

# THE CORPORATION OF THE TOWN OF LINDSAY

## BY-LAW 97-56

Being a By-law to provide for certain work to be undertaken in respect of the reconstruction of Colborne Street West with full municipal services, and the imposition by the Corporation of the Town of Lindsay of fees and charges associated with the costs of the work against benefiting landowners.

WHEREAS pursuant to the provisions of Subsection 220.1(2) of the *Municipal Act*, R.S.O. 1990, Chapter M.45, as amended, the Council of a local municipality may pass by-laws imposing user fees or charges on any class of persons for services or activities provided or done by or on behalf of it;

AND WHEREAS the work in respect of the reconstruction of Colborne Street West is being undertaken on the initiative of the said Council of the Corporation of the Town of Lindsay;

AND WHEREAS the Council for the Corporation of the Town of Lindsay recognizes that reconstruction of Colborne Street West will have a varying degree of benefit over time to each of the Benefiting Landowners;

AND WHEREAS the Council of the Corporation of the Town of Lindsay deems it necessary to undertake certain work in respect of the reconstruction of Colborne Street West with full municipal services;

AND WHEREAS the costs of reconstructing Colborne Street West and of installing full municipal services therein were not accounted for in the formulation of the Development Charges By-law for the Corporation of the Town of Lindsay and the charges specified therein;

AND WHEREAS it is the intention of the Province of Ontario to amend the *Development Charges Act* and the Regulations thereunder in the near future;

AND WHEREAS until such time as those amendments are effected, it is not possible for the Town of Lindsay to determine if a portion of the cost of the Works is eligible to be recovered by way of a Development Charges By-law pursuant to the *Development Charges Act*;

AND WHEREAS the Council for the Corporation of the Town of Lindsay deems it desirable to impose fees and charges in respect of the work against all Benefiting Landowners and should it be the case that the costs can be *Development Charges Act* recoverable, it would be the intention of the Council for the Corporation of the Town of Lindsay to repeal this by-law and to recover the costs under a by-law passed pursuant to the amended *Development Charges Act*.

NOW THEREFORE the Council of the Corporation of the Town of Lindsay enacts as follows:

### 1.0 DEFINITIONS:

#### In this By-law:

- (i) "Benefiting Landowner" shall mean those landowners of the lands shown on the map attached to this by-law as Schedule "A", including their heirs, successors and assigns;
- (ii) "Benefiting Landowners Cost (BLC)" shall mean the fees and charges attributed to each Benefiting Landowner as specified in Schedule "C";
- (iii) "Carrying Charges" shall mean a cost charged to the Benefiting Landowner(s) by the Town to recover interest foregone/paid by the Town due to the payment from Town funds of Costs attributable to the Benefiting Landowner(s).
- (iv) "Cost" means the cost of reconstructing Colborne Street West and the cost of constructing the services thereon;
- (v) "Council" shall mean the Council of the Corporation of the Town of Lindsay.

(vi) "Person" shall mean any individual, partnership, association, corporation or cooperative.

(vii) "Services" shall mean full municipal services, including municipal sewers and water lines;

(viii) "Town" shall mean the Corporation of the Town of Lindsay;

(ix) "Works" shall mean the works as authorized by this by-law, namely, the reconstruction of Colborne Street West, as described on the attached Schedule "B", including the installation and construction of all new services pursuant to this by-law, such work not having been accounted for in the formulation of the Town's Development Charges By-law and the charges specified therein.

## **2.0 WORKS AND CONSTRUCTION**

2.1 The works and construction authorized by this by-law are those described in Schedules "B1", "B2" and "B3" attached to this by-law.

2.2 The estimated Costs of the Works and construction are set out in Schedule "C" attached to this by-law.

2.3 Nothing herein shall be deemed to prevent the Council from further amending this by-law or the estimated fees and charges specified herein, including in a way which introduces further fees and charges associated with the installation of sanitary sewers. This by-law shall be amended at the appropriate time(s) when the Estimated Costs identified in Schedule "C" of this By-law can be replaced with Actual Costs and the resulting Total Cost and resulting fees and charges attributable to each Benefitting Landowner are determined.

## **3.0 FEES AND CHARGES**

3.1 The owners of those lands in the Town described on the map attached as Schedule "A" are designated as Benefitting Landowners and shall be subject to the fees and charges imposed by this by-law, in the manner set out in Schedule "C" of this by-law.

3.2 Such fees and charges are due and payable by certified cheque to the Treasurer of the Town from each Benefitting Landowner in accordance with the following:

(1) Benefitting Landowners shall pay to the Treasurer of the Town of Lindsay, ½ of the BLC. Such amount shall be due and payable on or before the first day of January, 2007.

(2) The remaining ½ of the BLC, shall be due and payable on or before the first day of January, 2017.

3.3 Notwithstanding section 3.2 of this By-law, the full amount prescribed as BLC shall be immediately due and payable by certified cheque to the Treasurer of the Town of Lindsay if prior to the dates specified in paragraph 3.2(i) and/or 3.2(ii), any one of the following occur;

(1) the approval of an Official Plan Amendment introducing policies permitting a change or intensification of uses for all or any part of the Benefitting Landowner's lands;

(2) the coming into full force and effect of a Zoning By-law providing for a change or intensification of the use(s) on the Benefitting Landowner's lands affected by this by-law, or any part of those lands;

(3) the approval of an application for consent to sever; or

(4) the issuance of a building permit.

3.4 Notwithstanding sections 3.2 and 3.3 of this by-law, where only a portion of the Benefitting Landowner's lands are the subject of an Official Plan Amendment or Zoning By-law Amendment, the proportion of the BLC immediately due and payable from that Benefitting Landowner, shall be the greater of:

(i) the percentage of the Benefitting Landowner's lands subject to the Official Plan Amendment and Zoning By-law Amendment and, where there is both an Official Plan Amendment and Zoning By-law Amendment, the larger of the percentage of the lands affected; or

(ii) the percentage of the Benefitting Landowner's frontage along Colborne Street West which is the subject of the Official Plan Amendment of Zoning By-law Amendment and, where there is both an Official Plan Amendment and Zoning By-law Amendment, the larger of the percentage of the frontage affected.

The payment or payments by a Benefitting Landowner of a portion of the BLC pursuant to the foregoing in no way removes the Benefitting Landowner's obligations to pay the remainder of the BLC attributable to the remainder of the Benefitting Landowner's lands and/or frontage at the appropriate time, in accordance with paragraph 3.2 or 3.3 of this by-law, as the case may be.

3.5 Where a Benefitting Landowner obtains approval of an application for consent to sever, the BLC attributable to that Benefitting Landowner's lands, or any remaining portion of the BLC, as the case may be, shall be immediately due and payable in full by certified cheque to the Treasurer of the Town.

3.6 Where a Benefitting Landowner has had a building permit issued with respect to its lands, the BLC attributable to that Benefitting Landowner's lands shall be immediately due and payable in full by certified cheque to the Treasurer of the Town.

3.7 In the event that a Benefitting Landowner fails to make any payment as required by this by-law, then in recognition of the cost to the Town of interest incurred on the funds that would otherwise have been paid to the Town, the Town shall apply carrying charges on a monthly basis. These carrying charges will be applied at the monthly interest rates used by the Town's banker on Town's funds and will apply each month to the costs paid at the end of the previous month by the Town on behalf of the Benefitting Landowners. The defaulting Benefitting Landowner shall be responsible for reimbursing the Town for these carrying costs.

3.8 The fees and charges in Schedule "C" do not include interest charges and penalties, including the payment of collection costs, in respect of any fees and charges that are due and unpaid.

#### **4.0 FEES AND CHARGES TO BE ADDED TO TAX ROLL**

4.1 The Town may add the fees and charges authorized by this by-law to the tax roll of the real property described in Schedule "A" of this by-law and such fees and charges are payable in like manner as municipal taxes.

#### **5.0 INTEREST & PENALTIES**

5.1 In addition to any other remedies the Town may have to recover due and unpaid fees and charges, where the fees and charges in section 3.1 of this by-law remain unpaid as of the date they were required to be paid pursuant to this by-law, the Town may impose interest charges and penalties in respect of outstanding fees and charges against any defaulting Benefitting Landowner, including the costs associated with the collection of the fees and charges, at the monthly interest rates of the Town's banker on Town funds plus 1%.

**6.0 SEVERABILITY**

6.1 Should any section, subsection, clause, paragraph or provision of this by-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the by-law as a whole or any part thereof, other than the provisions so declared to be invalid.

**7.0 FORCE AND EFFECT**

7.1 This By-law shall come into force and take effect on the final day of passing.

Read the first time on:

*May 8, 1997*

Read the second time on:

*May 8, 1997*

Read a third time and  
finally passed on:

*May 8, 1997*

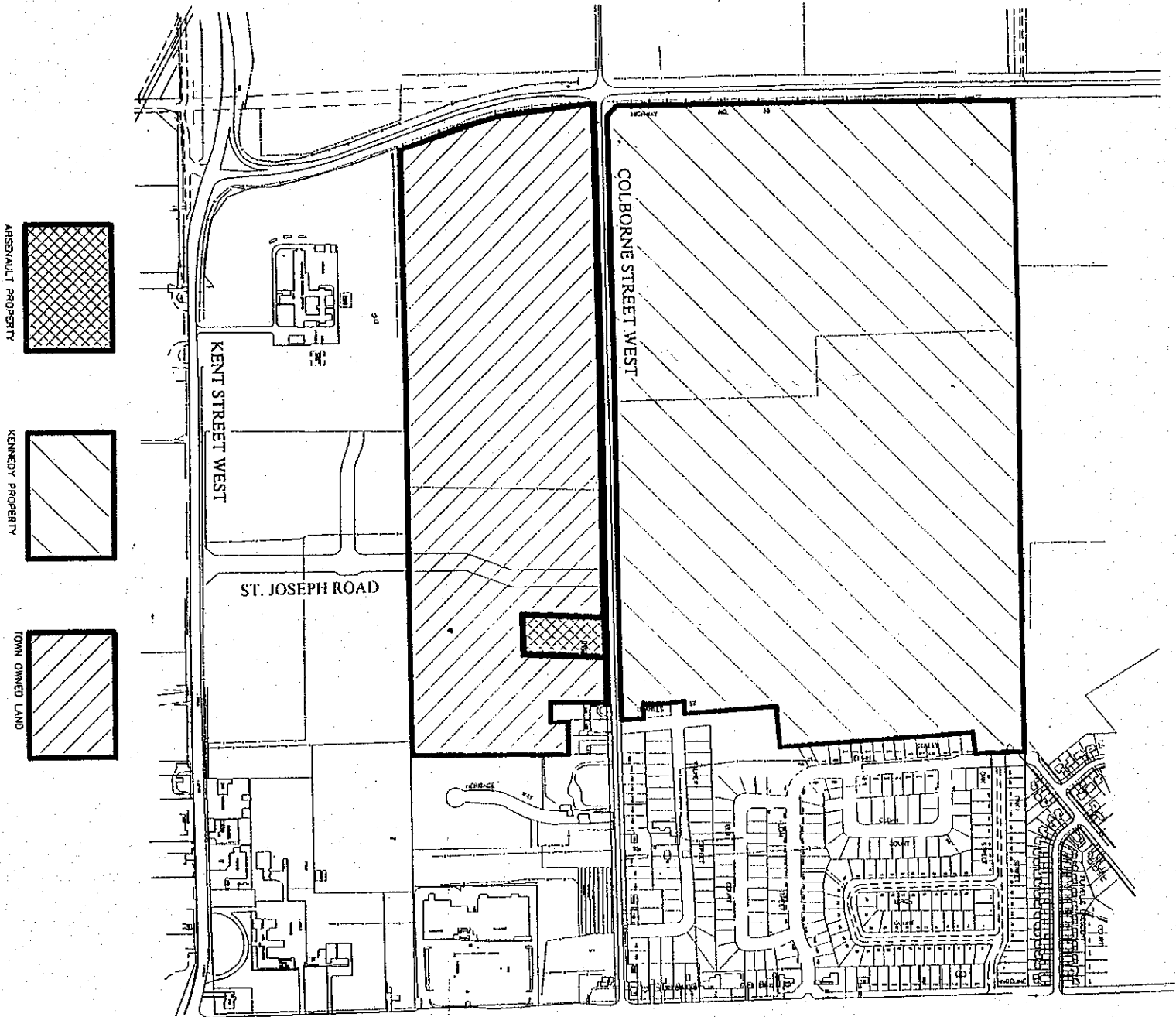
  
Mayor

  
Clerk

Path: G:\L\L\INDSAY\T56426\BY-LAW8.MTG

Schedule "A" to By-law 97-56

Benefitting Landowners

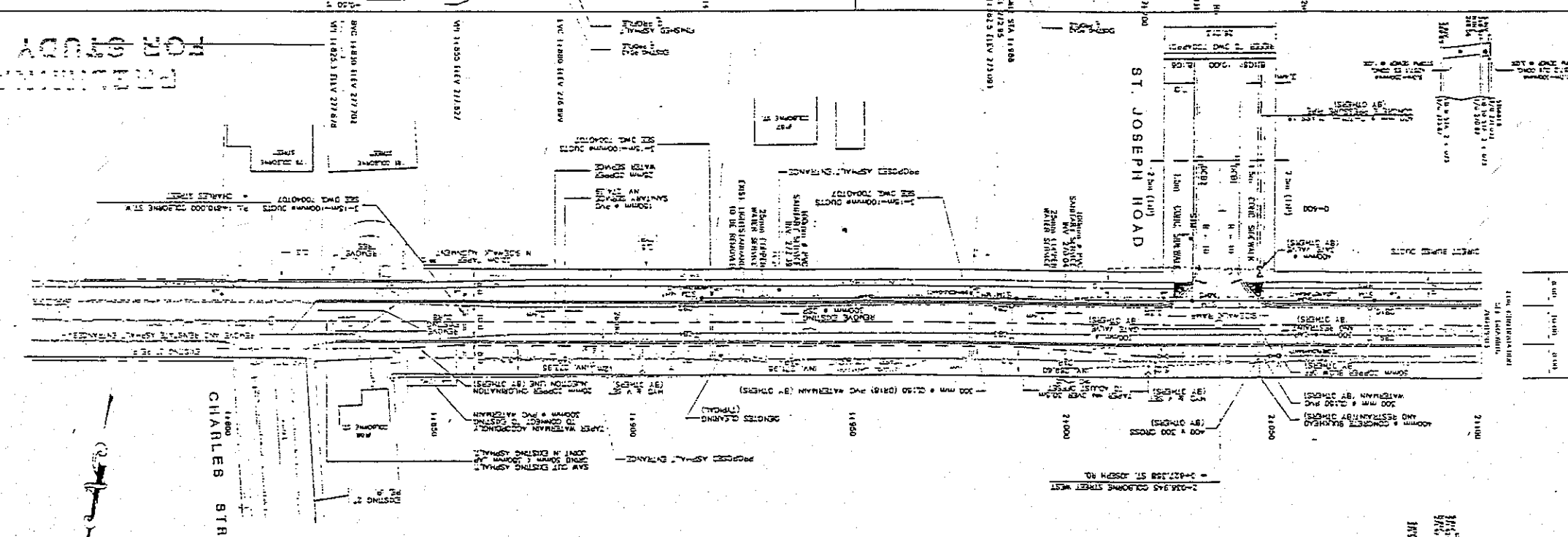


MARK E. LAVTON - 277.047m  
 CP OF NORTH-EST. ON FIRE HYDRANT 20m  
 NORTH OF COLBORNE ST. WEST ON CHARLES ST.

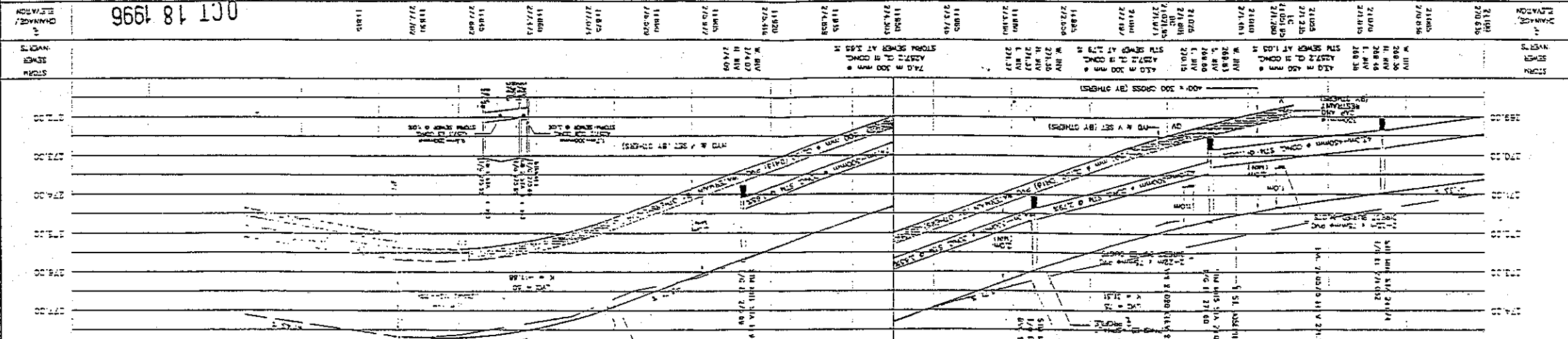
Schedule "B1" to By-law 97-56

LIMIT OF CONT. ACT  
 STA 1 + 82.5

# COLBORNE STREET WEST



PRELIMINARY  
 FOR STUDY ONLY









# Construction Cost Estimate -- Colborne Street West

D.M. Wills Associates Ltd.  
452 Charlotte Street  
Peterborough, Ontario  
K9J 2W3

## Schedule "C" to By-law 97-56

\*\* percentage breakdown by frontage along Colborne Street West

	Quantity	Unit Price	Estimated Cost	Town**		Arsenault**		Kennedy**	
<b>Road Construction</b>									
Removal/Disposal of Existing Asphalt	6,200 m <sup>2</sup>	3.00	\$18,600.00	46.44%	8,637.84	3.38%	628.68	50.18%	9,333.48
Clearing and Grubbing	ls		\$30,000.00	46.44%	13,932.00	3.38%	1,014.00	50.18%	15,054.00
Earth Excavation	6,650 m <sup>3</sup>	7.00	\$46,550.00	46.44%	21,617.82	3.38%	1,573.39	50.18%	23,358.79
150mm Subdrains	1,880 m	14.00	\$26,320.00	46.44%	12,223.01	3.38%	889.62	50.18%	13,207.38
Granular "B" (375mm)	8,600 t	7.50	\$64,500.00	46.44%	29,953.80	3.38%	2,180.10	50.18%	32,366.10
Granular "A" (150mm)	3,360 t	9.00	\$30,240.00	46.44%	14,043.46	3.38%	1,022.11	50.18%	15,174.43
Calcium Chloride	10 t	600.00	\$6,000.00	46.44%	2,786.40	3.38%	202.80	50.18%	3,010.80
Water for Compaction/Dust Control	600 m <sup>3</sup>	6.00	\$3,600.00	46.44%	1,671.84	3.38%	121.68	50.18%	1,806.48
Concrete Curb and Gutter	1,880 m	40.00	\$75,200.00	46.44%	34,922.88	3.38%	2,541.76	50.18%	37,735.36
HL8 Asphalt (40mm)	860 t	50.00	\$43,000.00	46.44%	19,969.20	3.38%	1,453.40	50.18%	21,577.40
HL4 Asphalt (40mm)	860 t	55.00	\$47,300.00	46.44%	21,966.12	3.38%	1,598.74	50.18%	23,735.14
HL3 Asphalt (40mm)	860 t	60.00	\$51,600.00	46.44%	23,963.04	3.38%	1,744.08	50.18%	25,892.88
Concrete Sidewalk	900 m <sup>2</sup>	45.00	\$40,500.00	93.21%	37,750.05	6.79%	2,749.95	0.00%	0.00
Topsoil/Sod	12,600 m <sup>2</sup>	5.00	\$63,000.00	46.44%	29,257.20	3.38%	2,129.40	50.18%	31,613.40
Streetlighting	20 ea	500.00	\$10,000.00	46.44%	4,644.00	3.38%	338.00	50.18%	5,018.00
<b>Sub-Total - Road Construction</b>			<b>\$556,410.00</b>		<b>\$277,338.65</b>		<b>\$20,187.71</b>		<b>\$258,883.64</b>
<b>Storm Sewers</b>									
Storm Sewers (all dia.)	1,030 m	140.00	\$144,200.00	46.44%	66,966.48	3.38%	4,873.96	50.18%	72,359.56
600mm x 600mm Catchbasin	22 ea	1,200	\$26,400.00	46.44%	12,260.16	3.38%	892.32	50.18%	13,247.52
600mm x 1400mm Double Catchbasin	2 ea	1,800	\$3,600.00	46.44%	1,671.84	3.38%	121.68	50.18%	1,806.48
1200mm Maintenance Holes	6 ea	2,500	\$15,000.00	46.44%	6,966.00	3.38%	507.00	50.18%	7,527.00
1500mm Maintenance Holes	2 ea	3,000	\$6,000.00	46.44%	2,786.40	3.38%	202.80	50.18%	3,010.80
1000mm C.S.P. Across Hwy. #35	1 ls	12,500	\$12,500.00	89.45%	11,181.25	1.99%	248.75	8.56%	1,070.00
Storm Water Management Pond	1 ea	45,000	\$45,000.00	89.45%	40,252.50	1.99%	895.50	8.56%	3,852.00
<b>Sub-Total - Storm Sewers</b>			<b>\$252,700.00</b>		<b>142,084.63</b>		<b>7,742.01</b>		<b>102,873.36</b>
<b>Others</b>									
Hydro System	1 ls	74,500	\$74,500.00	46.44%	34,597.80	3.38%	2,518.10	50.18%	37,384.10
Sanitary Laterals	2 ea	1,000	\$2,000.00	50%	1,000.00	50%	1,000.00		
Land Acquisition		10,000	\$10,000.00			100%	10,000.00		
<b>Sub-Total - Others</b>			<b>\$86,500.00</b>		<b>\$35,597.80</b>		<b>\$13,518.10</b>		<b>\$37,384.10</b>
<b>Sub-Total</b>			<b>\$895,610.00</b>		<b>\$455,021.08</b>		<b>\$41,447.82</b>		<b>\$399,141.10</b>
Consulting Fees (5%)			\$44,780.50		\$22,751.05		\$2,072.39		\$19,957.05
Contingencies (10%)			\$89,561.00		\$45,502.11		\$4,144.78		\$39,914.11
Inspection (5%)			\$44,780.50		\$22,751.05		\$2,072.39		\$19,957.05
<b>Total Estimated Cost / Total Fees</b>			<b>\$1,074,732.00</b>		<b>\$546,025.30</b>		<b>\$49,737.38</b>		<b>\$478,969.32</b>
			Charges Payable for Property						