

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

BY-LAW NO. 2018 - 51

Being a By-law to enter into an agreement with 1895507 Ontario Inc. to construct a year-round municipally maintained road on King Street between Albert Street and Victoria Street in the Village of Magnetawan.

WHEREAS Section 10 of *the Municipal Act, 2001, S.O 2001, C.25*, as amended, provides that a municipality may provide any thing that the municipality considers necessary or desirable for the public, including matters dealing with highways and the health and well-being of persons within the municipality;


AND WHEREAS it is deemed desirable to construct a road on King Street between Albert and Victoria Streets to enable development in Magnetawan;

NOW THEREFORE the Council of the Corporation Municipality of Magnetawan hereby enacts as follows:

1. **THAT** the Corporation of the Municipality of Magnetawan is hereby authorized to enter into an agreement with 1895507 Ontario Inc. to construct a year-round municipally maintained road on King Street between Albert Street and Victoria Street, attached hereto as Schedule 'A' and forming part of this By-law;
2. **THAT** the Mayor and Clerk-Administrator are hereby authorized to execute the Agreement on behalf of the Corporation.

READ A FIRST, SECOND, AND THIRD TIME, passed, signed and the Seal of the Corporation affixed hereto, this 25th day of July, 2018

**THE CORPORATION OF THE
MUNICIPALITY OF MAGNETAWAN**



Mayor



Clerk-Administrator

Council MTG. of Jul 25/18
Agenda Item # 8.1.

COST SHARING AGREEMENT

THIS AGREEMENT MADE BETWEEN:

1895507 ONTARIO INC.

(hereinafter called "189")
OF THE FIRST PART

- AND -

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS 1895507 Ontario Inc. is the owner of the "189 Lands";

AND WHEREAS Langford intends to develop the 189 Lands for residential purposes;

AND WHEREAS in order to be eligible for building permits for such purposes, the 189 Lands must have access from a year round maintained public road;

AND WHEREAS the Lands front upon a portion of King Street, Plan 319, located between Albert Street and Victoria Street which has not been improved for vehicular travel and which is not maintained year round by the Municipality;

AND WHEREAS the Municipality and 189 have agreed to share the cost of improving King Street such that, upon the completion of the improvements, the Municipality will assume it and commence regular maintenance thereof;

AND WHEREAS the costs of the improvements and all work related thereto will be shared by the Parties on an equal basis, with the Municipality's contribution subject to an upset limit of \$30,000.00;

AND WHEREAS the Municipality shall undertake and complete the improvements;

AND WHEREAS 189 shall pay to the Municipality its share of the costs as invoiced by the Municipality and provide a deposit therefore;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual presents, terms, covenants and conditions herein contained, and in consideration of the sum of TWO DOLLARS (\$2.00) now paid by each party to the other, (the receipt and sufficiency of which is hereby acknowledged), the parties hereto agree as follows:

DEFINITIONS

1. In this Agreement, unless something in the subject matter or context is inconsistent therewith:
 - a. "**189 Lands**" means those lands described as Lots 18 and 19 E/S King Street, Plan 319 Magnetawan, (PIN52081-0138), Lots 18 and 19 W/S King Street, Plan 319 Magnetawan, (PIN52081-0109), and Lots 20 and 21 W/S King Street, Plan 319 and Lots 20 and 21, E/S Queen Street, Plan 319, Magnetawan, (PIN52081-0108);
 - b. "**189's Share**" means the greater of:

- i. an amount equal to 50% of the total of the actual cost of the items set out in section 2(a) through (d) inclusive; or
 - ii. an amount equal to the total cost of the items set out in section 2(a) through (d) inclusive less Thirty Thousand Dollars.
- c. **"Municipal Lands"** means King Street, Plan 319, North of Victoria Street and South of Albert Street; Magnetawan being all of the lands described in PIN 52081-0561;
 - d. **"Municipal Services"** means the public highway designed and constructed to applicable municipal standard for a gravel surfaced road way and drainage works; such Municipal Services shall include the supply and application of dust suppressant (calcium chloride) for one year.

APPLICATION OF COST SHARING

- 2. The Parties acknowledge and agree share the cost of the installation of the Municipal Services on the Municipal Lands and that such cost sharing applies to the following:
 - a. design, supervision and construction of the Municipal Services;
 - b. surveying and plan preparation;
 - c. legal costs concerning the preparation of this agreement;
 - d. applying for and obtaining any necessary governmental approvals.

Upon completion of the work by the Municipality, the Municipality shall provide a detailed summary of the actual costs of items (a) through (d) inclusive and shall show the amount of the deposit supplied under section 6 of this agreement as a credit against the amount owing by 189. Where the amount of the deposit is less than 189's Share, 189 shall pay the outstanding amount within 30 days, after which date interest shall be payable at a rate of 15% per annum. The Municipality shall withhold passing any by-law assuming the public highway until such time as the balance owing has been paid in full.

Where the deposit is greater than 189's Share, the Municipality shall refund the excess amount to 189 within 30 days.

CONDUCT OF WORK

- 3. The parties acknowledge and agree that Municipality will perform and conduct all work to which the cost sharing applies, as set out in section 2 herein, except any such work which is expressly stated to be the obligation of 189. The "work program" to complete the Municipal Services is set out in Schedule "A" hereto.

189's WORK AND ACCEPTANCE OF MATERIAL EXCAVATED FROM MUNICIPAL LANDS

- 4. 189 agrees and acknowledges that material excavated from the Municipal Lands in the conduct of constructing the Municipal Services may be deposited upon 189's Lands. Whereupon 189 no longer requires such excavated material, it shall supply such equipment and operators at its own cost to remove and deliver the excavated material to a site designated by the Municipality.

189 agrees that any excavated material deposited on 189's Lands is accepted on an "as is" basis and that the Municipality has not made any representations concerning and does not warrant the condition of such excavated material.

189 acknowledges and agrees that work conducted by 189 is not eligible or applicable to cost sharing.

COST ESTIMATES

- 5. The Parties agree that the estimated cost of the items set out in section 2 are as set out in Schedules "B" and "C".

DEPOSIT FOR COST SHARING PAYMENT

6. 189 agrees that it shall submit to the Municipality a deposit in the amount of \$41,690.00 (calculated in Schedule "B") which may be applied by the Municipality to the amount owing by 189 under section 2.

ENTRANCES/DRIVEWAY APRONS

7. 189 acknowledges and agrees that construction of entrances from 189's Lands to the newly constructed King Street may require an entrance permit and that construction of any entrance (including driveway apron) is at the sole cost and expense of the then owner of 189's Lands (or portions thereof).

ASSUMPTION BY-LAW

8. Upon completion of the Municipal Services and the full payment of the amounts owing by 189 to the Municipality under this agreement, the Municipality shall assume the road pursuant to section 31(4) of the *Municipal Act, 2001* through adoption of an "assumption by-law".

INDEMNIFICATION FROM LIABILITY AND RELEASE

9. 189 covenants and agrees to release and forever discharge the Municipality from and against all claims, demands, causes of actions, of every nature and type whatsoever that may arise either as a result of the failure of the Municipality to carry out any of its obligations under this Agreement, or, as a result of the Municipality performing any work on the Municipal Lands or on 189's Lands, including without limitation the deposit of excavated materials thereon or as a result of the condition of such excavated material which may damage or interfere with 189's Lands or use thereof, provided that such default, failure or neglect was not caused as a result of negligence on the part of the Municipality, OPDC, its officers, servants, agents and employees.

COMPLIANCE WITH LAW

10. Each of the parties hereto, shall, in performing its obligations and exercising its rights under this Agreement, comply with all applicable rules, zoning by laws, development agreements, private agreements, laws, orders, ordinances, regulations and requirements of any of the Governmental Authorities. This Agreement shall be read and construed in accordance with the laws of the Province of Ontario, and the parties hereby submit to the jurisdiction of the Courts of the Province of Ontario.

NOTICE

11. Any notice to be given by either party under this Agreement may be given by:

- (a) personal service on the parties hereto; or
- (b) by mailings or by facsimile to the Municipality and 189 respectively at:

Municipality of Magnetawan, 4304 Hwy 520, PO Box 70 Magnetawan, ON
P0A 1P0, 705.387.4875


1895507 ONTARIO INC.,

If any notice is sent by regular mail, it shall be deemed to have been received on the fourth day following the date of mailing. If any notice is sent by facsimile, it shall be deemed to have been mailed and received on the date of sending.

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and permitted assigns.

IN WITNESS WHEREOF the 1895507 Ontario Inc. has hereunto set its hands and seals this day of July 18, 2018.

1895507 ONTARIO INC.

per: 
Name: Mark Langford
Title: President

I have authority to bind the Corporation.

IN WITNESS WHEREOF the Municipality as hereunto sets its hands and seals this ^{25th} day of July, 2018.

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

Per: 
Mayor: Sam Dunnett

Per:  c/s
Clerk: Andrew Farnsworth

This is Schedule "A" to the Cost Recovery Agreement Between the Corporation of the Municipality of Magnetawan and 1895507 Ontario Inc.

SCHEDULE "A"

MUNICIPAL SERVICES AND WORK PLAN

1. Check for Existing Survey Monuments

The Municipal Public Works Department (PWD) will perform the search for existing survey monuments such as S.I.Bs, bench marks etc. However, if such evidence is not found, the services of an OLS will be required. This is a "provisional cost" which has not been included in the work cost estimate, but which is expressly a cost to be shared.

2. Layout of Road Platform, Shoulders and Drainage Works

This operation is based upon the existing survey monuments and involves identifying the road platform and associated geometry using optical surveying equipment and chain, and wooden stakes. This work will be conducted by PWD personnel.

3. Clearing & Grubbing

This is the removal of the organic A horizon and partial B horizon soils as well as cutting and grubbing any trees and bushes. Most of the trees are scrubby and are located at the south end of the Municipal Land. This operation will expose the road sub-base at 12+/- metres wide. The material removed will be mostly organic and may be of use to 189 for development of 189's Lands. 189 shall be responsible for providing equipment (trucks) and drivers to deliver excavated material to 189's Lands where applicable.

The PWD will perform excavation with Municipal equipment and will deposit excavated material on 189's Lands where possible.

4. Road Base Construction

It is assumed that the existing sub-base is primarily clay and therefore the base will be layered as follows; up to 500mm of Gran C or pit run building a platform 11m wide at the bottom and 9m wide at the top. The material will be delivered by a supplier chosen by the Municipality, with supervision, grading and compaction shall be performed by the PWD crew.

Similarly, 200mm to 250mm of Gran B shall be placed on top of the pit run with a bottom width of approx. 8.8m and a top width of approx. 6.6m. The material will come from a qualified supplier and will be graded and compacted PWD forces.

The final tier in the base will be Granular A, preferably 7/8" quarried granite. This layer shall be 150mm thick (min) and 6.4m wide at the bottom and 6.1m to 6.2m on the top. This material shall be delivered from a qualified quarry and graded and compacted by the PWD.

5. Ditching & Drainage

The ditches will be cut parallel to the roadway adjacent to the pit run layer at a depth of 300mm (min) below the bottom of the Granular A layer (travel surface). The ditches shall be cut v-section a minimum bottom width of 500mm. Ditch work shall include outlet preparation, also. This work shall be done by the PWD, and the spoil shall be deposited on 189's Lands unless 189 supplies equipment and labour to remove the material to an off-site location designated by the Municipality.

This is Schedule "B" to the Cost Recovery Agreement Between the Corporation of the Municipality of Magnetawan and 1895507 Ontario Inc.

SCHEDULE "B"

CASH DEPOSITS AND SECURITY

189 shall prior to execution of this Agreement by the Municipality, make the following deposits by way of certified cheque or bank draft.

Deposit

based upon

Cost of Municipal Services	\$67,690.00
Cost of Surveying Work	\$2,500.00
Cost of Legals	<u>\$1,500.00</u>
	\$71,690.00
	<u>(\$30,000.00)</u>
	<u>\$41,690.00</u>

This is Schedule "B" to the Cost Recovery Agreement Between the Corporation of the Municipality of Magnetawan and 1895507 Ontario Inc.

SCHEDULE "B"

Cost Estimation for King Street construction to Modified Municipal Standard - Update September 25, 2017

<u>Operation or Material</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Total</u>	<u>Comments</u>
Clearing and Grubbing	1 acre	\$ 7,000.00	\$ 7,000.00	Based on 66' x 656' lightly wooded, mostly level
Pit run, 450 - 500mm	1500m.t.	\$ 10.50	\$ 15,750.00	Base
Gran B, 250mm	600m.t.	\$ 11.50	\$ 7,000.00	Intermediate coarse
Gran A, 125mm	300m.t.	\$ 14.50	\$ 4,500.00	Travel surface
Grading & Compaction	4,800sq.m	\$ 2.50	\$ 12,000.00	G & C for each horizon incl. final grade
Ditching	400m	\$ 12.50	\$ 5,000.00	exact requirement unknown
Culverts	5 pcs	\$ 500.00	\$ 2,500.00	Lot Entrances
Calcium Chloride	3,600L	\$ 0.40	\$ 1,440.00	Dust Control, 1st year only
Driveway Aprons	5	\$ 500.00	\$ 2,500.00	5 to 8MT per
Mobilization & Contingency			\$ 10,000.00	
			<u>\$ 67,690.00</u>	