finally, Table 7 shows that the calculated charge for Area 42B-8 will increase by $1,152,068 per net hectare, resulting in a total charge of $1,463,786 per net hectare over the current charge of $311,718. The increase in the ASDC rate is primarily a result of the removal of an undevelopable flood plain area which has reduced the total net developable area and increased the charge.

F. LONG-TERM CAPITAL AND OPERATING IMPACTS

As required by section 10(2)(c) of the *DCA*, the long-term capital and operating costs for capital infrastructure must be examined. In total, the net operating costs related to the proposed area-specific projects are estimated to be similar to other area-specific services in the City. Consequently, the proposed assessment growth, driven by the forecast development within the three areas, will be able to offset the operating impacts and related long-term capital costs.

In particular, projects included in the ASDC capital forecast are 100 per cent eligible for recovery by ASDCs, therefore no funding is anticipated to be required from non-DC sources. Council has been made aware of these factors so that they can understand the operating and capital costs before adopting the development-related capital forecast set out in the study.

V AREA-SPECIFIC DEVELOPMENT CHARGES ADMINISTRATION

A. AREA-SPECIFIC DEVELOPMENT CHARGES POLICIES AND PRACTICES

No significant changes from the 2013 DC Background Study are recommended to the City's current policies and practices regarding ASDC administration. Considering the requirements of the *DCA*, the following recommendations have been reviewed in the context of the study:

- It is recommended that present practices regarding collection of ASDCs and by-law administration continue to the extent possible, having regard to any requirements of the *DCA*;
- As required under the *DCA*, the City should codify any rules regarding application of the ASDC by-laws and exemptions within the ASDC by-laws proposed for adoption;
- It is recommended that the City continue to actively encourage the use of front-ending agreements or credit agreements, whichever are practical and desirable by the development industry and the City;
- It is recommended that the ASDC by-laws permit the payment of development charges in cash or through development charge credit agreements. The municipality is not obligated to enter into credit agreements; and
- It is recommended that Council adopt the updated development-related capital forecast for the area-specific services included in the study, subject to annual review through the City's normal capital budget process.

B. AREA-SPECIFIC DEVELOPMENT CHARGES BY-LAW PROVISIONS

The proposed draft ASDC by-laws for all three areas are included in Appendix D of the study. The updated by-laws do not propose any significant changes to the policies and provisions under the currently enacted ASDC by-laws. The changes to the applicable ASDC rates and area boundaries have been reflected in the draft by-laws.

APPENDIX A

SUPPORTING DEVELOPMENT FORECAST DETAILS

APPENDIX A

SUPPORTING DEVELOPMENT FORECAST DETAILS

Appendix A provides the details of the residential and non-residential development forecast that were used to allocate the Highway 7 Sanitary Sewer related costs between the three benefitting areas. The forecast method and key assumptions are discussed in detail and the results of the forecast are provided in Table 1.

A. DEVELOPMENT FORECAST CALCULATION

One of the first steps in a development charges calculation requires a development forecast to be prepared. Unlike the forecast for general services which requires a ten-year forecast, engineered services, such as stormwater, roads and sanitary sewers, are forecast to buildout. As the ASDCs include engineered services, a forecast for each area to buildout has been prepared.

The forecast of the future residential and non-residential development by location used in the study is based on anticipated growth identified through discussions with City Planning staff regarding proposed development applications. The net developable area for each property and the type of built form proposed in each area have been identified.

For the residential portion of the forecast, new dwelling units and population growth in new units is also estimated using the persons per unit (PPU) assumptions from the 2013 DC Background Study. For the purposes of the study, net population growth, which equals the population in new housing units reduced by the decline in the population in the existing base, has not been calculated as the forecast is used to attribute localized shares of capital projects in land areas which have yet to be developed.

Similarly, the non-residential portion of the forecast estimates the Gross Floor Area (GFA) of building space to be developed to buildout. The forecast provides estimates of added employment growth based on preliminary development applications. Factors for floor space per worker (FSW) by category are used to convert the employment forecast into GFA. These assumptions have been taken from the 2013 DC Background Study.

B. RESIDENTIAL AND NON-RESIDENTIAL FORECAST

The residential and non-residential development forecast is based on anticipated growth as identified in relevant planning documents, agreements, concept plans and discussions with City staff.

The total population in new dwelling units has been calculated using person per unit (PPU) assumptions from the 2013 DC Background Study. The assumptions applied to the forecast are as follows:

- Singles and Semis = 3.69 PPU
- Townhouses and Multiples = 2.86 PPU
- Large Apartments = 2.42 PPU
- Small Apartments = 1.80 PPU

Using available data from the City's historic apartment completions, an assumption relating to the number of large and small units within a proposed apartment development has been applied. In particular, a 50/50 split has been used to determine the forecast number of large and small apartments. A small apartment is qualified as a unit less than 650 square feet, whereas a large apartment is defined as a unit with 650 square feet or greater.

FSW assumptions from the 2013 DC Background Study have been used to estimate the future number of employees. The non-residential forecast includes both retail and office related developments that have been determined using the following assumptions:

- 40 square metres per retail employee; and
- 25 square metres per office employee.

Table 1 provides a summary of the residential and non-residential forecast based on the aforementioned assumptions from 2015 to buildout. It should be noted that the forecast is based on presently available information and may be subject to change as developments are identified through the planning process.

As illustrated in Table 1, Area 42B-6 is anticipated to receive the greatest amount of population growth of approximately 10,600 persons over the planning period which represent approximately 61 per cent of the population growth between the three areas. The forecast population for the area will be accommodated in approximately 2,500 large and 2,500 small apartment units for a total of 10,560 units.

Area 42B-8 will experience a moderate amount of population growth (approximately 4,150 persons) that will also be accommodated in 1,970 apartment dwelling units (980 large units and 980 small units).

Area 9 is the only area anticipated to experience both population and employment growth and will accommodate roughly 2,400 persons within a total 1,060 new dwelling units consisting of singles and semis, townhouses and multiples, and large and small apartments. In total, just over 10,500 square meters of non-residential space is forecast for the area, and consists of 6,333 square meters of retail (commercial) space and 4,176 square meters of office. The total employment forecast arising from the proposed non-residential development will amount to approximately 325 employees.

Table 1
Summary of Residential & Non-Residential Forecast
2015-Buildout[1]

Benefitting Land Areas	Forecast Growth 2015-Buildout		
	Area 9	Area 42B-6	Area 42B-8
Residential			
Total Occupied Dwelling	**1,057**	**5,004**	**1,966**
Singles and Semis	*9*	-	-
Townhouses and Multiples	*214*	-	-
Large Apartment	*417*	*2,502*	*983*
Small Apartment	*417*	*2,502*	*983*
Total Population			
Population in New Dwellings	**2,406**	**10,558**	**4,149**
Non-Residential			
Employment	325	-	-
Non-Residential Building Space (GFA)	10,509	-	-
Total Population + Employment	**2,731**	**10,558**	**4,149**
Share of ASDC Development-Forecast	*15.7%*	*60.5%*	*23.8%*

[1] Forecast is based on available information and is subject to change based on future planning applications

APPENDIX B

AREA-SPECIFIC ENGINEERED SERVICES DEVELOPMENT-RELATED CAPITAL FORECAST

APPENDIX B
TABLE 1

CITY OF MARKHAM
2015 ASDC BACKGROUND STUDY UPDATE
AREA-SPECIFIC DEVELOPMENT-RELATED PROJECTS
AREA 9 : PD 1-7 (REFERENCE TO MARKHAM CENTRE SUB-AREA 5)

Project Description		Total	Local Cost / By Others		ASDC Development - Related		Others Sharing and/ or Non-Growth Cost		
Location	From / To	Gross Cost ($)	Share (%)	Cost ($)	Share (%)	Cost ($)	Gross Cost ($)	Other Costs ($)	Non-growth ($)
AREA 9 : PD 1-7 (Reference to Markham Centre Sub-Area 5)									
1.0 INTERSECTION									
1.1 Village Parkway	Roundabout	$ 400,250	0%	$ -	100%	$ 400,250	$ -	$ -	$ -
	Sub-Total - Intersection	$ 400,250		$ -		$ 400,250	$ -	$ -	$ -
2.0 ROADS									
2.1 Village Parkway	Southbound dedicated left turn lane @ hwy 7	$ 44,553	0%	$ -	100%	$ 44,553	$ -	$ -	$ -
	Sub-Total - Roads	$ 44,553		$ -		$ 44,553	$ -	$ -	$ -
3.0 STORM WATER MANAGEMENT									
3.1 Sheridan Pond (Construction)		$ 1,582,964	0%	$ -	67%	$ 1,068,324	$ 514,640	$ -	$ -
3.2 Highway 7 Storm Sewer	Villiage Pkwy to East of Street G	$ 1,607,823	0%	$ -	90%	$ 1,440,520	$ 167,303	$ -	$ -
3.3 Sheridan Storm Sewer	Highway 7 to Sheridan Pond	$ 1,810,704	0%	$ -	93%	$ 1,681,787	$ 128,918	$ -	$ -
	Sub-Total - Stormwater Management	$ 5,001,492		$ -		$ 4,190,631	$ 810,861	$ -	$ -
4.0 SANITARY SEWERS									
4.1 Highway 7 Sanitary Sewer	Village Parkway to Main Street Unionville	$ 16,630,334	0%	$ -	16%	$ 2,604,128	$ 14,026,206	$ -	$ -
4.2 Highway 7 Sanitary Sewer	Hwy 7 to YDSS	$ 762,093	0%	$ -	16%	$ 119,335	$ 642,758	$ -	$ -
	Sub-Total - Sanitary Sewers	$ 17,392,427		$ -		$ 2,723,463	$ 14,668,964	$ -	$ -
5.0 SPECIAL PROJECTS	**STREETSCAPE**								
5.1 Village Parkway	Dedicated Bike Lanes	$ 206,409	0%	$ -	100%	$ 206,409	$ -	$ -	$ -
	Sub-Total - Special Projects	$ 206,409		$ -		$ 206,409	$ -	$ -	$ -
	SUBTOTAL AREA 9	**$ 23,045,131**		**$ -**		**$ 7,565,306**	**$ 15,479,825**	**$ -**	**$ -**

PROJECTS UNDERTAKEN BY CREDIT AGREEMENT

Project Description		Total Credit
3.0 STORM WATER MANAGEMENT		
	Sub-Total - Storm Water Management	$ (1,342,913)
4.0 SANITARY SEWERS		
	Sub-Total - Sanitary Sewers	$ (803,465)
	LESS: TOTAL PROJECTS UNDERTAKEN BY CREDIT AGREEMENT	**$ (2,146,378)**
	PLUS: RECOVERY OF NEGATIVE RESERVE BALANCE OF AUGUST 25, 2015	$ 1,313,436
	Total ASDC Development-Related Recoverable Costs	$ 6,732,364
	Net Developable Area (Ha.) to Pay New Dev Charge	9.570
	Development Charge per Net Hectare	**$ 703,457**

APPENDIX B
TABLE 2

CITY OF MARKHAM
2015 ASDC BACKGROUND STUDY UPDATE
AREA-SPECIFIC DEVELOPMENT-RELATED PROJECTS
AREA 42B.6 : MARKHAM CENTRE - SOUTH HIGHWAY 7

Project Description		Total	Local Cost / By Others		ASDC Development - Related		Others Sharing and/or Non-Growth Cost		
Location	From / To	Gross Cost ($)	Share (%)	Cost ($)	Share (%)	Cost ($)	Gross ($)	Other Costs ($)	Non-growth ($)
AREA 42B.6 : MARKHAM CENTRE - SOUTH HIGHWAY 7									
1.0 STORM WATER MANAGEMENT									
1.1 Sheridan Pond (Construction)		$ 1,582,964	0%	$ -	1%	$ 20,481	$ 1,562,483	$ 1,562,483	$ -
1.2 Sheridan Storm Sewer	Highway 7 to Sheridan Pond	$ 1,810,704	0%	$ -	2%	$ 31,130	$ 1,779,575	$ 1,779,575	$ -
	Sub-Total - Stormwater Management	$ 3,393,669		$ -		$ 51,611	$ 3,342,058	$ 3,342,058	$ -
2.0 SANITARY SEWERS									
2.1 Highway 7 Sanitary Sewer	Village Parkway to Main Street Unionville	$ 16,630,334	0%	$ -	61%	$ 10,069,470	$ 6,560,864	$ 6,560,864	$ -
2.2 Highway 7 Sanitary Sewer	Hwy 7 to YDSS	$ 762,093	0%	$ -	61%	$ 461,438	$ 300,655	$ 300,655	$ -
	Sub-Total - Sanitary Sewers	$ 17,392,427		$ -		$ 10,530,908	$ 6,861,519	$ 6,861,519	$ -
	SUBTOTAL AREA 42B.6	**$ 20,786,096**		**$ -**		**$ 10,582,519**	**$ 10,203,577**	**$ 10,203,577**	**$ -**

PROJECTS UNDERTAKEN BY CREDIT AGREEMENT

Project Description		Total Credit
4.0 SANITARY SEWERS		
	Sub-Total - Sanitary Sewers	$ (1,985,716)
	LESS: PROJECTS UNDERTAKEN BY CREDIT AGREEMENT	**$ (1,985,716)**
	LESS: TOTAL PROJECTS FUNDED FROM POSITIVE RESERVE BALANCE OF AUGUST 25, 2015	**$ (586,665)**
	Total ASDC Development-Related Recoverable Costs	$ 8,010,138
	Net Developable Area (Ha.) to Pay New Dev Charge	6.199
	Development Charge per Net Hectare	**$ 1,292,166**

APPENDIX B
TABLE 3

CITY OF MARKHAM
2015 ASDC BACKGROUND STUDY UPDATE
AREA-SPECIFIC DEVELOPMENT-RELATED PROJECTS
AREA 42B.8 : MARKHAM CENTRE - SCIBERRAS

Project Description		Total	Local Cost / By Others		ASDC Development - Related		Others Sharing and/or Non-Growth Cost		
Location	From / To	Gross Cost ($)	Share (%)	Cost ($)	Share (%)	Cost ($)	Gross ($)	Other Costs ($)	Non-growth ($)
AREA 42B.8 : MARKHAM CENTRE - SCIBERRAS									
1.0 ROADS									
1.1 Sciberras Dr (ROW)	Highway 7 to Rouge River	$ 2,132,284	0%	$ -	86%	$ 1,827,672	$ 304,612	$ 304,612	$ -
	Sub-Total - Roads	$ 2,132,284		$ -		$ 1,827,672	$ 304,612	$ 304,612	$ -
2.0 STORM WATER MANAGEMENT									
2.1 Sheridan Pond (Construction)		$ 1,582,964	0%	$ -	22%	$ 353,590	$ 1,229,374	$ 1,229,374	$ -
2.2 Sheridan Storm Sewer	Highway 7 to Sheridan Pond	$ 1,810,704	0%	$ -	2%	$ 31,130	$ 1,779,575	$ 1,779,575	$ -
2.3 Area 42B-8 Stub to Pond		$ 49,945	0%	$ -	100%	$ 49,945	$ -	$ -	$ -
	Sub-Total - Stormwater Management	$ 3,443,614		$ -		$ 434,665	$ 3,008,949	$ 3,008,949	$ -
3.0 SANITARY SEWERS									
3.1 Highway 7 Sanitary Sewer	Village Parkway to Main Street Unionville	$ 16,630,334	0%	$ -	24%	$ 3,956,736	$ 12,673,598	$ 12,673,598	$ -
3.2 Highway 7 Sanitary Sewer	Hwy 7 to YDSS	$ 762,093	0%	$ -	24%	$ 181,319	$ 580,774	$ 580,774	$ -
	Sub-Total - Sanitary Sewers	$ 17,392,427		$ -		$ 4,138,056	$ 13,254,371	$ 13,254,371	$ -
	SUBTOTAL AREA 42B.8	**$ 22,968,325**		**$ -**		**$ 6,400,393**	**$ 16,567,933**	**$ 16,567,933**	**$ -**

PROJECTS UNDERTAKEN BY CREDIT AGREEMENT

Project Description	Total Credit
Not Applicable	Not Applicable

LESS: PROJECTS UNDERTAKEN BY CREDIT AGREEMENT	**$ -**
PLUS: RECOVERY OF NEGATIVE RESERVE BALANCE OF AUGUST 25, 2015	**$ 624,315**
Total ASDC Development-Related Recoverable Costs	$ 7,024,707
Net Developable Area (Ha.) to Pay New Dev Charge	4.799
Development Charge per Net Hectare	**$ 1,463,786**

APPENDIX C

RESERVE FUND BALANCES

APPENDIX C
TABLE 1

CITY OF MARKHAM
AREA-SPECIFIC DEVELOPMENT CHARGES
RESERVE BALANCES

Area	Balance as of August 25, 2015
9	($1,313,435.56)
42B-6	$586,665.33
42B-8	($624,314.51)

APPENDIX D

DRAFT UPDATED AREA-SPECIFIC BY-LAWS

BY-LAW 2015-XXX

A BY-LAW TO ESTABLISH AREA SPECIFIC DEVELOPMENT CHARGES BY-LAW FOR THE PD 1-7 AREA 9 DEVELOPMENT AREA OF THE CITY OF MARKHAM

WHEREAS subsection 2(1) of the *Development Charges Act, 1997*, S.O. 1997, c. 27 (hereinafter called the "Act") provides that the council of a municipality may pass by-laws for the imposition of development charges against land to pay for increased capital costs because of increased need for services arising from the development of the area to which the by-law applies;

AND WHEREAS the Council of The Corporation of the City of Markham (hereinafter the "City") held a public meeting on November 10, 2015 to consider the enactment of an area specific development charge by-law, in accordance with section 12 of the Act;

AND WHEREAS the Council of the City has given notice in accordance with section 12 of the Act, of its intention to pass a by-law under section 2 of the said Act;

AND WHEREAS an area-specific development charges background study has been prepared by Hemson Consulting Ltd. dated October 27, 2015 ("the background study"), wherein the background study indicated that the development of any land within the City of Markham will increase the need for services as defined herein;

AND WHEREAS copies of the background study and the proposed development charges by-law were made available to the public in accordance with section 12 of the Act;

AND WHEREAS the Council of the City has heard all persons who applied to be heard and received written submissions whether in objection to, or in support of, the development charges proposal at a public meeting held on November 10, 2015;

AND WHEREAS on November 10, 2015, Council approved the Report titled *"2015 Area-Specific Development Charges Background Study Update",* thereby updating its capital forecast where appropriate and indicated that it intends to ensure that the increase in the need for services to service the anticipated development will be met.

AND WHEREAS at its meeting held on [Month] [Date], 2015, Council expressed its intention that infrastructure related to post "buildout" development shall be paid for by development charges;

AND WHEREAS Council has indicated its intent that the future excess capacity identified in the *"2015 Area-Specific Development Charges Background Study Update"*, dated October 27, 2015, shall be paid for by development charges;

AND WHEREAS at its meeting held on [Month] [Date], 2015, Council approved the background study and determined that no further public meetings were required under section 12 of the Act.

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NOW THEREFORE THE COUNCIL OF THE CITY OF MARKHAM ENACTS AS FOLLOWS:

DEFINITIONS

1. In this by-law,

(1) "Act" means the Development Charges Act, 1997, S.O. 1997, c. 27, as amended or any successors thereto;

(2) "accessory use" means that the use, building or structure is naturally and normally incidental to or subordinate in purpose or both, and exclusively devoted to a principal use, building or structure;

(3) "agreement" means a contract between the municipality and an owner and any amendment thereto;

(4) "apartment building" means:

(a) a residential building, other than a hotel, containing more than four dwelling units where the residential units are connected by an interior corridor;

(b) a residential building, other than a hotel, with a minimum of sixty units per net hectare and a minimum floor space index of 0.75;

(5) "apartment dwelling unit" means a dwelling unit in a duplex, triplex, fourplex, stacked townhouse or apartment building, as these terms are defined in this by-law;

(6) "Bank of Canada rate" means the interest rate established by the Bank of Canada in effect on the date of the enactment of this by-law, as adjusted in accordance with this by-law;

(7) "building" means a structure occupying an area greater than ten square metres ($10m^2$) consisting of a wall, roof and floor or any of them or a structural system serving the function thereof, and includes an above-grade storage tank and an industrial tent;

(8) "Building Code Act" means the Building Code Act, S.O. 1992, c. 23, as amended, or any successor thereto;

(9) "capital cost" means costs incurred or proposed to be incurred by the municipality or a local board thereof directly or under an agreement, required for the provision of services designated in the by-law within or outside of the municipality;

(a) to acquire land or an interest in land, including a leasehold interest;

(b) to improve land;

(c) to acquire, lease, construct or improve buildings and structures;

(d) to acquire, lease, construct or improve facilities including;

(i) rolling stock with an estimated life of seven (7) or more years;

(ii) furniture and equipment, other than computer equipment; and

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(iii) materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act,* R.S.O. 1990, c. P.44; and

(e) to undertake studies in connection with any matter under the Act and any of the matters in clauses (a) to (d);

(f) to prepare the development charge background study required before the enactment of this by-law; and

(g) to recoup interest paid on money borrowed to pay for the costs described in clauses (a) to (d);

(10) "council" means the council of the municipality;

(11) "development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof, and includes redevelopment;

(12) "development charge" means a charge imposed under this by-law adjusted in accordance with section 15;

(13) "dwelling unit" means a room or suite of rooms used, or designed or intended for use by one person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons, excluding a hotel;

(14) "duplex" means a building that is divided horizontally into two dwelling units, each of which has an independent entrance either directly to the outside or through a common vestibule;

(15) "farm building" means that part of a bona fide farming operation encompassing barns, silos and other development ancillary to an agricultural use, but excluding a residential use, a retail use associated therewith or a commercial greenhouse;

(16) "floor area" means the amount of floor space within an apartment dwelling unit, including the space occupied by its interior partitions, measured to the interior face of walls separating the apartment dwelling unit from the exterior and from the remainder of the building;

(17) "fourplex" means a building that is divided horizontally or a combination of vertically and horizontally into four dwelling units, each of which has an independent entrance either directly to the outside or through a common vestibule

(18) "grade" means the average level of finished ground adjoining a building or structure;

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(19) "gross floor area" means in the case of a non-residential building or structure or the non-residential portion of a mixed-use building or structure, the aggregate of the areas of each floor, whether above or below grade, measured between the exterior faces of the exterior walls of the building or structure or from the centre line of a common wall separating a non-residential and a residential use, excluding, in the case of a building or structure containing an atrium, the sum of the areas of the atrium at the level of each floor surrounding the atrium above the floor level of the atrium, and excluding, in the case of a building containing parking spaces, the sum of the areas of each floor used, or designed or intended for use for the parking of motor vehicles unless the parking of motor vehicles is the principal use of the building or structure, and, for the purposes of this definition, the non-residential portion of a mixed-use building is deemed to include one-half of any area common to the residential and non-residential portions of such mixed-use building or structure;

(20) "heritage building" means an individual building or structure designated under Part IV of the Ontario Heritage Act, R.S.O. 1990, c. O.18, or any successor legislation, or a building or structure designated under Part V of the Ontario Heritage Act, R.S.O. 1990, c. O.18, or any successor legislation, which has been identified as a significant heritage resource in a conservation district plan or a building or structure listed in the Markham Inventory of Heritage Buildings;

(21) "high-rise" means a building or structure having three or more storeys above grade with a common entrance and access to grade;

(22) "industrial" means lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of raw goods, warehousing or bulk storage of goods, and includes office uses and the sale of commodities to the general public where such uses are accessory to an industrial use, but does not include the sale of commodities to the general public through a warehouse club;

(23) "institutional" means lands, buildings or structures used or designed or intended for use by an organized body, society or religious group for promoting a public or non-profit purpose and shall include, without limiting the generality of the foregoing, places of worship, medical clinics and special care facilities;

(24) "large apartment" means an apartment dwelling unit that is 650 square feet or larger in size, including the non-residential portion in the case of live-work units where the non-residential portion is less than 1,076 square feet (100 square metres);

(25) "live-work unit" means a unit which contains separate residential and non-residential areas intended for both residential and non-residential uses concurrently, and shares a common wall with direct access between the residential and non-residential areas;

(26) "local board" means a public utility commission, transportation commission, public library board, board of park management, local board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of an area municipality or the City, excluding a school board, a conservation authority, any municipal business corporation not deemed to be a local board under O. Reg. 168/03 under the *Municipal Act, 2001*, S.O. 2001, c. 25 and any corporation created under the *Electricity Act, 1998*, S.O. 1998, c. 15, or successor legislation;

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(27) "local services" means those services, facilities or things which are intended to be under the jurisdiction of the municipality and are within the boundaries of or related to or are necessary to connect lands to services and an application has been made in respect of the lands under sections 51 or 53 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, or any successor legislation;

(28) "mixed-use development" means a building or structure used, designed or intended for residential and non-residential uses, where:

(a) the non-residential uses comprise not more than 50 percent (50%) of the gross floor area; and

(b) a minimum of 100 square metres of gross floor area is used for non-residential uses;

(29) "multiple dwelling unit" means a building excluding a hotel, containing more than one dwelling unit but does not include a "single detached dwelling", a "semi-detached dwelling" and an "apartment dwelling";

(30) "municipality" means The Corporation of the City of Markham;

(31) "net hectare" means the area of land in hectares excluding all lands conveyed or to be conveyed into public ownership pursuant to sections 42, 51 and 53 of the *Planning Act* and all lands conveyed or to be conveyed to the municipality or any local board thereof, a board of education as defined under subsection 1(1) of the *Education Act*, or the Ministry of Transportation for the construction of provincial highways;

(32) "non-residential" means lands, buildings or structures or portions thereof used, or designed or intended for other than residential use, including the non-residential portion of a live-work unit;

(33) "office" means a building used for conducting the affairs of businesses, professions, services, industries, governments, or like activities, in which the chief product of labour is the processing and/or storage of information rather than the production and distribution of goods. For the purposes of this definition, research establishments and data processing facilities are considered to be offices

(34) "official plan" means the Official Plan of the City of Markham and any amendments thereto;

(35) "owner" means the owner(s) of land or a person(s) who has made application for an approval for the development of land upon which a development charge is imposed;

(36) "Planning Act" means the *Planning Act*, R.S.O. 1990, c. P.13, as amended or any successor thereto;

(37) "public hospital" means that part of a building or structure that is defined as a public hospital under the *Public Hospitals Act*, R.S.O. 1990, c. P.40;

(38) "redevelopment" means the construction, erection or placing of one or more buildings or structures on land where all or part of a building or structure has previously been demolished on such land, or changing the use of a building or structure from residential to non-residential, from non-residential to residential or Industrial/Office/Institutional to Retail and vice versa;

(39) "Region" means the Regional Municipality of York;

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(40) “regulation” means any regulation made pursuant to the Act;

(41) “residential” means lands, buildings or structures used, designed or intended for use as a residence for one or more individuals, and shall include, but is not limited to a single detached dwelling, a semi-detached dwelling, a townhouse, an apartment dwelling unit, a multiple dwelling unit, a residential dwelling unit accessory to a non-residential use, and the residential portion of a live-work unit, but shall not include a lodging house licensed by a municipality or a hotel;

(42) “semi-detached dwelling” means a residential building divided vertically into and comprising two dwelling units, each of which has a separate entrance and access to grade;

(43) “service standards” means the prescribed level of services on which the schedule of charges in Schedule “B” are based;

(44) “services” means services designated in this by-law or in an agreement under section 44 of the Act;

(45) “single detached dwelling” means a completely detached residential building consisting of one dwelling unit;

(46) “small apartment” means an apartment dwelling unit that is less than 650 square feet in size, including the non-residential portion in the case of live-work units where the non-residential portion is less than 1,076 square feet (100 square metres);

(47) “stacked townhouse” means a residential building, other than a duplex, triplex or fourplex, townhouse or apartment building, containing at least 3 dwelling units, each dwelling unit being separated from the other vertically and/or horizontally and each dwelling unit having an entrance to grade shared with no more than 3 other units;

(48) “temporary buildings or structures” means a building or structure designed or constructed, erected or placed on land and which is demolished or removed from the lands within twelve months of building permit issuance;

(49) “temporary sales centre” means a building or structure, including a trailer, that is designed or intended to be temporary, or otherwise intended to be removed from the land or demolished after use and which is used exclusively as an office or presentation centre, or both, for new building sales;

(50) “townhouse” means a residential building other than an apartment building, that is vertically divided into a minimum of three dwelling units, each of which has an independent entrance to grade, and each of which shares a common wall with adjoining dwelling units above grade;

(51) “triplex” means a building that is divided horizontally or a combination of horizontally and vertically into three dwelling units, each of which has an independent entrance to the outside or through a common vestibule.

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SCHEDULE OF DEVELOPMENT CHARGES

2.

(1) Subject to the provisions of this by-law, including the transition provisions set out in section 14 hereof, a development charge against land shall be calculated and collected in accordance with the rates set out in Schedule “B”, which relate to the services set out in Schedule “A”.

(2) The development charge with respect to the use of any land, buildings or structures shall be calculated as follows:

(a) In the case of a residential use and a non-residential use development, based upon the number of net hectares of land related to the development;

(b) In the case of a residential and/or non-residential enlargement or expansion, based upon the gross floor area of the floor having the largest area, at the net hectare rate;

(c) In the case of the non-residential portion of a mixed-use development, based upon the gross floor area of the floor having the largest area in the non-residential portion of the mixed-use development, at the net hectare rate;

(d) In the case of redevelopment on lands previously subject to a development charge, based on the net increase in the population density or floor space index, at the net hectare rate.

(3) Council hereby determines that the development of land, buildings or structures for residential and non-residential uses will require the provision, enlargement, expansion or improvement of the services referenced in Schedule "A".

APPLICABLE LANDS

3.

(1) This by-law applies to all lands within the City of Markham as shown on Schedule "C" whether or not the land or use is exempt from taxation under s. 3 of the *Assessment Act*, R.S.O. 1990, c. A.31, as amended, or any successor thereto.

(2) The development of land within the City may be subject to one or more development charges by-laws of the City.

(3) This by-law shall not apply to land, buildings or structures within the municipality that are owned by or used by:

(a) a board of education as defined by subsection 1(1) of the *Education Act*, R.S.O. 1990, c. E.2, as amended, or any successor thereto;

(b) the municipality or any local board thereof;

(c) the Region or any local board thereof;

(d) any area municipality within the Region.

(4) This by-law shall not apply to land, buildings, or structures within the municipality that are used for the purposes of:

(a) the relocation of a heritage building;

(b) a public hospital receiving aid under the *Public Hospitals Act*, R.S.O. 1990, c. M.19, as amended, or any successor thereto;

(c) a mobile temporary sales centre;

(d) farm buildings; and

(e) a temporary building or structure provided that:

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(i) the status of the building or structure as a temporary building or structure is maintained in accordance with the provisions of this by-law;

(ii) upon application being made for the issuance of a permit under the *Building Code Act, 1992* in relation to a temporary building or structure on land to which a development charge applies, the owner shall submit security in the form of cash or a letter of credit satisfactory to the City Treasurer in the full amount of the development charges otherwise payable, to be drawn upon in the event that the temporary building or structure is not removed or demolished within twelve months of building permit issuance and development charges thereby become payable;

(iii) On or before twelve (12) months from the date of issuance of a building permit, the owner shall provide, to the City Treasurer's satisfaction, evidence that the temporary building or structure was demolished or removed from the lands, whereupon the City shall return the security to the owner without interest;

(iv) In the event that a temporary building or structure is not removed or demolished within twelve months of building permit issuance, it shall be deemed not to be, nor ever to have been, a temporary building or structure and, subject to any agreement entered into pursuant to section 10 of this by-law, development charges shall be payable forthwith.

(v) In the event the owner does not provide satisfactory evidence of such demolition or removal of the temporary building or structure in accordance with clause (iii) above, the temporary building or structure shall be deemed conclusively not to be, nor ever to have been, a temporary building or structure for the purposes of this by-law and the City shall, without prior notification to the owner, transfer the cash or draw upon the letter of credit provided pursuant to clause (ii) above and transfer the amount so drawn into the appropriate development charges reserve funds; and

(vi) The timely provision of satisfactory evidence of the demolition or removal of the temporary building or structure in accordance with clause (iii) above shall be solely the owner's responsibility.

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(5) This by-law shall not apply to development creating or adding an accessory use or structure not exceeding 100 square metres of gross floor area.

(6) This by-law does not apply with respect to approvals related to the residential development of land, buildings or structures that would have the effect only of:

(a) Permitting the enlargement of an existing dwelling unit;

(b) Creating one or two additional dwelling units in an existing single detached dwelling;

(c) Creating one or two additional dwelling units in an existing dwelling unit in a semi-detached dwelling; or

(d) Creating one additional dwelling unit in any other existing residential building, not including a mixed use building.

(7)

(a) Notwithstanding clauses (b) to (d) inclusive of subsection 3(6), a development charge shall be imposed and payable with respect to the creation of any additional dwelling units if the cumulative gross floor area of the additional dwelling units exceeds the gross floor area of the existing dwelling unit referred to in clauses (b) and (c) of subsection 3(6) or the smallest existing dwelling unit in the existing residential building, referred to in clause (d) of subsection 3(6).

(b) For the purposes of determining the gross floor area of an existing dwelling unit pursuant to clause (a) of subsection 3(7), the gross floor area shall be the maximum gross floor area of the dwelling unit that existed in the three years preceding the application for a building permit in respect of the additional dwelling unit.

(8) For the purposes of the exemption for enlargement of existing industrial buildings set out in section 4 of the Act, the following provisions shall apply;

(a) For the purpose of this section, “gross floor area” and “existing industrial building” shall have the same meaning as those terms have in O. Reg. 82/98 under the Act, as amended;

(b) For the purposes of interpreting the definition of “existing industrial building” contained in the regulation, regard shall be had for:

(i) the classification of the lands pursuant to the *Assessment Act*, R.S.O. 1990, c. A.31 or successor legislation, and in particular whether more than 50 per cent of the gross floor area of the building or structure has an industrial tax class code for assessment purposes; and

(ii) the legal existence of said structure through the building permitting process.

(c) Notwithstanding clause (b) of subsection 3(8), distribution centres, warehouses, other than retail warehouses, the bulk storage of goods and truck terminals shall be considered to be industrial uses or buildings;

(d) The gross floor area of an existing industrial building shall be defined as the gross floor area of the industrial building as it existed prior to the first enlargement in respect of that building for which an exemption under section 4 of the Act is sought or was obtained;

(e) The enlargement of the gross floor area of the existing building must be attached to the existing industrial building;

(f) The enlargement must not be attached to the existing industrial building by means only of a tunnel, bridge, passageway, canopy, shared below grade connection, such as a service tunnel, foundation, footing or parking facility;

(g) The enlargement shall be for a use for or in connection with an industrial purpose as set out in this by-law;

(h) If the enlargement complies with the provisions of this subsection 3(8) and is equal to 50 per cent or less of the gross floor area of an existing industrial building, the amount of the development charge in respect of the enlargement is nil; and

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(i) If the enlargement is more than 50 per cent of the gross floor area of an existing industrial building, and it otherwise complies with the provisions of this subsection 3(8), development charges are payable on the amount by which the enlargement exceeds 50 per cent of the gross floor area of the existing building before the enlargement.

(9) Clauses (b) and (d) to (i) inclusive of subsection 3(8) shall apply, with necessary modifications, to an enlargement of an existing office.

APPROVALS FOR DEVELOPMENT

4. A development charge shall apply to, and shall be calculated and collected in accordance with the provisions of this by-law on land to be developed for residential and non-residential use, where the development requires,

(1) the passing of a zoning by-law or an amendment thereto under section 34 of the *Planning Act* or successor legislation;

(2) the approval of a minor variance under section 45 of the *Planning Act* or successor legislation;

(3) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* or successor legislation applies;

(4) the approval of a plan of subdivision under section 51 of the *Planning Act* or successor legislation;

(5) a consent under section 53 of the *Planning Act* or successor legislation;

(6) the approval of a description under the *Condominium Act*, R.S.O. 1991, c. C. 26 or the *Condominium Act*, *1998*, S.O. 1998, c. 19 as amended, or successor legislation; or

(7) the issuing of a permit under the *Building Code Act,* or successor legislation in relation to a building or structure.

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LOCAL SERVICE INSTALLATION

5. Nothing in this by-law prevents Council from requiring, as a condition of an approval under section 51 or 53 of the *Planning Act,* that the owner, at his or her own expense, shall install or pay for such local services related to or within the plan of subdivision, or related to the severance of the lands, as council may require, or that the owner pay for local connections to water mains, sanitary sewers and/or storm drainage facilities installed at the owner's expense, or administrative, processing, or inspection fees.

MULTIPLE CHARGES

6.

(21) Where two or more of the actions described in section 4 are required before land to which a development charge applies can be developed, only one development charge shall be calculated and collected in accordance with the provisions of this by-law.

(22) Notwithstanding subsection 6(1), if two or more of the actions described in section 4 occur at different times, and if the subsequent action results in increased, additional or different development, then additional development charges on any additional residential units or land area, shall be calculated and collected in accordance with the provisions of this by-law.

(23) If a development does not require a building permit but does require one or more of the approvals described in section 4, then, the development charge shall nonetheless be payable in respect of any increased, additional or different development permitted by such approval.

CREDIT FOR PROVISION OF SERVICES

7. As an alternative to the payment by the means required under section 10, council may, by agreement entered into with the owner, accept the provision of services in full or partial satisfaction of the development charges otherwise payable. Such agreement shall further specify that where the municipality agrees to allow the performance of work that relates to a service, the municipality shall give to the person performing the work a credit equal to the reasonable cost of doing the work against the development charge otherwise applicable to the development, without interest, unless such interest is specifically authorized by council, provided such credit shall not exceed the total amount of development charges payable by an owner to the municipality and provided that no such credit shall be given for any part of the cost of services that relates to an increase in the level of service that exceeds the average level of service described in paragraph 4 of subsection 5(1) of the Act. The reasonable cost of doing the work and the amount of the credit therefore, shall be finally determined by the City's Commissioner of Development Services.

REDUCTION OF CHARGE FOR REDEVELOPMENT

8.

(1) Despite any other provision of this by-law where an existing residential use building or structure is demolished, a full credit against development charges otherwise payable pursuant to this by-law with respect to redevelopment of the residential use or lands shall be applicable where the redevelopment has occurred:

(a) within 48 months from the date that the necessary demolition approval was obtained with documented proof thereof; and

(b) on the same lot or block on which the demolished building or structure was originally located.

(2) Despite any other provision of this by-law where an existing non-residential use building or structure is demolished, a full credit against development charges otherwise payable with respect to redevelopment of the non-residential use shall be applicable if the gross floor area of the replacement non-residential use building or structure is equal to or less than the demolished non-residential use building or structure; and a partial credit against development charges otherwise payable with respect to such redevelopment shall be applicable if the gross floor area of the replacement non-residential use building or structure is greater than the gross floor area of the demolished non-residential use building or structure to be calculated in accordance with the following:

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$$\text{partial credit for redevelopment} = \text{eligible charge} \times \frac{\text{existing gross floor area of demolished building or structure}}{\text{gross floor area of demolished replacement building or structure}}$$

and such credit or partial credit shall be applicable only where the redevelopment has occurred:

(a) within 48 months from the date that the necessary demolition approval was obtained with documented proof thereof; and

(b) on the same lot or block on which the demolished building or structure was originally located.

(3) Where there is a redevelopment that includes a change in the use of all or part of a non-residential building or structure to residential use, a reduction against the development charge otherwise payable pursuant to this by-law will be allowed. The reduction will be calculated as the amount of the development charge that was payable in accordance with the by-law in effect on the date that the original development charges were paid and prorated to the number of net hectares of land being converted to residential use.

(4) Where there is a redevelopment that includes a change in the use of all or part of a residential building or structure to a non-residential use, a reduction against the development charge otherwise payable pursuant to this by-law will be allowed. The amount of the reduction will be calculated as the amount of the development charge that would be payable in accordance with the by-law in effect on the date that the original development charges were paid and prorated to the number of net hectares of land being converted to non-residential use.

(5) Despite any other provision in this by-law, whenever a reduction is allowed against a development charge otherwise payable pursuant to this by-law and the amount of such reduction exceeds the amount of the development charge otherwise payable pursuant to this by-law, no further reductions shall be allowed against any other development charges payable and no refund shall be payable.

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<u>CREDITS, EXEMPTIONS, RELIEF AND ADJUSTMENTS NOT CUMULATIVE</u>

9. Only one (1) of the applicable credits, exemptions, reductions or adjustments in this by-law shall be applicable to any development or redevelopment. Where the circumstances of a development or redevelopment are such that more than one credit, exemption, relief or adjustment provided for in this by-law could apply, only one credit, exemption, relief or adjustment shall apply and it shall be the credit, exemption, relief or adjustment that results in the lowest development charges payable pursuant to this by-law.

<u>TIMING OF CALCULATION AND PAYMENT</u>

10.

(1) A development charge for each building or structure shall be calculated and payable in full in cash or by certified cheque or by entering into an agreement for the performance of work for credit, on the date of execution of the subdivision, site plan or consent agreement in relation to such building or structure on land to which a development charge applies. At the option of the payer, the applicable development charge may be paid as follows:

(a) In full at execution of the subdivision, consent or site plan agreement; or

(b) In the case of a residential subdivision agreement, or site plan agreement related to a high-rise development, in three installments paid in accordance with the following: 30% on the date of agreement execution, 35% six months after agreement execution, and 35% twelve months after agreement execution. The latter two installments shall be fully secured by a letter of credit on the date of agreement execution.

(2) Where no subdivision agreement, site plan or consent agreement is required, the development charges for each building or structure shall be calculated as of the date of the issuance of a building permit and shall be payable and collected as of the date a building permit is issued in respect of the building or structure for the use to which the development charge applies.

(3) Where development charges apply to land in relation to which a building permit is required, the building permit shall not be issued until the development charge has been paid in full.

(4) If at the time of issuance of a building permit or permits for any development for which payments have been made pursuant to subsection 10(1), the total number and type of dwelling units for which building permits have been and are being issued, or the net hectares used or intended to be used for a non-residential purpose for which building permits have been and are being issued, is greater than that used for the calculation and payment referred to in subsection 10(1), an additional payment shall be required and shall be calculated by multiplying the applicable charge shown in Schedule "B-1", by:

(a) in the case of residential development, the difference between the net hectares for which building permits have been and are being issued and the net hectares for which payments have been made pursuant to section 10(1) and this subsection; and

(b) in the case of non-residential development, the difference between the net hectares used or intended to be used for a non-residential purpose for which building permits have been and are being issued and the net hectares used or intended to be used for a non-residential purpose for which payments have been made pursuant to section 10(1) and this subsection.

(5) Subject to subsection 10(6), if following the issuance of all building permits for all development in a subdivision or for all development on a block within that subdivision that had been intended for future development and for which payments have been made pursuant to subsection 10(1), the total residential net hectares for which building permits have been issued, or the total non-residential net hectares used or intended to be used for a non-residential purpose for which building permits have been issued, is less than that used for the calculation and payment referred to in subsection 10(1), a refund shall become payable by the City to the person who originally made the payment referred to in subsection 10(1) which refund shall be calculated by multiplying the applicable development charges in effect at the time such payments were made by:

(a) in the case of residential development, the difference between the net hectares for which payments were made pursuant to subsection 10(1) and the net hectares for which building permits were issued; and

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(b) in the case of non-residential development, the difference between the net hectares used or intended to be used for a non-residential purpose for which payments were made pursuant to subsection 10(1) and the net hectares used or intended to be used for a non-residential purpose for which building permits were issued.

(6) Subsections 10(3) and 10(4) shall apply with necessary modifications to a development for which development charges have been paid pursuant to a condition of consent or pursuant to an agreement respecting same.

(7) Notwithstanding subsections 10(1) to 10(5), the City may require and where so required an owner shall enter into an agreement, including the provision of security for the owner's obligations under the agreement, pursuant to section 27 of the Act and, without limiting the generality of the foregoing, such an agreement may require the early payment of the development charges hereunder. The terms of such agreement shall then prevail over the provisions of this By-law.

(8) Any refunds payable pursuant to subsections 10(4) and 10(5) shall be calculated and paid without interest.

NO REFUNDS ARISING OUT OF CREDITS, EXEMPTIONS, RELIEF OR ADJUSTMENTS

11. Notwithstanding anything in this by-law to the contrary, whenever a credit, exemption, relief or adjustment is allowed against a development charge otherwise payable pursuant to this by-law and the amount of such credit(s), exemption(s), relief or adjustment(s) exceeds the amount of the development charges otherwise payable pursuant to this by-law, no further credit(s), exemption(s), relief or adjustment(s) shall be allowed against any other development charges payable and no refund shall be payable.

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RESERVE FUND(S)

12.

(1) Monies received from payment of development charges shall be maintained in separate reserve funds and shall be spent for capital costs determined under paragraphs 2 to 8 of subsection 5(1) of the Act.

(2) The amounts contained in the reserve fund established under this section shall be invested in accordance with section 418 of the *Municipal Act, 2001,* S.O. c.25. Any income received from investment of the development charge reserve fund or funds shall be credited to the development charge reserve fund or funds in relation to which the investment income applies.

(3) Where any development charge, or part thereof, remains unpaid after the due date, the amount unpaid shall be added to the tax roll and shall be collected as taxes.

(4) Where any unpaid development charges are collected as taxes pursuant to subsection 12(3) above, the monies so collected shall be credited to the development charge reserve funds referred to in subsection 12(1).

(5) The Treasurer of the municipality shall, in each year on or before October 1, furnish to council a statement in respect of the reserve fund established hereunder for the prior year which statement shall contain the prescribed information.

BY-LAW AMENDMENT OR REPEAL

13\.

(1) Where this by-law or any development charge prescribed thereunder is amended or repealed either by order of the Ontario Municipal Board or by council, the Treasurer shall calculate forthwith the amount of any overpayment to be refunded as a result of said amendment or repeal and make such payment in accordance with the provisions of the Act.

(2) Refunds that are required to be paid under subsection 13(1) shall be paid with interest to be calculated as follows:

(a) Interest shall be calculated from the date on which the overpayment was collected to the date on which the refund is paid; and

(b) Interest shall be calculated quarterly at the Bank of Canada rate, adjusted on the first business day of January, April, July and October in each year.

PHASING AND TRANSITION

14\.

(1) The development charges set out in this by-law are not subject to phasing and are payable in full, subject to the credits, exemptions, relief and adjustments herein.

INDEXING

15\. The development charges referred to in Schedules "B" shall be adjusted semi-annually without amendment to this by-law, on the first day of January and the first day of July, of each year, commencing January 1, 2016, in accordance with the Statistics Canada Quarterly, *Construction Price Statistics* (Catalogue No. 62-007).

BY-LAW REGISTRATION

16\. A certified copy of this by-law may be registered on title to any land to which this by-law applies.

BY-LAW ADMINISTRATION

17\. This by-law shall be administered by the Treasurer of the municipality.

SCHEDULES TO THE BY-LAW

18\. The following Schedules to this by-law form an integral part of this by-law:

Schedule "A" Schedule of Municipal Services
Area 9 – PD 1-7

Schedule "B" Schedule of Development Charges

Schedule "C" Map of Area to which this by-law applies

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FRONT ENDING AGREEMENTS

19. The City may enter into one or more front ending agreements under section 44 of the Act.

DATE BY-LAW EFFECTIVE

20. This by-law shall come into force and effect on and after the date of its enactment.

DATE BY-LAW EXPIRES

21. This by-law shall continue in force and effect for a term of five (5) years from its effective date, unless it is repealed at an earlier date.

HEADINGS FOR REFERENCE ONLY

22. The headings inserted in this by-law are for convenience of reference only and shall not affect the construction or interpretation of this by-law.

INTERPRETATION

23. Nothing in this by-law shall be construed to commit or require the municipality to authorize or proceed with any specific capital project at any specific time. Each of the provisions of this by-law are severable and if any provision hereof should for any reason be declared invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

REPEAL

24. By-law No. 2013-109 and any amendments made thereto is hereby repealed as of the date this by-law comes into force and effect.

SHORT TITLE

25. The by-law may be cited as the “City of Markham Area Specific Services Development Charge By-law, PD 1-7 Area 9”.

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READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
__ DAY OF ____, 2015.

______________________________	______________________________
CITY CLERK KIMBERLEY KITTERINGHAM	MAYOR FRANK SCARPITTI

Schedule “A”

SCHEDULE OF MUNICIPAL SERVICES

AREA 9 – PD 1-7

CATEGORY OF MUNICIPAL SERVICES
Intersection
Roads
Stormwater Management
Sanitary Sewers
Special Projects - Bike Lanes

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Schedule “B”

SCHEDULE OF DEVELOPMENT CHARGES

I. General

The Development Charges set out in this schedule are the base charges only. These charges will be increased or decreased based upon an inflation adjustment to be calculated semi-annually without amendment to this by-law as of the first day of January and the first day of July in accordance with section 15 of this by-law.

Development Charge per Net Hectare	$703,457

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Schedule "C"

MAP OF AREA TO WHICH THIS BY-LAW APPLIES

BY-LAW 2015-XXX

A BY-LAW TO ESTABLISH AREA SPECIFIC DEVELOPMENT CHARGES BY-LAW FOR THE MARKHAM CENTRE - SOUTH HWY 7 AREA 42B-6 <u>DEVELOPMENT AREA OF THE CITY OF MARKHAM</u>

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WHEREAS subsection 2(1) of the *Development Charges Act, 1997*, S.O. 1997, c. 27 (hereinafter called the "Act") provides that the council of a municipality may pass by-laws for the imposition of development charges against land to pay for increased capital costs because of increased need for services arising from the development of the area to which the by-law applies;

AND WHEREAS the Council of The Corporation of the City of Markham (hereinafter the "City") held a public meeting on November 10, 2015 to consider the enactment of an area specific development charge by-law, in accordance with section 12 of the Act;

AND WHEREAS the Council of the City has given notice in accordance with section 12 of the Act, of its intention to pass a by-law under section 2 of the said Act;

AND WHEREAS an area-specific development charges background study has been prepared by Hemson Consulting Ltd. dated October 27, 2015 ("the background study"), wherein the background study indicated that the development of any land within the City of Markham will increase the need for services as defined herein;

AND WHEREAS copies of the background study and the proposed development charges by-law were made available to the public in accordance with section 12 of the Act;

AND WHEREAS the Council of the City has heard all persons who applied to be heard and received written submissions whether in objection to, or in support of, the development charges proposal at a public meeting held on November 10, 2015;

AND WHEREAS on [Month] [Date], 2015 Council approved the Report titled *"2015 Area-Specific Development Charges Background Study Update"*, thereby updating its capital forecast where appropriate and indicated that it intends to ensure that the increase in the need for services to service the anticipated development will be met.

AND WHEREAS at its meeting held on [Month] [Date], 2015 Council expressed its intention that infrastructure related to beyond the buildout period shall be paid for by development charges;

AND WHEREAS Council has indicated its intent that the future excess capacity identified in the *"2015 Area-Specific Development Charges Background Study Update"*, dated October 27, 2015, shall be paid for by development charges;

AND WHEREAS at its meeting held on [Month] [Date], 2015 Council approved the background study and determined that no further public meetings were required under section 12 of the Act.

NOW THEREFORE THE COUNCIL OF THE CITY OF MARKHAM ENACTS AS FOLLOWS:

DEFINITIONS

1. In this by-law,

(1) "Act" means the Development Charges Act, 1997, S.O. 1997, c. 27, as amended or any successors thereto;

(2) "accessory use" means that the use, building or structure is naturally and normally incidental to or subordinate in purpose or both, and exclusively devoted to a principal use, building or structure;

(3) "agreement" means a contract between the municipality and an owner and any amendment thereto;

(4) "apartment building" means:

(a) a residential building, other than a hotel, containing more than four dwelling units where the residential units are connected by an interior corridor;

(b) a residential building, other than a hotel, with a minimum of sixty units per net hectare and a minimum floor space index of 0.75;

(5) "apartment dwelling unit" means a dwelling unit in a duplex, triplex, fourplex, stacked townhouse or apartment building, as these terms are defined in this by-law;

(6) "Bank of Canada rate" means the interest rate established by the Bank of Canada in effect on the date of the enactment of this by-law, as adjusted in accordance with this by-law;

(7) "building" means a structure occupying an area greater than ten square metres ($10m^2$) consisting of a wall, roof and floor or any of them or a structural system serving the function thereof, and includes an above-grade storage tank and an industrial tent;

(8) "Building Code Act" means the Building Code Act, S.O. 1992, c. 23, as amended, or any successor thereto;

(9) "capital cost" means costs incurred or proposed to be incurred by the municipality or a local board thereof directly or under an agreement, required for the provision of services designated in the by-law within or outside of the municipality;

(a) to acquire land or an interest in land, including a leasehold interest;

(b) to improve land;

(c) to acquire, lease, construct or improve buildings and structures;

(d) to acquire, lease, construct or improve facilities including;

(i) rolling stock with an estimated life of seven (7) or more years;

(ii) furniture and equipment, other than computer equipment; and

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(iii) materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act,* R.S.O. 1990, c. P.44; and

(e) to undertake studies in connection with any matter under the Act and any of the matters in clauses (a) to (d);

(f) to prepare the development charge background study required before the enactment of this by-law; and

(g) to recoup interest paid on money borrowed to pay for the costs described in clauses (a) to (d);

(10) "council" means the council of the municipality;

(11) "development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof, and includes redevelopment;

(12) "development charge" means a charge imposed under this by-law adjusted in accordance with section 15;

(13) "dwelling unit" means a room or suite of rooms used, or designed or intended for use by one person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons, excluding a hotel;

(14) "duplex" means a building that is divided horizontally into two dwelling units, each of which has an independent entrance either directly to the outside or through a common vestibule;

(15) "farm building" means that part of a bona fide farming operation encompassing barns, silos and other development ancillary to an agricultural use, but excluding a residential use, a retail use associated therewith or a commercial greenhouse;

(16) "floor area" means the amount of floor space within an apartment dwelling unit, including the space occupied by its interior partitions, measured to the interior face of walls separating the apartment dwelling unit from the exterior and from the remainder of the building;

(17) "fourplex" means a building that is divided horizontally or a combination of vertically and horizontally into four dwelling units, each of which has an independent entrance either directly to the outside or through a common vestibule

(18) "grade" means the average level of finished ground adjoining a building or structure;

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(19) “gross floor area” means in the case of a non-residential building or structure or the non-residential portion of a mixed-use building or structure, the aggregate of the areas of each floor, whether above or below grade, measured between the exterior faces of the exterior walls of the building or structure or from the centre line of a common wall separating a non-residential and a residential use, excluding, in the case of a building or structure containing an atrium, the sum of the areas of the atrium at the level of each floor surrounding the atrium above the floor level of the atrium, and excluding, in the case of a building containing parking spaces, the sum of the areas of each floor used, or designed or intended for use for the parking of motor vehicles unless the parking of motor vehicles is the principal use of the building or structure, and, for the purposes of this definition, the non-residential portion of a mixed-use building is deemed to include one-half of any area common to the residential and non-residential portions of such mixed-use building or structure;

(20) “heritage building” means an individual building or structure designated under Part IV of the Ontario Heritage Act, R.S.O. 1990, c. O.18, or any successor legislation, or a building or structure designated under Part V of the Ontario Heritage Act, R.S.O. 1990, c. O.18, or any successor legislation, which has been identified as a significant heritage resource in a conservation district plan or a building or structure listed in the Markham Inventory of Heritage Buildings;

(21) “high-rise” means a building or structure having three or more storeys above grade with a common entrance and access to grade;

(22) “industrial” means lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of raw goods, warehousing or bulk storage of goods, and includes office uses and the sale of commodities to the general public where such uses are accessory to an industrial use, but does not include the sale of commodities to the general public through a warehouse club;

(23) “institutional” means lands, buildings or structures used or designed or intended for use by an organized body, society or religious group for promoting a public or non-profit purpose and shall include, without limiting the generality of the foregoing, places of worship, medical clinics and special care facilities;

(24) “large apartment” means an apartment dwelling unit that is 650 square feet or larger in size, including the non-residential portion in the case of live-work units where the non-residential portion is less than 1,076 square feet (100 square metres);

(25) “live-work unit” means a unit which contains separate residential and non-residential areas intended for both residential and non-residential uses concurrently, and shares a common wall with direct access between the residential and non-residential areas;

(26) “local board” means a public utility commission, transportation commission, public library board, board of park management, local board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of an area municipality or the City, excluding a school board, a conservation authority, any municipal business corporation not deemed to be a local board under O. Reg. 168/03 under the *Municipal Act, 2001*, S.O. 2001, c. 25 and any corporation created under the *Electricity Act, 1998*, S.O. 1998, c. 15, or successor legislation;

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(27) "local services" means those services, facilities or things which are intended to be under the jurisdiction of the municipality and are within the boundaries of or related to or are necessary to connect lands to services and an application has been made in respect of the lands under sections 51 or 53 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, or any successor legislation;

(28) "mixed-use development" means a building or structure used, designed or intended for residential and non-residential uses, where:

(a) the non-residential uses comprise not more than 50 percent (50%) of the gross floor area; and

(b) a minimum of 100 square metres of gross floor area is used for non-residential uses;

(29) "multiple dwelling unit" means a building excluding a hotel, containing more than one dwelling unit but does not include a "single detached dwelling", a "semi-detached dwelling" and an "apartment dwelling";

(30) "municipality" means The Corporation of the City of Markham;

(31) "net hectare" means the area of land in hectares excluding all lands conveyed or to be conveyed into public ownership pursuant to sections 42, 51 and 53 of the *Planning Act* and all lands conveyed or to be conveyed to the municipality or any local board thereof, a board of education as defined under subsection 1(1) of the *Education Act*, or the Ministry of Transportation for the construction of provincial highways;

(32) "non-residential" means lands, buildings or structures or portions thereof used, or designed or intended for other than residential use, including the non-residential portion of a live-work unit;

(33) "office" means a building used for conducting the affairs of businesses, professions, services, industries, governments, or like activities, in which the chief product of labour is the processing and/or storage of information rather than the production and distribution of goods. For the purposes of this definition, research establishments and data processing facilities are considered to be offices

(34) "official plan" means the Official Plan of the City of Markham and any amendments thereto;

(35) "owner" means the owner(s) of land or a person(s) who has made application for an approval for the development of land upon which a development charge is imposed;

(36) "Planning Act" means the *Planning Act*, R.S.O. 1990, c. P.13, as amended or any successor thereto;

(37) "public hospital" means that part of a building or structure that is defined as a public hospital under the *Public Hospitals Act*, R.S.O. 1990, c. P.40;

(38) "redevelopment" means the construction, erection or placing of one or more buildings or structures on land where all or part of a building or structure has previously been demolished on such land, or changing the use of a building or structure from residential to non-residential, from non-residential to residential or Industrial/Office/Institutional to Retail and vice versa;

(39) "Region" means the Regional Municipality of York;

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(40) “regulation” means any regulation made pursuant to the Act;

(41) “residential” means lands, buildings or structures used, designed or intended for use as a residence for one or more individuals, and shall include, but is not limited to a single detached dwelling, a semi-detached dwelling, a townhouse, an apartment dwelling unit, a multiple dwelling unit, a residential dwelling unit accessory to a non-residential use, and the residential portion of a live-work unit, but shall not include a lodging house licensed by a municipality or a hotel;

(42) “semi-detached dwelling” means a residential building divided vertically into and comprising two dwelling units, each of which has a separate entrance and access to grade;

(43) “service standards” means the prescribed level of services on which the schedule of charges in Schedule “B” are based;

(44) “services” means services designated in this by-law or in an agreement under section 44 of the Act;

(45) “single detached dwelling” means a completely detached residential building consisting of one dwelling unit;

(46) “small apartment” means an apartment dwelling unit that is less than 650 square feet in size, including the non-residential portion in the case of live-work units where the non-residential portion is less than 1,076 square feet (100 square metres);

(47) “stacked townhouse” means a residential building, other than a duplex, triplex or fourplex, townhouse or apartment building, containing at least 3 dwelling units, each dwelling unit being separated from the other vertically and/or horizontally and each dwelling unit having an entrance to grade shared with no more than 3 other units;

(48) “temporary buildings or structures” means a building or structure designed or constructed, erected or placed on land and which is demolished or removed from the lands within twelve months of building permit issuance;

(49) “temporary sales centre” means a building or structure, including a trailer, that is designed or intended to be temporary, or otherwise intended to be removed from the land or demolished after use and which is used exclusively as an office or presentation centre, or both, for new building sales;

(50) “townhouse” means a residential building other than an apartment building, that is vertically divided into a minimum of three dwelling units, each of which has an independent entrance to grade, and each of which shares a common wall with adjoining dwelling units above grade;

(51) “triplex” means a building that is divided horizontally or a combination of horizontally and vertically into three dwelling units, each of which has an independent entrance to the outside or through a common vestibule.

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SCHEDULE OF DEVELOPMENT CHARGES

2.

(1) Subject to the provisions of this by-law, including the transition provisions set out in section 14 hereof, a development charge against land shall be calculated and collected in accordance with the rates set out in Schedule “B”, which relate to the services set out in Schedule “A”.

(2) The development charge with respect to the use of any land, buildings or structures shall be calculated as follows:

(a) In the case of a residential use and a non-residential use development, based upon the number of net hectares of land related to the development;

(b) In the case of a residential and/or non-residential enlargement or expansion, based upon the gross floor area of the floor having the largest area, at the net hectare rate;

(c) In the case of the non-residential portion of a mixed-use development, based upon the gross floor area of the floor having the largest area in the non-residential portion of the mixed-use development, at the net hectare rate;

(d) In the case of redevelopment on lands previously subject to a development charge, based on the net increase in the population density or floor space index, at the net hectare rate.

(3) Council hereby determines that the development of land, buildings or structures for residential and non-residential uses will require the provision, enlargement, expansion or improvement of the services referenced in Schedule “A”.

APPLICABLE LANDS

3.

(1) This by-law applies to all lands within the City of Markham as shown on Schedule “C” whether or not the land or use is exempt from taxation under s. 3 of the *Assessment Act*, R.S.O. 1990, c. A.31, as amended, or any successor thereto.

(2) The development of land within the City may be subject to one or more development charges by-laws of the City.

(3) This by-law shall not apply to land, buildings or structures within the municipality that are owned by or used by:

(a) a board of education as defined by subsection 1(1) of the *Education Act*, R.S.O. 1990, c. E.2, as amended, or any successor thereto;

(b) the municipality or any local board thereof;

(c) the Region or any local board thereof;

(d) any area municipality within the Region.

(4) This by-law shall not apply to land, buildings, or structures within the municipality that are used for the purposes of:

(a) the relocation of a heritage building;

(b) a public hospital receiving aid under the *Public Hospitals Act*, R.S.O. 1990, c. M.19, as amended, or any successor thereto;

(c) a mobile temporary sales centre;

(d) farm buildings; and

(e) a temporary building or structure provided that:

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(i) the status of the building or structure as a temporary building or structure is maintained in accordance with the provisions of this by-law;

(ii) upon application being made for the issuance of a permit under the *Building Code Act, 1992* in relation to a temporary building or structure on land to which a development charge applies, the owner shall submit security in the form of cash or a letter of credit satisfactory to the City Treasurer in the full amount of the development charges otherwise payable, to be drawn upon in the event that the temporary building or structure is not removed or demolished within twelve months of building permit issuance and development charges thereby become payable;

(iii) On or before twelve (12) months from the date of issuance of a building permit, the owner shall provide, to the City Treasurer's satisfaction, evidence that the temporary building or structure was demolished or removed from the lands, whereupon the City shall return the security to the owner without interest;

(iv) In the event that a temporary building or structure is not removed or demolished within twelve months of building permit issuance, it shall be deemed not to be, nor ever to have been, a temporary building or structure and, subject to any agreement entered into pursuant to section 10 of this by-law, development charges shall be payable forthwith.

(v) In the event the owner does not provide satisfactory evidence of such demolition or removal of the temporary building or structure in accordance with clause (iii) above, the temporary building or structure shall be deemed conclusively not to be, nor ever to have been, a temporary building or structure for the purposes of this by-law and the City shall, without prior notification to the owner, transfer the cash or draw upon the letter of credit provided pursuant to clause (ii) above and transfer the amount so drawn into the appropriate development charges reserve funds; and

(vi) The timely provision of satisfactory evidence of the demolition or removal of the temporary building or structure in accordance with clause (iii) above shall be solely the owner's responsibility.

(5) This by-law shall not apply to development creating or adding an accessory use or structure not exceeding 100 square metres of gross floor area.

(6) This by-law does not apply with respect to approvals related to the residential development of land, buildings or structures that would have the effect only of:

(a) Permitting the enlargement of an existing dwelling unit;

(b) Creating one or two additional dwelling units in an existing single detached dwelling;

(c) Creating one or two additional dwelling units in an existing dwelling unit in a semi-detached dwelling; or

(d) Creating one additional dwelling unit in any other existing residential building, not including a mixed use building.

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(7)

(a) Notwithstanding clauses (b) to (d) inclusive of subsection 3(6), a development charge shall be imposed and payable with respect to the creation of any additional dwelling units if the cumulative gross floor area of the additional dwelling units exceeds the gross floor area of the existing dwelling unit referred to in clauses (b) and (c) of subsection 3(6) or the smallest existing dwelling unit in the existing residential building, referred to in clause (d) of subsection 3(6).

(b) For the purposes of determining the gross floor area of an existing dwelling unit pursuant to clause (a) of subsection 3(7), the gross floor area shall be the maximum gross floor area of the dwelling unit that existed in the three years preceding the application for a building permit in respect of the additional dwelling unit.

(8) For the purposes of the exemption for enlargement of existing industrial buildings set out in section 4 of the Act, the following provisions shall apply;

(a) For the purpose of this section, "gross floor area" and "existing industrial building" shall have the same meaning as those terms have in O. Reg. 82/98 under the Act, as amended;

(b) For the purposes of interpreting the definition of "existing industrial building" contained in the regulation, regard shall be had for:

(i) the classification of the lands pursuant to the *Assessment Act*, R.S.O. 1990, c. A.31 or successor legislation, and in particular whether more than 50 per cent of the gross floor area of the building or structure has an industrial tax class code for assessment purposes; and

(ii) the legal existence of said structure through the building permitting process.

(c) Notwithstanding clause (b) of subsection 3(8), distribution centres, warehouses, other than retail warehouses, the bulk storage of goods and truck terminals shall be considered to be industrial uses or buildings;

(d) The gross floor area of an existing industrial building shall be defined as the gross floor area of the industrial building as it existed prior to the first enlargement in respect of that building for which an exemption under section 4 of the Act is sought or was obtained;

(e) The enlargement of the gross floor area of the existing building must be attached to the existing industrial building;

(f) The enlargement must not be attached to the existing industrial building by means only of a tunnel, bridge, passageway, canopy, shared below grade connection, such as a service tunnel, foundation, footing or parking facility;

(g) The enlargement shall be for a use for or in connection with an industrial purpose as set out in this by-law;

(h) If the enlargement complies with the provisions of this subsection 3(8) and is equal to 50 per cent or less of the gross floor area of an existing industrial building, the amount of the development charge in respect of the enlargement is nil; and

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(i) If the enlargement is more than 50 per cent of the gross floor area of an existing industrial building, and it otherwise complies with the provisions of this subsection 3(8), development charges are payable on the amount by which the enlargement exceeds 50 per cent of the gross floor area of the existing building before the enlargement.

(9) Clauses (b) and (d) to (i) inclusive of subsection 3(8) shall apply, with necessary modifications, to an enlargement of an existing office.

APPROVALS FOR DEVELOPMENT

4. A development charge shall apply to, and shall be calculated and collected in accordance with the provisions of this by-law on land to be developed for residential and non-residential use, where the development requires,

(1) the passing of a zoning by-law or an amendment thereto under section 34 of the *Planning Act* or successor legislation;

(2) the approval of a minor variance under section 45 of the *Planning Act* or successor legislation;

(3) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* or successor legislation applies;

(4) the approval of a plan of subdivision under section 51 of the *Planning Act* or successor legislation;

(5) a consent under section 53 of the *Planning Act* or successor legislation;

(6) the approval of a description under the *Condominium Act*, R.S.O. 1991, c. C. 26 or the *Condominium Act*, *1998*, S.O. 1998, c. 19 as amended, or successor legislation; or

(7) the issuing of a permit under the *Building Code Act,* or successor legislation in relation to a building or structure.

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LOCAL SERVICE INSTALLATION

5. Nothing in this by-law prevents Council from requiring, as a condition of an approval under section 51 or 53 of the *Planning Act,* that the owner, at his or her own expense, shall install or pay for such local services related to or within the plan of subdivision, or related to the severance of the lands, as council may require, or that the owner pay for local connections to water mains, sanitary sewers and/or storm drainage facilities installed at the owner's expense, or administrative, processing, or inspection fees.

MULTIPLE CHARGES

6.

(21) Where two or more of the actions described in section 4 are required before land to which a development charge applies can be developed, only one development charge shall be calculated and collected in accordance with the provisions of this by-law.

(22) Notwithstanding subsection 6(1), if two or more of the actions described in section 4 occur at different times, and if the subsequent action results in increased, additional or different development, then additional development charges on any additional residential units or land area, shall be calculated and collected in accordance with the provisions of this by-law.

(23) If a development does not require a building permit but does require one or more of the approvals described in section 4, then, the development charge shall nonetheless be payable in respect of any increased, additional or different development permitted by such approval.

CREDIT FOR PROVISION OF SERVICES

7. As an alternative to the payment by the means required under section 10, council may, by agreement entered into with the owner, accept the provision of services in full or partial satisfaction of the development charges otherwise payable. Such agreement shall further specify that where the municipality agrees to allow the performance of work that relates to a service, the municipality shall give to the person performing the work a credit equal to the reasonable cost of doing the work against the development charge otherwise applicable to the development, without interest, unless such interest is specifically authorized by council, provided such credit shall not exceed the total amount of development charges payable by an owner to the municipality and provided that no such credit shall be given for any part of the cost of services that relates to an increase in the level of service that exceeds the average level of service described in paragraph 4 of subsection 5(1) of the Act. The reasonable cost of doing the work and the amount of the credit therefore, shall be finally determined by the City's Commissioner of Development Services.

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REDUCTION OF CHARGE FOR REDEVELOPMENT

8.

(1) Despite any other provision of this by-law where an existing residential use building or structure is demolished, a full credit against development charges otherwise payable pursuant to this by-law with respect to redevelopment of the residential use or lands shall be applicable where the redevelopment has occurred:

(a) within 48 months from the date that the necessary demolition approval was obtained with documented proof thereof; and

(b) on the same lot or block on which the demolished building or structure was originally located.

(2) Despite any other provision of this by-law where an existing non-residential use building or structure is demolished, a full credit against development charges otherwise payable with respect to redevelopment of the non-residential use shall be applicable if the gross floor area of the replacement non-residential use building or structure is equal to or less than the demolished non-residential use building or structure; and a partial credit against development charges otherwise payable with respect to such redevelopment shall be applicable if the gross floor area of the replacement non-residential use building or structure is greater than the gross floor area of the demolished non-residential use building or structure to be calculated in accordance with the following:

$$\text{partial credit for redevelopment} = \text{eligible charge} \times \frac{\text{existing gross floor area of demolished building or structure}}{\text{gross floor area of demolished replacement building or structure}}$$

and such credit or partial credit shall be applicable only where the redevelopment has occurred:

(a) within 48 months from the date that the necessary demolition approval was obtained with documented proof thereof; and

(b) on the same lot or block on which the demolished building or structure was originally located.

(3) Where there is a redevelopment that includes a change in the use of all or part of a non-residential building or structure to residential use, a reduction against the development charge otherwise payable pursuant to this by-law will be allowed. The reduction will be calculated as the amount of the development charge that was payable in accordance with the by-law in effect on the date that the original development charges were paid and prorated to the number of net hectares of land being converted to residential use.

(4) Where there is a redevelopment that includes a change in the use of all or part of a residential building or structure to a non-residential use, a reduction against the development charge otherwise payable pursuant to this by-law will be allowed. The amount of the reduction will be calculated as the amount of the development charge that would be payable in accordance with the by-law in effect on the date that the original development charges were paid and prorated to the number of net hectares of land being converted to non-residential use.

(5) Despite any other provision in this by-law, whenever a reduction is allowed against a development charge otherwise payable pursuant to this by-law and the amount of such reduction exceeds the amount of the development charge otherwise payable pursuant to this by-law, no further reductions shall be allowed against any other development charges payable and no refund shall be payable.

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CREDITS, EXEMPTIONS, RELIEF AND ADJUSTMENTS NOT CUMULATIVE

9. Only one (1) of the applicable credits, exemptions, reductions or adjustments in this by-law shall be applicable to any development or redevelopment. Where the circumstances of a development or redevelopment are such that more than one credit, exemption, relief or adjustment provided for in this by-law could apply, only one credit, exemption, relief or adjustment shall apply and it shall be the credit, exemption, relief or adjustment that results in the lowest development charges payable pursuant to this by-law.

TIMING OF CALCULATION AND PAYMENT

10.

(1) A development charge for each building or structure shall be calculated and payable in full in cash or by certified cheque or by entering into an agreement for the performance of work for credit, on the date of execution of the subdivision, site plan or consent agreement in relation to such building or structure on land to which a development charge applies. At the option of the payer, the applicable development charge may be paid as follows:

(a) In full at execution of the subdivision, consent or site plan agreement; or

(b) In the case of a residential subdivision agreement, or site plan agreement related to a high-rise development, in three installments paid in accordance with the following: 30% on the date of agreement execution, 35% six months after agreement execution, and 35% twelve months after agreement execution. The latter two installments shall be fully secured by a letter of credit on the date of agreement execution.

(2) Where no subdivision agreement, site plan or consent agreement is required, the development charges for each building or structure shall be calculated as of the date of the issuance of a building permit and shall be payable and collected as of the date a building permit is issued in respect of the building or structure for the use to which the development charge applies.

(3) Where development charges apply to land in relation to which a building permit is required, the building permit shall not be issued until the development charge has been paid in full.

(4) If at the time of issuance of a building permit or permits for any development for which payments have been made pursuant to subsection 10(1), the total number and type of dwelling units for which building permits have been and are being issued, or the net hectares used or intended to be used for a non-residential purpose for which building permits have been and are being issued, is greater than that used for the calculation and payment referred to in subsection 10(1), an additional payment shall be required and shall be calculated by multiplying the applicable charge shown in Schedule "B-1", by:

(a) in the case of residential development, the difference between the net hectares for which building permits have been and are being issued and the net hectares for which payments have been made pursuant to section 10(1) and this subsection; and

(b) in the case of non-residential development, the difference between the net hectares used or intended to be used for a non-residential purpose for which building permits have been and are being issued and the net hectares used or intended to be used for a non-residential purpose for which payments have been made pursuant to section 10(1) and this subsection.

(5) Subject to subsection 10(6), if following the issuance of all building permits for all development in a subdivision or for all development on a block within that subdivision that had been intended for future development and for which payments have been made pursuant to subsection 10(1), the total residential net hectares for which building permits have been issued, or the total non-residential net hectares used or intended to be used for a non-residential purpose for which building permits have been issued, is less than that used for the calculation and payment referred to in subsection 10(1), a refund shall become payable by the City to the person who originally made the payment referred to in subsection 10(1) which refund shall be calculated by multiplying the applicable development charges in effect at the time such payments were made by:

(a) in the case of residential development, the difference between the net hectares for which payments were made pursuant to subsection 10(1) and the net hectares for which building permits were issued; and

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(b) in the case of non-residential development, the difference between the net hectares used or intended to be used for a non-residential purpose for which payments were made pursuant to subsection 10(1) and the net hectares used or intended to be used for a non-residential purpose for which building permits were issued.

(6) Subsections 10(3) and 10(4) shall apply with necessary modifications to a development for which development charges have been paid pursuant to a condition of consent or pursuant to an agreement respecting same.

(7) Notwithstanding subsections 10(1) to 10(5), the City may require and where so required an owner shall enter into an agreement, including the provision of security for the owner's obligations under the agreement, pursuant to section 27 of the Act and, without limiting the generality of the foregoing, such an agreement may require the early payment of the development charges hereunder. The terms of such agreement shall then prevail over the provisions of this By-law.

(8) Any refunds payable pursuant to subsections 10(4) and 10(5) shall be calculated and paid without interest.

NO REFUNDS ARISING OUT OF CREDITS, EXEMPTIONS, RELIEF OR ADJUSTMENTS

11. Notwithstanding anything in this by-law to the contrary, whenever a credit, exemption, relief or adjustment is allowed against a development charge otherwise payable pursuant to this by-law and the amount of such credit(s), exemption(s), relief or adjustment(s) exceeds the amount of the development charges otherwise payable pursuant to this by-law, no further credit(s), exemption(s), relief or adjustment(s) shall be allowed against any other development charges payable and no refund shall be payable.

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RESERVE FUND(S)

12.

(1) Monies received from payment of development charges shall be maintained in separate reserve funds and shall be spent for capital costs determined under paragraphs 2 to 8 of subsection 5(1) of the Act.

(2) The amounts contained in the reserve fund established under this section shall be invested in accordance with section 418 of the *Municipal Act, 2001,* S.O. c.25. Any income received from investment of the development charge reserve fund or funds shall be credited to the development charge reserve fund or funds in relation to which the investment income applies.

(3) Where any development charge, or part thereof, remains unpaid after the due date, the amount unpaid shall be added to the tax roll and shall be collected as taxes.

(4) Where any unpaid development charges are collected as taxes pursuant to subsection 12(3) above, the monies so collected shall be credited to the development charge reserve funds referred to in subsection 12(1).

(5) The Treasurer of the municipality shall, in each year on or before October 1, furnish to council a statement in respect of the reserve fund established hereunder for the prior year which statement shall contain the prescribed information.

BY-LAW AMENDMENT OR REPEAL

13.

(1) Where this by-law or any development charge prescribed thereunder is amended or repealed either by order of the Ontario Municipal Board or by council, the Treasurer shall calculate forthwith the amount of any overpayment to be refunded as a result of said amendment or repeal and make such payment in accordance with the provisions of the Act.

(2) Refunds that are required to be paid under subsection 13(1) shall be paid with interest to be calculated as follows:

(a) Interest shall be calculated from the date on which the overpayment was collected to the date on which the refund is paid; and

(b) Interest shall be calculated quarterly at the Bank of Canada rate, adjusted on the first business day of January, April, July and October in each year.

PHASING AND TRANSITION

14.

(1) The development charges set out in this by-law are not subject to phasing and are payable in full, subject to the credits, exemptions, relief and adjustments herein.

INDEXING

15. The development charges referred to in Schedules "B" shall be adjusted semi-annually without amendment to this by-law, on the first day of January and the first day of July, of each year, commencing January 1, 2016, in accordance with the Statistics Canada Quarterly, *Construction Price Statistics* (Catalogue No. 62-007).

BY-LAW REGISTRATION

16. A certified copy of this by-law may be registered on title to any land to which this by-law applies.

BY-LAW ADMINISTRATION

17. This by-law shall be administered by the Treasurer of the municipality.

SCHEDULES TO THE BY-LAW

18. The following Schedules to this by-law form an integral part of this by-law:

Schedule "A" Schedule of Municipal Services
Area 42B-6 – Markham Centre - South Hwy 7

Schedule "B" Schedule of Development Charges

Schedule "C" Map of Area to which this by-law applies

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FRONT ENDING AGREEMENTS

19. The City may enter into one or more front ending agreements under section 44 of the Act.

DATE BY-LAW EFFECTIVE

20. This by-law shall come into force and effect on and after the date of its enactment.

DATE BY-LAW EXPIRES

21. This by-law shall continue in force and effect for a term of five (5) years from its effective date, unless it is repealed at an earlier date.

HEADINGS FOR REFERENCE ONLY

22. The headings inserted in this by-law are for convenience of reference only and shall not affect the construction or interpretation of this by-law.

INTERPRETATION

23. Nothing in this by-law shall be construed to commit or require the municipality to authorize or proceed with any specific capital project at any specific time. Each of the provisions of this by-law are severable and if any provision hereof should for any reason be declared invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

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REPEAL

24. By-law No. 2013-110 and any amendments made thereto is hereby repealed as of the date this by-law comes into force and effect.

SHORT TITLE

25. The by-law may be cited as the “City of Markham Area Specific Services Development Charge By-law, Markham Centre - South Hwy 7 Area 42B-6”.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
____DAY OF ______, 2015.

_________________________	_________________________
CITY CLERK KIMBERLEY KITTERINGHAM	MAYOR FRANK SCARPITTI

Schedule "A"

SCHEDULE OF MUNICIPAL SERVICES

AREA 42B-6 – MARKHAM CENTRE - SOUTH HWY 7

CATEGORY OF MUNICIPAL SERVICES
Stormwater Management Sanitary Sewers

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Schedule "B"

SCHEDULE OF DEVELOPMENT CHARGES

I. General

The Development Charges set out in this schedule are the base charges only. These charges will be increased or decreased based upon an inflation adjustment to be calculated semi-annually without amendment to this by-law as of the first day of January and the first day of July in accordance with section 15 of this by-law.

Development Charge per Net Hectare $1,292,166

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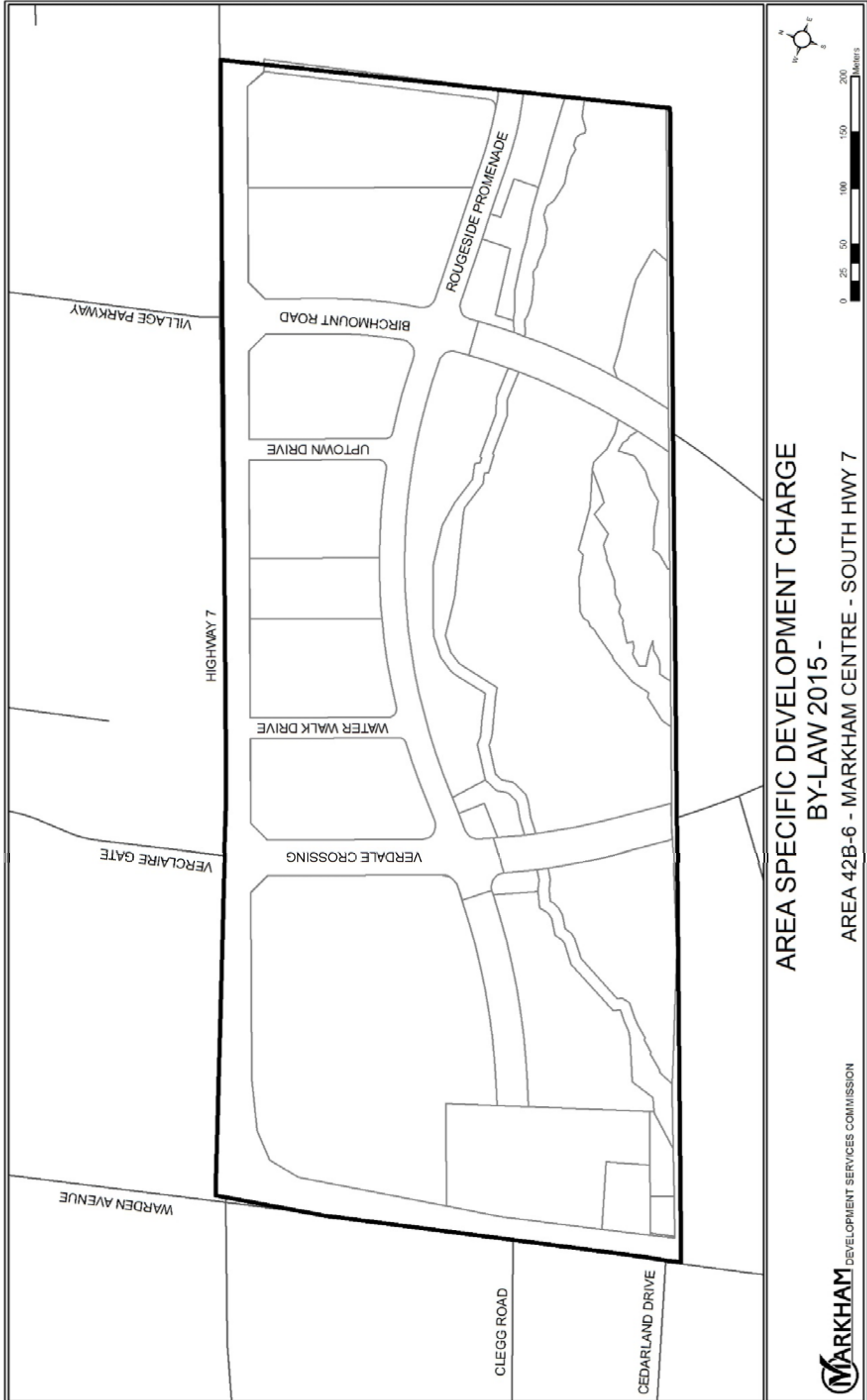
Schedule "C"

MAP OF AREA TO WHICH THIS BY-LAW APPLIES



BY-LAW 2015-XXX

A BY-LAW TO ESTABLISH AREA SPECIFIC DEVELOPMENT CHARGES BY-LAW FOR THE MARKHAM CENTRE - SCIBERRAS AREA 42B-8 DEVELOPMENT AREA OF THE CITY OF MARKHAM

WHEREAS subsection 2(1) of the *Development Charges Act, 1997*, S.O. 1997, c. 27 (hereinafter called the "Act") provides that the council of a municipality may pass by-laws for the imposition of development charges against land to pay for increased capital costs because of increased need for services arising from the development of the area to which the by-law applies;

AND WHEREAS the Council of The Corporation of the City of Markham (hereinafter the "City") held a public meeting on November 10, 2015 to consider the enactment of an area specific development charge by-law, in accordance with section 12 of the Act;

AND WHEREAS the Council of the City has given notice in accordance with section 12 of the Act, of its intention to pass a by-law under section 2 of the said Act;

AND WHEREAS a development charges background study has been prepared by Hemson Consulting Ltd. dated October 27, 2015 ("the background study"), wherein the background study indicated that the development of any land within the City of Markham will increase the need for services as defined herein;

AND WHEREAS copies of the background study and the proposed development charges by-law were made available to the public in accordance with section 12 of the Act;

AND WHEREAS the Council of the City has heard all persons who applied to be heard and received written submissions whether in objection to, or in support of, the development charges proposal at a public meeting held on November 10, 2015;

AND WHEREAS on November 10, 2015, Council approved the Report titled *"2015 Area-Specific Development Charges Background Study Update"*, thereby updating its capital forecast where appropriate and indicated that it intends to ensure that the increase in the need for services to service the anticipated development will be met.

AND WHEREAS at its meeting held on [Month][Date], 2015, Council expressed its intention that infrastructure related to post "buildout" development shall be paid for by development charges;

AND WHEREAS Council has indicated its intent that the future excess capacity identified in the *"2015 Area-Specific Development Charges Background Study Update"*, dated October 27, 2015, shall be paid for by development charges;

AND WHEREAS at its meeting held on [Month][Date], 2015, Council approved the background study and determined that no further public meetings were required under section 12 of the Act.

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NOW THEREFORE THE COUNCIL OF THE CITY OF MARKHAM ENACTS AS FOLLOWS:

DEFINITIONS

1. In this by-law,

(1) “Act” means the Development Charges Act, 1997, S.O. 1997, c. 27, as amended or any successors thereto;

(2) “accessory use” means that the use, building or structure is naturally and normally incidental to or subordinate in purpose or both, and exclusively devoted to a principal use, building or structure;

(3) “agreement” means a contract between the municipality and an owner and any amendment thereto;

(4) “apartment building” means:

(a) a residential building, other than a hotel, containing more than four dwelling units where the residential units are connected by an interior corridor;

(b) a residential building, other than a hotel, with a minimum of sixty units per net hectare and a minimum floor space index of 0.75;

(5) “apartment dwelling unit” means a dwelling unit in a duplex, triplex, fourplex, stacked townhouse or apartment building, as these terms are defined in this by-law;

(6) “Bank of Canada rate” means the interest rate established by the Bank of Canada in effect on the date of the enactment of this by-law, as adjusted in accordance with this by-law;

(7) “building” means a structure occupying an area greater than ten square metres ($10m^2$) consisting of a wall, roof and floor or any of them or a structural system serving the function thereof, and includes an above-grade storage tank and an industrial tent;

(8) “Building Code Act” means the Building Code Act, S.O. 1992, c. 23, as amended, or any successor thereto;

(9) “capital cost” means costs incurred or proposed to be incurred by the municipality or a local board thereof directly or under an agreement, required for the provision of services designated in the by-law within or outside of the municipality;

(a) to acquire land or an interest in land, including a leasehold interest;

(b) to improve land;

(c) to acquire, lease, construct or improve buildings and structures;

(d) to acquire, lease, construct or improve facilities including;

(i) rolling stock with an estimated life of seven (7) or more years;

(ii) furniture and equipment, other than computer equipment; and

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(iii) materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act,* R.S.O. 1990, c. P.44; and

(e) to undertake studies in connection with any matter under the Act and any of the matters in clauses (a) to (d);

(f) to prepare the development charge background study required before the enactment of this by-law; and

(g) to recoup interest paid on money borrowed to pay for the costs described in clauses (a) to (d);

(10) "council" means the council of the municipality;

(11) "development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof, and includes redevelopment;

(12) "development charge" means a charge imposed under this by-law adjusted in accordance with section 15;

(13) "dwelling unit" means a room or suite of rooms used, or designed or intended for use by one person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons, excluding a hotel;

(14) "duplex" means a building that is divided horizontally into two dwelling units, each of which has an independent entrance either directly to the outside or through a common vestibule;

(15) "farm building" means that part of a bona fide farming operation encompassing barns, silos and other development ancillary to an agricultural use, but excluding a residential use, a retail use associated therewith or a commercial greenhouse;

(16) "floor area" means the amount of floor space within an apartment dwelling unit, including the space occupied by its interior partitions, measured to the interior face of walls separating the apartment dwelling unit from the exterior and from the remainder of the building;

(17) "fourplex" means a building that is divided horizontally or a combination of vertically and horizontally into four dwelling units, each of which has an independent entrance either directly to the outside or through a common vestibule

(18) "grade" means the average level of finished ground adjoining a building or structure;

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(19) "gross floor area" means in the case of a non-residential building or structure or the non-residential portion of a mixed-use building or structure, the aggregate of the areas of each floor, whether above or below grade, measured between the exterior faces of the exterior walls of the building or structure or from the centre line of a common wall separating a non-residential and a residential use, excluding, in the case of a building or structure containing an atrium, the sum of the areas of the atrium at the level of each floor surrounding the atrium above the floor level of the atrium, and excluding, in the case of a building containing parking spaces, the sum of the areas of each floor used, or designed or intended for use for the parking of motor vehicles unless the parking of motor vehicles is the principal use of the building or structure, and, for the purposes of this definition, the non-residential portion of a mixed-use building is deemed to include one-half of any area common to the residential and non-residential portions of such mixed-use building or structure;

(20) "heritage building" means an individual building or structure designated under Part IV of the Ontario Heritage Act, R.S.O. 1990, c. O.18, or any successor legislation, or a building or structure designated under Part V of the Ontario Heritage Act, R.S.O. 1990, c. O.18, or any successor legislation, which has been identified as a significant heritage resource in a conservation district plan or a building or structure listed in the Markham Inventory of Heritage Buildings;

(21) "high-rise" means a building or structure having three or more storeys above grade with a common entrance and access to grade;

(22) "industrial" means lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of raw goods, warehousing or bulk storage of goods, and includes office uses and the sale of commodities to the general public where such uses are accessory to an industrial use, but does not include the sale of commodities to the general public through a warehouse club;

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(23) "institutional" means lands, buildings or structures used or designed or intended for use by an organized body, society or religious group for promoting a public or non-profit purpose and shall include, without limiting the generality of the foregoing, places of worship, medical clinics and special care facilities;

(24) "large apartment" means an apartment dwelling unit that is 650 square feet or larger in size, including the non-residential portion in the case of live-work units where the non-residential portion is less than 1,076 square feet (100 square metres);

(25) "live-work unit" means a unit which contains separate residential and non-residential areas intended for both residential and non-residential uses concurrently, and shares a common wall with direct access between the residential and non-residential areas;

(26) "local board" means a public utility commission, transportation commission, public library board, board of park management, local board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of an area municipality or the City, excluding a school board, a conservation authority, any municipal business corporation not deemed to be a local board under O. Reg. 168/03 under the *Municipal Act, 2001*, S.O. 2001, c. 25 and any corporation created under the *Electricity Act, 1998*, S.O. 1998, c. 15, or successor legislation;

(27) "local services" means those services, facilities or things which are intended to be under the jurisdiction of the municipality and are within the boundaries of or related to or are necessary to connect lands to services and an application has been made in respect of the lands under sections 51 or 53 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, or any successor legislation;

(28) "mixed-use development" means a building or structure used, designed or intended for residential and non-residential uses, where:

(a) the non-residential uses comprise not more than 50 percent (50%) of the gross floor area; and

(b) a minimum of 100 square metres of gross floor area is used for non-residential uses;

(29) "multiple dwelling unit" means a building excluding a hotel, containing more than one dwelling unit but does not include a "single detached dwelling", a "semi-detached dwelling" and an "apartment dwelling";

(30) "municipality" means The Corporation of the City of Markham;

(31) "net hectare" means the area of land in hectares excluding all lands conveyed or to be conveyed into public ownership pursuant to sections 42, 51 and 53 of the *Planning Act* and all lands conveyed or to be conveyed to the municipality or any local board thereof, a board of education as defined under subsection 1(1) of the *Education Act*, or the Ministry of Transportation for the construction of provincial highways;

(32) "non-residential" means lands, buildings or structures or portions thereof used, or designed or intended for other than residential use, including the non-residential portion of a live-work unit;

(33) "office" means a building used for conducting the affairs of businesses, professions, services, industries, governments, or like activities, in which the chief product of labour is the processing and/or storage of information rather than the production and distribution of goods. For the purposes of this definition, research establishments and data processing facilities are considered to be offices

(34) "official plan" means the Official Plan of the City of Markham and any amendments thereto;

(35) "owner" means the owner(s) of land or a person(s) who has made application for an approval for the development of land upon which a development charge is imposed;

(36) "Planning Act" means the *Planning Act*, R.S.O. 1990, c. P.13, as amended or any successor thereto;

(37) "public hospital" means that part of a building or structure that is defined as a public hospital under the *Public Hospitals Act*, R.S.O. 1990, c. P.40;

(38) "redevelopment" means the construction, erection or placing of one or more buildings or structures on land where all or part of a building or structure has previously been demolished on such land, or changing the use of a building or structure from residential to non-residential, from non-residential to residential or Industrial/Office/Institutional to Retail and vice versa;

(39) "Region" means the Regional Municipality of York;

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(40) “regulation” means any regulation made pursuant to the Act;

(41) “residential” means lands, buildings or structures used, designed or intended for use as a residence for one or more individuals, and shall include, but is not limited to a single detached dwelling, a semi-detached dwelling, a townhouse, an apartment dwelling unit, a multiple dwelling unit, a residential dwelling unit accessory to a non-residential use, and the residential portion of a live-work unit, but shall not include a lodging house licensed by a municipality or a hotel;

(42) “semi-detached dwelling” means a residential building divided vertically into and comprising two dwelling units, each of which has a separate entrance and access to grade;

(43) “service standards” means the prescribed level of services on which the schedule of charges in Schedule “B” are based;

(44) “services” means services designated in this by-law or in an agreement under section 44 of the Act;

(45) “single detached dwelling” means a completely detached residential building consisting of one dwelling unit;

(46) “small apartment” means an apartment dwelling unit that is less than 650 square feet in size, including the non-residential portion in the case of live-work units where the non-residential portion is less than 1,076 square feet (100 square metres);

(47) “stacked townhouse” means a residential building, other than a duplex, triplex or fourplex, townhouse or apartment building, containing at least 3 dwelling units, each dwelling unit being separated from the other vertically and/or horizontally and each dwelling unit having an entrance to grade shared with no more than 3 other units;

(48) “temporary buildings or structures” means a building or structure designed or constructed, erected or placed on land and which is demolished or removed from the lands within twelve months of building permit issuance;

(49) “temporary sales centre” means a building or structure, including a trailer, that is designed or intended to be temporary, or otherwise intended to be removed from the land or demolished after use and which is used exclusively as an office or presentation centre, or both, for new building sales;

(50) “townhouse” means a residential building other than an apartment building, that is vertically divided into a minimum of three dwelling units, each of which has an independent entrance to grade, and each of which shares a common wall with adjoining dwelling units above grade;

(51) “triplex” means a building that is divided horizontally or a combination of horizontally and vertically into three dwelling units, each of which has an independent entrance to the outside or through a common vestibule.

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SCHEDULE OF DEVELOPMENT CHARGES

2.

(1) Subject to the provisions of this by-law, including the transition provisions set out in section 14 hereof, a development charge against land shall be calculated and collected in accordance with the rates set out in Schedule “B”, which relate to the services set out in Schedule “A”.

(2) The development charge with respect to the use of any land, buildings or structures shall be calculated as follows:

(a) In the case of a residential use and a non-residential use development, based upon the number of net hectares of land related to the development;

(b) In the case of a residential and/or non-residential enlargement or expansion, based upon the gross floor area of the floor having the largest area, at the net hectare rate;

(c) In the case of the non-residential portion of a mixed-use development, based upon the gross floor area of the floor having the largest area in the non-residential portion of the mixed-use development, at the net hectare rate;

(d) In the case of redevelopment on lands previously subject to a development charge, based on the net increase in the population density or floor space index, at the net hectare rate.

(3) Council hereby determines that the development of land, buildings or structures for residential and non-residential uses will require the provision, enlargement, expansion or improvement of the services referenced in Schedule "A".

APPLICABLE LANDS

3.

(1) This by-law applies to all lands within the City of Markham as shown on Schedule "C" whether or not the land or use is exempt from taxation under s. 3 of the *Assessment Act*, R.S.O. 1990, c. A.31, as amended, or any successor thereto.

(2) The development of land within the City may be subject to one or more development charges by-laws of the City.

(3) This by-law shall not apply to land, buildings or structures within the municipality that are owned by or used by:

(a) a board of education as defined by subsection 1(1) of the *Education Act*, R.S.O. 1990, c. E.2, as amended, or any successor thereto;

(b) the municipality or any local board thereof;

(c) the Region or any local board thereof;

(d) any area municipality within the Region.

(4) This by-law shall not apply to land, buildings, or structures within the municipality that are used for the purposes of:

(a) the relocation of a heritage building;

(b) a public hospital receiving aid under the *Public Hospitals Act*, R.S.O. 1990, c. M.19, as amended, or any successor thereto;

(c) a mobile temporary sales centre;

(d) farm buildings; and

(e) a temporary building or structure provided that:

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(i) the status of the building or structure as a temporary building or structure is maintained in accordance with the provisions of this by-law;

(ii) upon application being made for the issuance of a permit under the *Building Code Act, 1992* in relation to a temporary building or structure on land to which a development charge applies, the owner shall submit security in the form of cash or a letter of credit satisfactory to the City Treasurer in the full amount of the development charges otherwise payable, to be drawn upon in the event that the temporary building or structure is not removed or demolished within twelve months of building permit issuance and development charges thereby become payable;

(iii) On or before twelve (12) months from the date of issuance of a building permit, the owner shall provide, to the City Treasurer's satisfaction, evidence that the temporary building or structure was demolished or removed from the lands, whereupon the City shall return the security to the owner without interest;

(iv) In the event that a temporary building or structure is not removed or demolished within twelve months of building permit issuance, it shall be deemed not to be, nor ever to have been, a temporary building or structure and, subject to any agreement entered into pursuant to section 10 of this by-law, development charges shall be payable forthwith.

(v) In the event the owner does not provide satisfactory evidence of such demolition or removal of the temporary building or structure in accordance with clause (iii) above, the temporary building or structure shall be deemed conclusively not to be, nor ever to have been, a temporary building or structure for the purposes of this by-law and the City shall, without prior notification to the owner, transfer the cash or draw upon the letter of credit provided pursuant to clause (ii) above and transfer the amount so drawn into the appropriate development charges reserve funds; and

(vi) The timely provision of satisfactory evidence of the demolition or removal of the temporary building or structure in accordance with clause (iii) above shall be solely the owner's responsibility.

(5) This by-law shall not apply to development creating or adding an accessory use or structure not exceeding 100 square metres of gross floor area.

(6) This by-law does not apply with respect to approvals related to the residential development of land, buildings or structures that would have the effect only of:

(a) Permitting the enlargement of an existing dwelling unit;

(b) Creating one or two additional dwelling units in an existing single detached dwelling;

(c) Creating one or two additional dwelling units in an existing dwelling unit in a semi-detached dwelling; or

(d) Creating one additional dwelling unit in any other existing residential building, not including a mixed use building.

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(7)

(a) Notwithstanding clauses (b) to (d) inclusive of subsection 3(6), a development charge shall be imposed and payable with respect to the creation of any additional dwelling units if the cumulative gross floor area of the additional dwelling units exceeds the gross floor area of the existing dwelling unit referred to in clauses (b) and (c) of subsection 3(6) or the smallest existing dwelling unit in the existing residential building, referred to in clause (d) of subsection 3(6).

(b) For the purposes of determining the gross floor area of an existing dwelling unit pursuant to clause (a) of subsection 3(7), the gross floor area shall be the maximum gross floor area of the dwelling unit that existed in the three years preceding the application for a building permit in respect of the additional dwelling unit.

(8) For the purposes of the exemption for enlargement of existing industrial buildings set out in section 4 of the Act, the following provisions shall apply;

(a) For the purpose of this section, "gross floor area" and "existing industrial building" shall have the same meaning as those terms have in O. Reg. 82/98 under the Act, as amended;

(b) For the purposes of interpreting the definition of "existing industrial building" contained in the regulation, regard shall be had for:

(i) the classification of the lands pursuant to the *Assessment Act*, R.S.O. 1990, c. A.31 or successor legislation, and in particular whether more than 50 per cent of the gross floor area of the building or structure has an industrial tax class code for assessment purposes; and

(ii) the legal existence of said structure through the building permitting process.

(c) Notwithstanding clause (b) of subsection 3(8), distribution centres, warehouses, other than retail warehouses, the bulk storage of goods and truck terminals shall be considered to be industrial uses or buildings;

(d) The gross floor area of an existing industrial building shall be defined as the gross floor area of the industrial building as it existed prior to the first enlargement in respect of that building for which an exemption under section 4 of the Act is sought or was obtained;

(e) The enlargement of the gross floor area of the existing building must be attached to the existing industrial building;

(f) The enlargement must not be attached to the existing industrial building by means only of a tunnel, bridge, passageway, canopy, shared below grade connection, such as a service tunnel, foundation, footing or parking facility;

(g) The enlargement shall be for a use for or in connection with an industrial purpose as set out in this by-law;

(h) If the enlargement complies with the provisions of this subsection 3(8) and is equal to 50 per cent or less of the gross floor area of an existing industrial building, the amount of the development charge in respect of the enlargement is nil; and

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(i) If the enlargement is more than 50 per cent of the gross floor area of an existing industrial building, and it otherwise complies with the provisions of this subsection 3(8), development charges are payable on the amount by which the enlargement exceeds 50 per cent of the gross floor area of the existing building before the enlargement.

(9) Clauses (b) and (d) to (i) inclusive of subsection 3(8) shall apply, with necessary modifications, to an enlargement of an existing office.

APPROVALS FOR DEVELOPMENT

4. A development charge shall apply to, and shall be calculated and collected in accordance with the provisions of this by-law on land to be developed for residential and non-residential use, where the development requires,

(1) the passing of a zoning by-law or an amendment thereto under section 34 of the *Planning Act* or successor legislation;

(2) the approval of a minor variance under section 45 of the *Planning Act* or successor legislation;

(3) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* or successor legislation applies;

(4) the approval of a plan of subdivision under section 51 of the *Planning Act* or successor legislation;

(5) a consent under section 53 of the *Planning Act* or successor legislation;

(6) the approval of a description under the *Condominium Act*, R.S.O. 1991, c. C. 26 or the *Condominium Act*, *1998*, S.O. 1998, c. 19 as amended, or successor legislation; or

(7) the issuing of a permit under the *Building Code Act,* or successor legislation in relation to a building or structure.

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LOCAL SERVICE INSTALLATION

5. Nothing in this by-law prevents Council from requiring, as a condition of an approval under section 51 or 53 of the *Planning Act,* that the owner, at his or her own expense, shall install or pay for such local services related to or within the plan of subdivision, or related to the severance of the lands, as council may require, or that the owner pay for local connections to water mains, sanitary sewers and/or storm drainage facilities installed at the owner's expense, or administrative, processing, or inspection fees.

MULTIPLE CHARGES

6.

(21) Where two or more of the actions described in section 4 are required before land to which a development charge applies can be developed, only one development charge shall be calculated and collected in accordance with the provisions of this by-law.

(22) Notwithstanding subsection 6(1), if two or more of the actions described in section 4 occur at different times, and if the subsequent action results in increased, additional or different development, then additional development charges on any additional residential units or land area, shall be calculated and collected in accordance with the provisions of this by-law.

(23) If a development does not require a building permit but does require one or more of the approvals described in section 4, then, the development charge shall nonetheless be payable in respect of any increased, additional or different development permitted by such approval.

CREDIT FOR PROVISION OF SERVICES

7. As an alternative to the payment by the means required under section 10, council may, by agreement entered into with the owner, accept the provision of services in full or partial satisfaction of the development charges otherwise payable. Such agreement shall further specify that where the municipality agrees to allow the performance of work that relates to a service, the municipality shall give to the person performing the work a credit equal to the reasonable cost of doing the work against the development charge otherwise applicable to the development, without interest, unless such interest is specifically authorized by council, provided such credit shall not exceed the total amount of development charges payable by an owner to the municipality and provided that no such credit shall be given for any part of the cost of services that relates to an increase in the level of service that exceeds the average level of service described in paragraph 4 of subsection 5(1) of the Act. The reasonable cost of doing the work and the amount of the credit therefore, shall be finally determined by the City's Commissioner of Development Services.

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REDUCTION OF CHARGE FOR REDEVELOPMENT

8.

(1) Despite any other provision of this by-law where an existing residential use building or structure is demolished, a full credit against development charges otherwise payable pursuant to this by-law with respect to redevelopment of the residential use or lands shall be applicable where the redevelopment has occurred:

(a) within 48 months from the date that the necessary demolition approval was obtained with documented proof thereof; and

(b) on the same lot or block on which the demolished building or structure was originally located.

(2) Despite any other provision of this by-law where an existing non-residential use building or structure is demolished, a full credit against development charges otherwise payable with respect to redevelopment of the non-residential use shall be applicable if the gross floor area of the replacement non-residential use building or structure is equal to or less than the demolished non-residential use building or structure; and a partial credit against development charges otherwise payable with respect to such redevelopment shall be applicable if the gross floor area of the replacement non-residential use building or structure is greater than the gross floor area of the demolished non-residential use building or structure to be calculated in accordance with the following:

$$\text{partial credit for redevelopment} = \text{eligible charge} \times \frac{\text{existing gross floor area of demolished building or structure}}{\text{gross floor area of demolished replacement building or structure}}$$

and such credit or partial credit shall be applicable only where the redevelopment has occurred:

(a) within 48 months from the date that the necessary demolition approval was obtained with documented proof thereof; and

(b) on the same lot or block on which the demolished building or structure was originally located.

(3) Where there is a redevelopment that includes a change in the use of all or part of a non-residential building or structure to residential use, a reduction against the development charge otherwise payable pursuant to this by-law will be allowed. The reduction will be calculated as the amount of the development charge that was payable in accordance with the by-law in effect on the date that the original development charges were paid and prorated to the number of net hectares of land being converted to residential use.

(4) Where there is a redevelopment that includes a change in the use of all or part of a residential building or structure to a non-residential use, a reduction against the development charge otherwise payable pursuant to this by-law will be allowed. The amount of the reduction will be calculated as the amount of the development charge that would be payable in accordance with the by-law in effect on the date that the original development charges were paid and prorated to the number of net hectares of land being converted to non-residential use.

(5) Despite any other provision in this by-law, whenever a reduction is allowed against a development charge otherwise payable pursuant to this by-law and the amount of such reduction exceeds the amount of the development charge otherwise payable pursuant to this by-law, no further reductions shall be allowed against any other development charges payable and no refund shall be payable.

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CREDITS, EXEMPTIONS, RELIEF AND ADJUSTMENTS NOT CUMULATIVE

9. Only one (1) of the applicable credits, exemptions, reductions or adjustments in this by-law shall be applicable to any development or redevelopment. Where the circumstances of a development or redevelopment are such that more than one credit, exemption, relief or adjustment provided for in this by-law could apply, only one credit, exemption, relief or adjustment shall apply and it shall be the credit, exemption, relief or adjustment that results in the lowest development charges payable pursuant to this by-law.

TIMING OF CALCULATION AND PAYMENT

10.

(1) A development charge for each building or structure shall be calculated and payable in full in cash or by certified cheque or by entering into an agreement for the performance of work for credit, on the date of execution of the subdivision, site plan or consent agreement in relation to such building or structure on land to which a development charge applies. At the option of the payer, the applicable development charge may be paid as follows:

(a) In full at execution of the subdivision, consent or site plan agreement; or

(b) In the case of a residential subdivision agreement, or site plan agreement related to a high-rise development, in three installments paid in accordance with the following: 30% on the date of agreement execution, 35% six months after agreement execution, and 35% twelve months after agreement execution. The latter two installments shall be fully secured by a letter of credit on the date of agreement execution.

(2) Where no subdivision agreement, site plan or consent agreement is required, the development charges for each building or structure shall be calculated as of the date of the issuance of a building permit and shall be payable and collected as of the date a building permit is issued in respect of the building or structure for the use to which the development charge applies.

(3) Where development charges apply to land in relation to which a building permit is required, the building permit shall not be issued until the development charge has been paid in full.

(4) If at the time of issuance of a building permit or permits for any development for which payments have been made pursuant to subsection 10(1), the total number and type of dwelling units for which building permits have been and are being issued, or the net hectares used or intended to be used for a non-residential purpose for which building permits have been and are being issued, is greater than that used for the calculation and payment referred to in subsection 10(1), an additional payment shall be required and shall be calculated by multiplying the applicable charge shown in Schedule "B-1", by:

(a) in the case of residential development, the difference between the net hectares for which building permits have been and are being issued and the net hectares for which payments have been made pursuant to section 10(1) and this subsection; and

(b) in the case of non-residential development, the difference between the net hectares used or intended to be used for a non-residential purpose for which building permits have been and are being issued and the net hectares used or intended to be used for a non-residential purpose for which payments have been made pursuant to section 10(1) and this subsection.

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(5) Subject to subsection 10(6), if following the issuance of all building permits for all development in a subdivision or for all development on a block within that subdivision that had been intended for future development and for which payments have been made pursuant to subsection 10(1), the total residential net hectares for which building permits have been issued, or the total non-residential net hectares used or intended to be used for a non-residential purpose for which building permits have been issued, is less than that used for the calculation and payment referred to in subsection 10(1), a refund shall become payable by the City to the person who originally made the payment referred to in subsection 10(1) which refund shall be calculated by multiplying the applicable development charges in effect at the time such payments were made by:

(a) in the case of residential development, the difference between the net hectares for which payments were made pursuant to subsection 10(1) and the net hectares for which building permits were issued; and

(b) in the case of non-residential development, the difference between the net hectares used or intended to be used for a non-residential purpose for which payments were made pursuant to subsection 10(1) and the net hectares used or intended to be used for a non-residential purpose for which building permits were issued.

(6) Subsections 10(3) and 10(4) shall apply with necessary modifications to a development for which development charges have been paid pursuant to a condition of consent or pursuant to an agreement respecting same.

(7) Notwithstanding subsections 10(1) to 10(5), the City may require and where so required an owner shall enter into an agreement, including the provision of security for the owner's obligations under the agreement, pursuant to section 27 of the Act and, without limiting the generality of the foregoing, such an agreement may require the early payment of the development charges hereunder. The terms of such agreement shall then prevail over the provisions of this By-law.

(8) Any refunds payable pursuant to subsections 10(4) and 10(5) shall be calculated and paid without interest.

NO REFUNDS ARISING OUT OF CREDITS, EXEMPTIONS, RELIEF OR ADJUSTMENTS

11. Notwithstanding anything in this by-law to the contrary, whenever a credit, exemption, relief or adjustment is allowed against a development charge otherwise payable pursuant to this by-law and the amount of such credit(s), exemption(s), relief or adjustment(s) exceeds the amount of the development charges otherwise payable pursuant to this by-law, no further credit(s), exemption(s), relief or adjustment(s) shall be allowed against any other development charges payable and no refund shall be payable.

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RESERVE FUND(S)

12.

(1) Monies received from payment of development charges shall be maintained in separate reserve funds and shall be spent for capital costs determined under paragraphs 2 to 8 of subsection 5(1) of the Act.

(2) The amounts contained in the reserve fund established under this section shall be invested in accordance with section 418 of the *Municipal Act, 2001,* S.O. c.25. Any income received from investment of the development charge reserve fund or funds shall be credited to the development charge reserve fund or funds in relation to which the investment income applies.

(3) Where any development charge, or part thereof, remains unpaid after the due date, the amount unpaid shall be added to the tax roll and shall be collected as taxes.

(4) Where any unpaid development charges are collected as taxes pursuant to subsection 12(3) above, the monies so collected shall be credited to the development charge reserve funds referred to in subsection 12(1).

(5) The Treasurer of the municipality shall, in each year on or before October 1, furnish to council a statement in respect of the reserve fund established hereunder for the prior year which statement shall contain the prescribed information.

BY-LAW AMENDMENT OR REPEAL

13.

(1) Where this by-law or any development charge prescribed thereunder is amended or repealed either by order of the Ontario Municipal Board or by council, the Treasurer shall calculate forthwith the amount of any overpayment to be refunded as a result of said amendment or repeal and make such payment in accordance with the provisions of the Act.

(2) Refunds that are required to be paid under subsection 13(1) shall be paid with interest to be calculated as follows:

(a) Interest shall be calculated from the date on which the overpayment was collected to the date on which the refund is paid; and

(b) Interest shall be calculated quarterly at the Bank of Canada rate, adjusted on the first business day of January, April, July and October in each year.

PHASING AND TRANSITION

14.

(1) The development charges set out in this by-law are not subject to phasing and are payable in full, subject to the credits, exemptions, relief and adjustments herein.

INDEXING

15. The development charges referred to in Schedules "B" shall be adjusted semi-annually without amendment to this by-law, on the first day of January and the first day of July, of each year, commencing January 1, 2016, in accordance with the Statistics Canada Quarterly, *Construction Price Statistics* (Catalogue No. 62-007).

BY-LAW REGISTRATION

16. A certified copy of this by-law may be registered on title to any land to which this by-law applies.

BY-LAW ADMINISTRATION

17. This by-law shall be administered by the Treasurer of the municipality.

SCHEDULES TO THE BY-LAW

18. The following Schedules to this by-law form an integral part of this by-law:

Schedule "A" Schedule of Municipal Services
Area 42B-8 – Markham Centre - Sciberras

Schedule "B" Schedule of Development Charges

Schedule "C" Map of Area to which this by-law applies

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FRONT ENDING AGREEMENTS

19. The City may enter into one or more front ending agreements under section 44 of the Act.

DATE BY-LAW EFFECTIVE

20. This by-law shall come into force and effect on and after the date of its enactment.

DATE BY-LAW EXPIRES

21. This by-law shall continue in force and effect for a term of five (5) years from its effective date, unless it is repealed at an earlier date.

HEADINGS FOR REFERENCE ONLY

22. The headings inserted in this by-law are for convenience of reference only and shall not affect the construction or interpretation of this by-law.

INTERPRETATION

23. Nothing in this by-law shall be construed to commit or require the municipality to authorize or proceed with any specific capital project at any specific time. Each of the provisions of this by-law are severable and if any provision hereof should for any reason be declared invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

REPEAL

24. By-law No. 2013-111 and any amendments made thereto is hereby repealed as of the date this by-law comes into force and effect.

SHORT TITLE

25. The by-law may be cited as the "City of Markham Area Specific Services Development Charge By-law, Markham Centre - Sciberras Area 42B-8".

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READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
___ DAY OF ____, 2015.

______________________________	______________________________
CITY CLERK KIMBERLEY KITTERINGHAM	MAYOR FRANK SCARPITTI

Schedule "A"

SCHEDULE OF MUNICIPAL SERVICES

AREA 42B-8 – MARKHAM CENTRE - SCIBERRAS

CATEGORY OF MUNICIPAL SERVICES
Roads
Stormwater Management
Sanitary Sewers

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Schedule "B"

SCHEDULE OF DEVELOPMENT CHARGES

I. General

The Development Charges set out in this schedule are the base charges only. These charges will be increased or decreased based upon an inflation adjustment to be calculated semi-annually without amendment to this by-law as of the first day of January and the first day of July in accordance with section 15 of this by-law.

Development Charge per Net Hectare	$1,463,786

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Schedule "C"

MAP OF AREA TO WHICH THIS BY-LAW APPLIES