



Report to: Development Services Committee

Meeting Date: May 13, 2019

SUBJECT: Amendment to Enterprise Boulevard Construction Agreement and Assumption of Enterprise Boulevard (Ward 3)

PREPARED BY: Ronji Borooah, City Architect, ext. 8340
Brian Lee, Director of Engineering, ext. 7507

RECOMMENDATION:

1. That the report entitled “Amendment to Enterprise Boulevard Construction Agreement and Assumption of Enterprise Boulevard (Ward 3)” be received; and
2. That Council revise the obligation for Ruland Properties Inc. to install the streetscape improvements along Enterprise Boulevard (“Enterprise”) as part of the Enterprise Boulevard Construction Agreement between Ruland Properties Inc. and the Corporation of the Town of Markham (2005) (“Agreement”) to include that obligation as a part of future site plan applications, and return any existing letters of credit for streetscape improvements to Ruland Properties Inc.; and
3. That the Mayor and Clerk be authorized to execute an Amendment to the Agreement (“Amendment Agreement”) based on the terms and conditions described in this report, and to the satisfaction of the Director of Engineering and the City Solicitor; and
4. That Council, upon Ruland Properties Inc. executing the Amendment Agreement, assume Enterprise Boulevard as outlined in this report, and pass any necessary bylaws for traffic control, parking restrictions and speed limits; and further,
5. That staff be directed to do all things necessary to give effect to this resolution.

PURPOSE:

The purpose of this report is to obtain Council’s authority/endorsement:

- to revise the streetscape improvement obligation from the 2005 Construction Agreement, and include that obligation as part of any future site plan application for a property along Enterprise,
- for the Mayor and Clerk to execute an amendment to the Agreement;
- to assume Enterprise after Ruland Properties Inc. satisfies all the obligations for assumption under the Agreement and Amendment Agreement;

BACKGROUND:

The construction of Enterprise Boulevard (“Enterprise”) in Markham Centre within the Ruland Properties Inc. (“Ruland”) lands, from Warden Avenue to approximately the Stouffville GO Line, was implemented through the Enterprise Boulevard Construction Agreement (“Agreement”) dated Nov 25, 2005 between the then Town of Markham (“Markham”) and Ruland. The terms and conditions were financially secured through several letters of credit (“LCs”). The Agreement further described the conditions for the acceptance for maintenance and assumption of Enterprise by Markham.

OPTIONS/ DISCUSSION:

Reasons for Amending the Agreement

The Agreement did not anticipate certain realities of construction, such as the timing and phasing of the various streetscape components of Enterprise. While the engineering component of Enterprise has been completed by Ruland, the streetscape component is being built-out in phases coinciding with the parcels fronting Enterprise. A considerable portion of streetscape works along Enterprise between Warden Avenue and Andre De Grasse Street has now been completed, while the portion easterly to the Stouffville GO Line has not. Completion of the streetscape work will depend on future development phasing of the lands fronting Enterprise, which will take many years. As written in the Agreement, the streetscape portion of the LCs cannot be released until the streetscape works are completed. Ruland has requested that the City release the outstanding letters of credit for the streetscape works, and have indicated that it believes that it is not reasonable for Ruland to continue to maintain and repair the unassumed portion of Enterprise for normal wear and tear, when it has been opened and is used by the general public. An amendment to the Agreement (‘Amendment Agreement’) is required to allow for greater flexibility for the release of LC’s tied to the completed portions of work, and assumption by transferring the obligations of all outstanding streetscape works to be completed as a part of future site plan approvals. The outstanding streetscape works will be financially secured through site plan applications.

Further, the streetscape works for Enterprise, as described in the Agreement, need to be updated. The original streetscape works, endorsed by Council on December 7, 2004, recommended four categories of finish: Platinum, Gold, Silver, and Bronze. These four categories were subsequently streamlined into three categories, Gold, Silver and Bronze and endorsed by Council on November 22, 2011. The Amending Agreement specifies these new categories and references the approved drawings for future streetscape works.

Assumptions of Enterprise Boulevard

Enterprise Boulevard is completely constructed between the concrete curbs (the roadway portion) and the full length from Warden Avenue to the Stouffville GO Line can be assumed. Streetscape work was also constructed for certain sections of the boulevard as shown in Attachment “A” – Areas for Assumption. It is recommended that Council

assume the roadway and certain boulevard sections of Enterprise as shown in the attachment.

FINANCIAL CONSIDERATIONS

There is no financial impact with adopting the recommendations of this report.

HUMAN RESOURCES CONSIDERATIONS

There are no Human Resources impact with adopting the recommendations of this report.

ALIGNMENT WITH STRATEGIC PRIORITIES:

This report unbundles Ruland's streetscape obligation from the 2005 Construction Agreement because it is unreasonable for Ruland to continue to operate and maintain Enterprise Boulevard until all streetscape works are completed. Streetscape work cannot be installed until site plan fronting onto Enterprise Boulevard is developed. This report reflects Council Strategic Priorities to streamline development process

BUSINESS UNITS CONSULTED AND AFFECTED:

The Legal Department has reviewed this report and worked collaboratively to prepare the Amending Agreement.

RECOMMENDED BY:

Brian Lee, P. Eng.
Director, Engineering

Arvin Prasad, M.C.I.P., R.P.P.
Commissioner, Development Services

ATTACHMENTS:

Attachment "A" – Area for Assumption