

Clause No. 22 in Report No. 11 of the Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on June 26, 2014.

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**STEELES AVENUE - DONALD COUSENS PARKWAY LINK -
PROGRESS ON IMPLEMENTATION AGREEMENT**

Committee of the Whole recommends adoption of the following recommendations contained in the report dated June 4, 2014 from the Commissioner of Transportation and Community Planning:

1. RECOMMENDATIONS

It is recommended that:

1. Staff be authorized to finalize the details of a cost-sharing and implementation agreement with the City of Toronto in accordance with the principles described in this report (*Attachment I*).
2. The Regional Chair and Clerk be authorized to execute the cost-sharing and implementation agreement with the City of Toronto, subject to review by Legal Services.
3. The Regional Clerk circulate this report to the Clerks of the City of Markham, City of Vaughan and City of Toronto.

2. PURPOSE

This report updates Council on the status of discussions with the City of Toronto for an agreement to cost-share and implement Steeles Avenue road improvements related to the Donald Cousens Parkway to Morningside Avenue Link. Staff is seeking authorization to finalize and execute the agreement based on the principles described in this report.

3. BACKGROUND

The City of Toronto currently has sole jurisdiction over Steeles Avenue

Prior to 1970, Steeles Avenue was under the jurisdiction of the Toronto and York Roads Commission. Metropolitan Toronto assumed control of Steeles Avenue in stages between 1974 and 1989 pursuant to agreements that were entered into in 1974 and 1975 between The Regional Municipality of York and The Municipality of Metropolitan Toronto.

In 1982, the Ontario Municipal Board (OMB) issued an order that established the boundary of Metropolitan Toronto as the north limit of the Steeles Avenue road allowance. Prior to the OMB order, the boundary between York and Metropolitan Toronto was the centre of the Steeles Avenue road allowance.

Under the current Steeles Avenue agreement, the City of Toronto has sole jurisdiction over Steeles Avenue. The City is financially responsible for all costs related to the operation, maintenance and capital construction of works on Steeles Avenue, and also to ensure safe and efficient access control on Steeles Avenue. Prior to exercising any of its authority that would affect lands on the north side of Steeles Avenue, the City is required to notify York Region.

York Region, the City of Markham and the City of Vaughan have limited rights to construct sidewalks, sewers, watermains and other improvements within the Steeles Avenue right-of-way, subject to the approval of the City of Toronto.

The Region has shared agreements to operate the boundary roads with our neighbours in Durham and Peel. The property lines are generally located in the centre of the right-of-way and there are different models as to who operates the road. The details of these agreements are summarized in Table 1.

Table 1
 Maintenance and jurisdictional responsibility for York Region boundary roads

Road Name	From	To	Regional Boundary	Road Authority	Number of Lanes	Length (KM)
York-Durham Boundary						
Lakeridge Road	Lake Simcoe	Ravenshoe Road	West right-of-way limit	Durham Region	2	10.6
Ravenshoe Road	York-Durham Line	Lakeridge Road	South right-of-way limit	York Region	2	14.4
East Town Line	Ravenshoe Road	Durham RR 39 (Queensville Sdrd)	West right-of-way limit	Local Jurisdiction (Town of East Gwillimbury / Uxbridge Township)	2	6.6
York Durham Line	Durham RR 39 (Queensville Sdrd)	Bloomington Road	West right-of-way limit	Durham Region	2	18.4
York Durham Line	Bloomington Road	Steeles Avenue	East right-of-way limit	York Region	2	18.4
York-Peel Boundary						
Caledon / King Town Line	Highway 9	King-Vaughan Boundary	East right-of-way limit	Local Jurisdiction (Township of King / Town of Caldeon)	2	12.8
Albion Vaughan Road	King-Vaughan Boundary	Mayfield Road	East right-of-way limit	Local Jurisdiction (City of Vaughan / Town of Caldeon)	2	3.2
Highway 50	Mayfield Road	Steeles Avenue	Centreline	Peel Region	4 to 6	11.9
York-Simcoe Boundary						
Highway 9	Caledon / King Town Line	8th Concession	South right-of-way limit	Ministry of Transportation	2	10.0
York-Toronto Boundary						
Steeles Avenue	Highway 50	York Durham Line	North right-of-way limit	City of Toronto	2 to 6	40.0

Access on the north side of Steeles Avenue is controlled by the City of Toronto

The City of Toronto's jurisdiction includes access control for development on the north side of Steeles Avenue. In the event of an unresolved access issue, a landowner on the north side of Steeles Avenue would have to resolve the dispute through direct discussions with the City of Toronto or through an appeal to the OMB.

For instance, Forest Bay Homes Subdivision is a development proposal on the north side of Steeles Avenue in Markham, located between the Morningside tributary and the Parkview Golf Course. This 1032 residential unit subdivision proposal has been appealed to the OMB for issues including access to Steeles Avenue.

Ministry of the Environment approved the Donald Cousens Parkway to Morningside Avenue Link Environmental Assessment with conditions

On January 23, 2013, the Ministry of the Environment gave Notice of Approval to Proceed with the Undertaking as described in the amended Environmental Assessment (EA) for Transportation Improvements Donald Cousens Parkway to Morningside Avenue Link. In giving approval to proceed with the undertaking, the Minister of the Environment imposed a number of conditions, one of which requires development of a cost-sharing and implementation agreement with the City of Toronto within five years from the date of approval.

The EA conditions of approval further stipulate that construction cannot commence for any part of the undertaking until a cost-sharing and implementation agreement is in place, and the Ministry of the Environment notifies the Proponent that the requirements of this condition have been met.

The Link includes widening a 1.5 km section of Steeles Avenue which requires agreement with the City of Toronto to implement

A map showing the EA approved alignment for the Donald Cousens Parkway to Morningside Avenue Link is shown on *Attachment 2*.

North of Steeles Avenue, the EA-approved Undertaking includes widening of Ninth Line from two to four lanes to match the existing four-lane cross-section of Donald Cousens Parkway and Box Grove Bypass within the Box Grove Planning Area, as well as construction of two on-ramps at the Highway 407 and Donald Cousens Parkway interchange to provide freeway access from the south. Improvements to Ninth Line are within York Region's jurisdiction and will be implemented as part of the York Region Roads Capital Construction Program. Construction of the on-ramps at Highway 407 will be implemented when warranted and subject to further discussion with 407 ETR.

South of Steeles Avenue, the EA-approved Undertaking includes a new four-lane road from the existing terminus of Morningside Avenue in the Morningside Heights Community, north through the Tapscott Employment Area, to connect to Steeles Avenue 600 m east of Markham Road. The Morningside Avenue Extension is within the City of Toronto and can be implemented as part of Toronto's Roads Capital Construction Program, or by area developers in conjunction with construction of the road network required to service adjacent land development.

Integral to the road link is the widening of a 1.5 km section of Steeles Avenue from two to six lanes from the Morningside Avenue Extension to Ninth Line and widening from two to four lanes from Tapscott Road to the Morningside Avenue Extension.

A Cost-Sharing and Implementation Agreement with Toronto and other agencies is required for construction of the Donald Cousens Parkway Link

Construction cannot commence for any part of the undertaking until the Ministry of the Environment provides notice that the EA condition of approval requiring a cost-sharing and implementation agreement has been met.

Condition 10 of the EA approval requires York Region to work with the City of Toronto and other agencies to prepare an agreement detailing how and when the various portions of the undertaking will be built and financed.

This report focuses on developing an agreement with the City of Toronto for Steeles Avenue road improvements related to the Donald Cousens Parkway to Morningside Avenue Link.

For the Highway 407 ramps at Donald Cousens Parkway, staff will use a 2008 letter of intent from 407 ETR as documentation of roles and responsibilities for implementing the two Highway 407 ramps, including monitoring of traffic and development in the area and construction of the ramps when there is sufficient demand to support a business case.

In March 2013, Council directed staff to begin discussions with Toronto

Staff most recently reported to Council in March 2013 advising that the Ministry of the Environment had approved the Amended EA for the Donald Cousens Parkway to Morningside Avenue Link and seeking authorization to begin discussions with the City of Toronto on a cost-sharing and implementation agreement (see Report No. 3 of the Transportation Services Committee, Regional Council Meeting of March 28, 2013).

Progress has been made towards an implementation agreement for Steeles Avenue

Following Council's direction in March 2013, staff began discussions with the City of Toronto on a Cost Sharing and Implementation Agreement for Donald Cousens Parkway to Morningside Avenue Link, which led to the development of a set of principles for an agreement.

4. ANALYSIS AND OPTIONS

Key issue to be resolved going forward is the jurisdictional boundary

Between 2003 and 2005, City of Toronto and York Region staff explored the potential for a Steeles Avenue boundary road agreement. The critical unresolved issue was the means of funding capital expenditures. Currently, the Development Charges Act does not permit the Region to collect development charges to finance capital improvements to Steeles Avenue. This is because the highway does not qualify as a "service" provided by the Region because ownership and control is wholly within Toronto's jurisdiction. By contrast, the Act permits certain water and wastewater infrastructure located outside the Region's boundaries to be funded through development charges where the facilities provide direct delivery of essential Regional services.

A key component of the proposed boundary road agreement will be the resolution of the jurisdictional issue, and this is reflected prominently in the agreement principles described in *Attachment 1*.

There are two options available to resolve the boundary jurisdictional issue

City of Toronto and York Region staff propose to work to resolve the issue by either an amendment to the Development Charges Act to permit collection of development charges by York Region for capital improvements to Steeles Avenue, or relocating the municipal boundary to the centre of the Steeles Avenue right-of-way.

A deadline of September 30, 2016 is proposed for resolution of this issue, to coincide with the schedule for the next update of York Region's Development Charges Bylaw. This deadline is necessary in order that Steeles Avenue capital works can be included in the Development Charges Bylaw.

The agreement principles stipulate that should an amendment to the Development Charges Act not be completed by September 30, 2016, the City of Toronto and York Region will mutually request the Province of Ontario to relocate the municipal boundary to the centre of the Steeles Avenue right-of-way.

The principles of a boundary road agreement have been developed

The principles presented in *Attachment 1* form the basis for developing a boundary road agreement for cost-sharing and implementing improvements along Steeles Avenue for Donald Cousens Parkway to Morningside Avenue Link.

City of Toronto staff is taking a similar report to City Council seeking approval of these same principles

Staff from York Region and the City of Toronto have been co-ordinating efforts to take a report to the respective Councils seeking authorization to finalize and execute a cost-sharing and implementation agreement for the Steeles Avenue portion of Donald Cousens Parkway to Morningside Avenue Link in accordance with the principles presented in this report.

The next step is to prepare and execute the agreement

Upon approval of this report, staff from the City of Toronto and York Region will determine the details of a formal agreement based on the principles. Thus, Council authorization is requested for the Regional Chair and Clerk to execute the agreement, subject to a review by Legal Services.

To reduce further delay in implementing the Steeles Avenue widening, staff propose that detailed design be advanced

City of Toronto and York Region staff propose, subject to execution of a final agreement, that the detailed design proceed for widening and improvements to Steeles Avenue from Markham Road to Ninth Line on a joint 50/50 cost-sharing basis while working expeditiously to resolve the jurisdictional issue described above. Working concurrently on the detailed design and to resolve the jurisdictional issue will reduce the overall schedule for improvements to Steeles Avenue by several years, ensuring the contract is tender ready immediately upon resolution of the jurisdictional issue.

Link to key Council-approved plans

This report supports the 2011 to 2015 Strategic Plan in continuing to deliver and sustain critical infrastructure.

5. FINANCIAL IMPLICATIONS

There will be future financial implications associated with an agreement with the City of Toronto for the Steeles Avenue component of the Donald Cousens Parkway to Morningside Avenue Link. Future funding requirements will include an initial capital investment for Steeles Avenue widening from Ninth Line to Markham Road, as well as on-going operation and maintenance for this segment of Steeles Avenue. Expenditure for construction of this widening will be subject to resolution of the jurisdictional boundary issue and York Region's ability to apply development charges to this expenditure.

Table 2 summarizes the capital cost estimate of the municipal components for the Donald Cousens Parkway to Morningside Avenue Link, and the cost implications to York Region and Toronto assuming a 50/50 cost split.

Table 2
Construction Costs

Road segment	York Region cost share	City of Toronto cost share
Ninth Line from Steeles Avenue to south limit of Box Grove	\$9.8M	
Steeles Avenue from east of Markham Road to Ninth Line	14.1M	\$14.1M
Morningside Ave extension from McNicoll Ave to Steeles Ave		11.5M
Total	\$23.9M	\$25.6M

Scheduling and prioritization of the Ninth Line and Steeles Avenue construction will be defined in the agreement with Toronto and will be reflected in the 10-year Roads Capital Construction Program as part of the annual budget review and approval process. The detailed design of Steeles Avenue improvements proposed to be advanced is estimated to cost \$2.0M, to be shared equally between Toronto and York on a 50/50 basis.

Operation and maintenance costs for Steeles Avenue from Markham Road to Ninth Line (post widening) is estimated to be \$80,000 annually. Assuming a 50/50 cost split, the future financial implication to York Region will be \$40,000.

6. LOCAL MUNICIPAL IMPACT

The City of Markham has and will continue to be actively involved in implementation of the Donald Cousens Parkway to Morningside Avenue Link project. Both the City of Markham and City of Vaughan are being informed of the progress towards a Steeles Avenue boundary road agreement through this report.

7. CONCLUSION

York Region and City of Toronto staff have developed a set of principles to form the basis for developing a formal Cost-Sharing and Implementation Agreement for improvements along Steeles Avenue for Donald Cousens Parkway to Morningside Avenue Link. Based on the principles described in this report, staff is seeking Council authorization to finalize and execute the Cost-Sharing and Implementation Agreement.

Capital expenditure for improvements to Steeles Avenue will be subject to resolution of the jurisdictional boundary issue and York Region's ability to apply development charges to this expenditure. An update to the Region's Development Charges Bylaw is scheduled for 2017 and the addition of capital improvements to Steeles Avenue will be considered at that time.

For more information on this report, please contact Loy Cheah, Director, Transportation Planning at ext. 75024 or Brian Titherington, Director, Roads at ext. 75901.

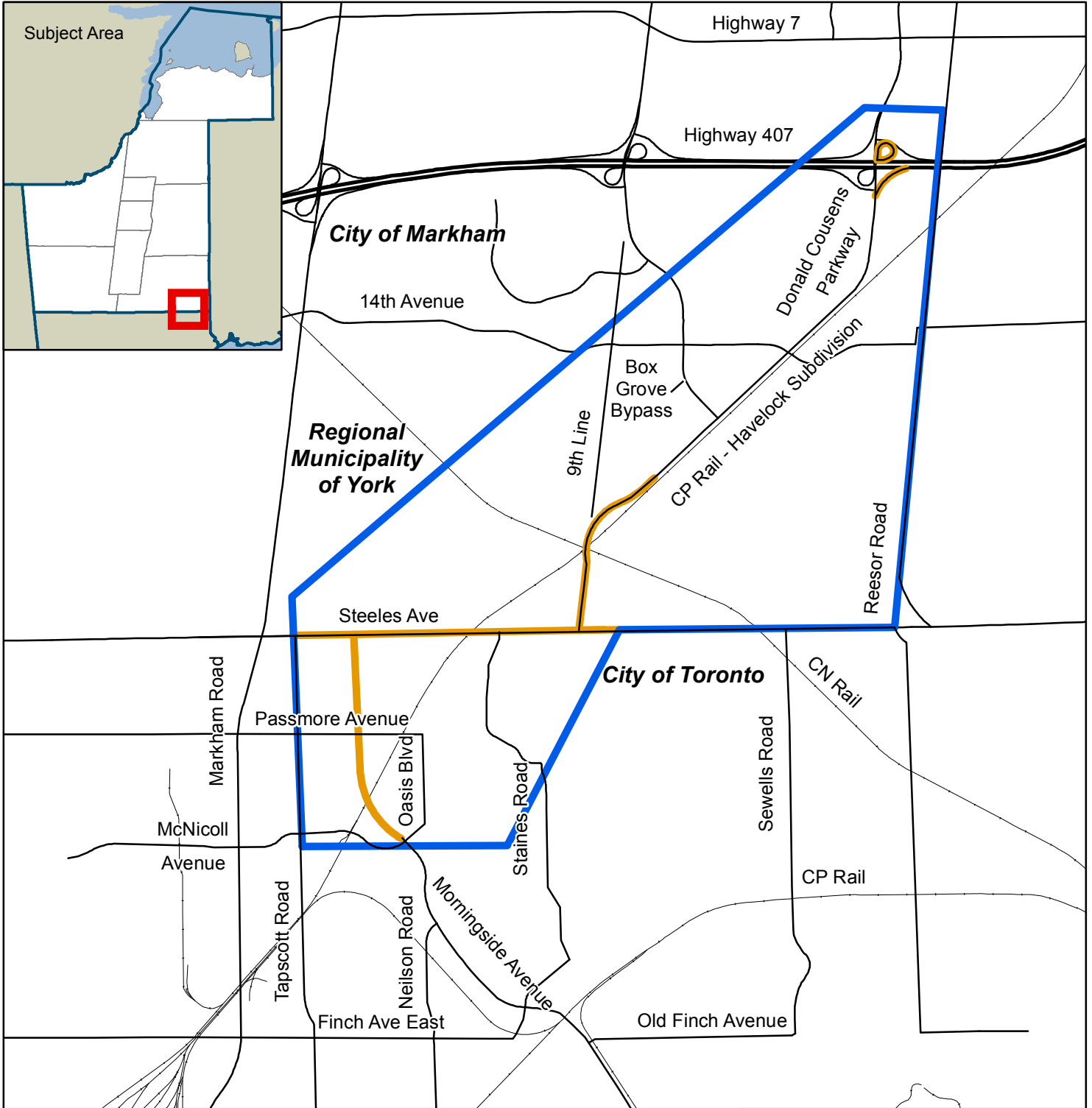
The Senior Management Group has reviewed this report.

Attachments (3)

Steeles Avenue from East of Markham Road to Ninth Line Principles of a Boundary Road Agreement

1. Develop an agreement for the widening of Steeles Avenue from east of Markham Road to Ninth Line, which forms part of the approved Donald Cousens Parkway to Morningside Avenue Link, in advance of a Toronto-York boundary road agreement for the entire length of Steeles Avenue.
2. Either (i) secure an amendment to the Development Charges Act to permit collection of development charges by York Region for improvements to Steeles Avenue, or (ii) relocate the municipal boundary between the City of Toronto and York Region to the centre of the Steeles Avenue right-of-way, to remove any legal barriers to the application of development charges by both jurisdictions for capital improvements to Steeles Avenue.
3. Should an amendment to the Development Charges Act described in principle 2 not be completed by September 30, 2016 in time for York Region's Development Charges Bylaw update in early 2017, the City of Toronto and York Region will mutually request the Province of Ontario to relocate the municipal boundary to the centre of the Steeles Avenue right-of-way.
4. The City of Toronto and York Region proceed with detailed design of Steeles Avenue improvements from east of Markham Road to Ninth Line on a joint 50/50 cost-sharing basis while co-operatively making best efforts to satisfy principles 2 and 3.
5. Satisfy Conditions 10.2 and 10.5 of the Notice of Environmental Assessment Approval by the Ministry of the Environment for the construction of the Donald Cousens Parkway to Morningside Avenue Link, with commitments on how and when the various portions of the Donald Cousens Parkway to Morningside Avenue Link are to be built and financed, and ensuring that construction of the Environmental Assessment approved Undertaking does not commence until the required clearance is provided by the Ministry of the Environment.
6. Present a "co-operative and co-ordinated approach" for implementing Steeles Avenue improvements associated with the Donald Cousens Parkway to Morningside Avenue Link and managing ongoing operational and safety issues.
7. Management of Steeles Avenue is to be guided by mutually-agreed protocols to ensure consistency in their application (e.g. maintenance, capital improvements, development review, dispute resolutions, traffic control, transit service, etc.).
8. A 50/50 cost-sharing arrangement for capital improvements on Steeles Avenue associated with the Donald Cousens Parkway to Morningside Avenue Link and for ongoing maintenance.
9. Provide the framework for the future Toronto-York Steeles Avenue boundary agreement for the entire length of Steeles Avenue bounding York Region and the City of Toronto.
10. Identify a commitment by both the City of Toronto and York Region to a multi-year capital improvement program to maintain Steeles Avenue in a state-of-good-repair.
11. The City of Toronto will manage all operational issues on behalf of both parties based on agreed upon standards and service levels, with costs shared equally.
12. Major capital works/plan requires approval from the Councils of both jurisdictions.

Date: June 3, 2014

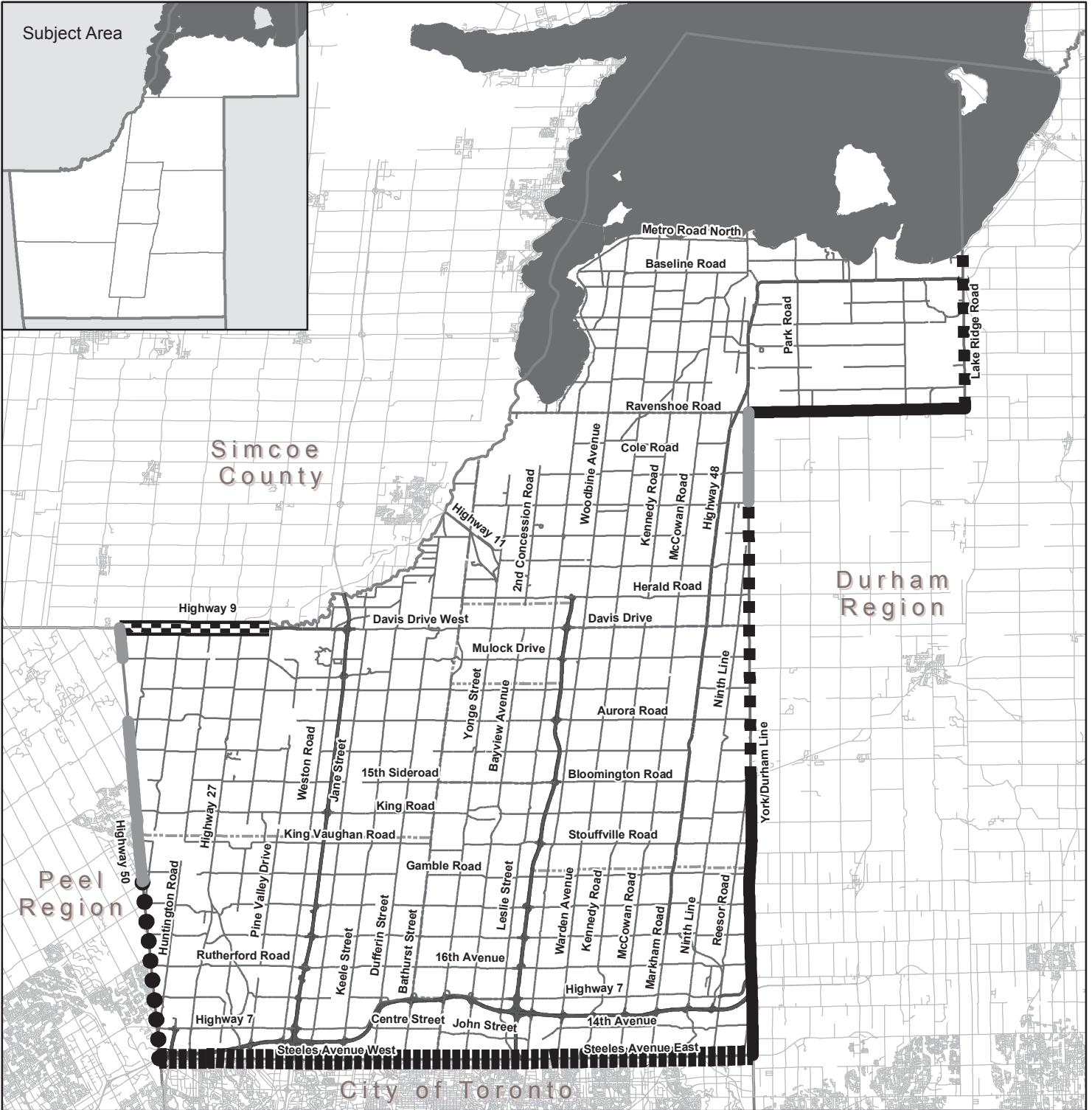


Donald Cousens Parkway to Morningside Avenue Link

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Legend

- Study Area
- Road Link



Operating Authority of York Region's Boundary Roads
 Steeles Avenue - Donald Cousens Parkway Link -
 Progress of Implementation Agreement, June 12, 2014

- Legend**
- OPERATING AUTHORITY**
- York Region
 - Peel Region
 - Durham Region
 - Ministry of Transportation
 - City of Toronto
 - Local Jurisdiction



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