

THE RURAL MUNICIPALITY OF ROSSER

By-law No. 8-22

BEING a By-Law of the Rural Municipality of Rosser (the "Municipality"), as it relates to the lands known as the Rosser CentrePort Lands ("RCPL") and which are depicted in the sketch attached as Schedule "A".

WHEREAS pursuant to Section 11(1) of *The Planning Act*, the lands depicted in Schedule "A" have been designated as the Inland Port Special Planning Area;

AND WHEREAS pursuant to Section 12(1)(a) of *The Planning Act*, the minister has adopted a development plan by-law and a zoning by-law by way of Regulation 48/2016;

AND WHEREAS *The Planning Act* provides the Municipality with authority as follows:

I. As to an amendment to a zoning by-law:

81 As a condition of making an amendment to a zoning by-law, the board or council may require the owner of the affected property to enter into a development agreement under section 150.

II. As to making a variance order:

98(1) In making a variance order under clause 97(1)(b), the board, council or planning commission may

(a) impose any conditions on the applicant or the owner of the affected property that it considers necessary to meet the requirements of clause 97(1)(b); and

(b) require the owner of the affected property to enter into a development agreement under section 150.

III. As to approving a Permitted Use with Specific Standards

106(2) When approving an application for a conditional use, the board, council or planning commission may, subject to section 107 and subsections 116(2) and (3) (conditions on livestock operations),

(a) impose any conditions on the approval that it considers necessary to meet the requirements of clause (1)(b); and

(b) require the owner of the affected property to enter into a development agreement under section 150.

IV. As to a subdivision application:

125(1) Upon receiving the application and a copy of the planning report from the approving authority, the council must consider the application and decide, by resolution,

(a) to reject it; or

(b) to approve the application, with or without any of the conditions described in section 135.

AND WHEREAS Sections 135 and 150 of *The Planning Act* provide as follows:

135 A subdivision of land may be approved subject to one or more of the following conditions, which must be relevant to the subdivision:

1. Any condition necessary to ensure compliance with this Act or another Act, or the regulations made under them, or a development plan by-law, secondary plan by-law or zoning by-law.

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2. Any condition necessary to satisfy the requirements of a municipal by-law, including the payment of subdivision examination fees and capital levies, and the requirement to pay property taxes.

3. A condition that the applicant enter into a development agreement with the government, the municipality or a planning district, as required, respecting

(a) the construction or maintenance — at the owner's expense or partly at the owner's expense — of works, including, but not limited to, sewer and water, waste removal, drainage, public roads, connecting streets, street lighting, sidewalks, traffic control, access, connections to existing services, fencing and landscaping; and

(b) construction or payment by the owner of all or part of the capacity of works in excess of the capacity required for the proposed subdivision.

4. Any condition recommended or required by a government department or other entity to which the application was referred by the approving authority.

5. Any condition necessary for the proper design of the subdivision or to implement the reorganization of titles.

6. A condition that the applicant dedicate the following land, without compensation:

(a) land for adequate public roads and municipal services in the subdivision;

(b) land for public reserve purposes, not exceeding 10% of the land being subdivided, but only if the land is being divided into parcels of less than 4 hectares;

(c) land for school purposes, not exceeding 10% of the land being subdivided;

(d) land not suitable for building sites or other development because it is unstable, subject to severe flooding, required for source water protection, or is otherwise unsuitable because of topographical or subsurface features, such as wetlands, gullies, ravines, natural drainage courses, creeks, ponds or lake beds;

(e) shore lands designated in a development plan by-law as land to be dedicated upon subdivision as a Crown reserve or a public reserve, including land that is or might be required to provide access to shore lands.

7. As an alternative to dedicating land under item 6(d) or (e), a condition that the applicant enter into a development agreement with the government, the municipality, or the planning district as required, whereby the applicant agrees to conditions limiting, regulating or prohibiting any use, activity or development on the land.

8. A condition that a zoning by-law be amended.

150 As a condition of amending a zoning by-law, making a variance order or approving a conditional use, a board, council or planning commission may, unless this Act provides otherwise, require the owner of the affected property to enter into a development agreement with the planning district or municipality in respect of the affected property and any contiguous land owned or leased by the owner dealing with one or more of the following matters:

(a) the use of the land and any existing or proposed building;

(b) the timing of construction of any proposed building;

(c) the siting and design, including exterior materials, of any proposed building;

(d) the provision of parking;

(e) landscaping, the provision of open space or the grading of land and fencing;

(f) the construction or maintenance — at the owner's expense or partly at the owner's expense — of works, including but not limited to, sewer and water, waste removal, drainage, public roads, connecting streets, street lighting, sidewalks, traffic control, access and connections to existing services;

(g) the payment of a sum of money to the planning district or municipality in lieu of the requirement under clause (f) to be used for any of the purposes referred to in that clause;

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(h) the dedication of land or payment of money in lieu thereof, where the application is for an amendment to a zoning by-law to permit a residential use, use for a mobile home park or an increase in residential density, in which case item 6 of section 135 applies to the dedication.

AND WHEREAS Sections 142(1) and (2) and Sections 143(1) and (2) of *The Planning Act* provide as follows:

142(1) A board or council may, by by-law, set the fees and charges to be paid by applicants.

142(2) Fees and charges may relate to technical, administrative, professional, consultative or other services required by the municipality or planning district to examine and approve a subdivision application.

143(1) A Council may, by by-law, set the levies to be paid by applicants to compensate the municipality for the capital costs specified in the by-law that may be incurred by the subdivision of land.

143(2) A council must establish a reserve fund under The Municipal Act into which the levies are to be paid.

AND WHEREAS it is deemed expedient and in the public interest to regulate such capital levies, fees and charges in order that the owner/developer/agent is responsible for said capital levies, fees and charges;

AND WHEREAS Council of the Municipality has reviewed the existing capital infrastructure of the Municipality and the anticipated future demands within the Municipality and within the RCPL which may be placed on the infrastructure, and on the Municipality in general, including those set out in Schedule "B";

AND WHEREAS the Council of the Municipality deems it prudent and in the best interests of the Municipality to ensure that a sufficient capital levy is obtained relating to lots affected by zoning by-law amendments, variance orders, and permitted uses with specific standards applications for lands/lots within the RCPL and relating to all new lots created by subdivision within the RCPL to ensure that the capital levies, fees and charges are obtained to contribute to the anticipated necessary capital development, capital repairs, expansion, replacement and renewal of the capital infrastructure of the RCPL and the Municipality;

AND WHEREAS the Council of the Municipality has established by By-Law reserves for the purpose of funding future capital expenditures for municipal infrastructure and service requirements;

AND WHEREAS the Council of the Municipality desires to enact a by-law prescribing the scale of levies to be paid by an applicant for a zoning by-law amendment, a zoning variance, a permitted use with specific standards application, and all new lots created by subdivision of lands and from all new units in any building, as compensation to the Municipality for capital costs to be incurred within the RCPL and the Municipality pursuant to Section 143(1) of *The Planning Act* and establishing a reserve fund for those capital levies.

AND WHEREAS Section 232(2) of *The Municipal Act* of Manitoba authorizes Council to pass a By-law establishing fees and other charges and terms for payment;

232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division

(a) regulate or prohibit;

(b) adopt by reference in whole or in part, with any changes the council considers necessary or advisable, a code or standard made or recommended by the Government of Canada or a province or a recognized technical or professional organization, and require compliance with the code or standard;

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(c) deal with any development, activity, industry, business, or thing in different ways, or divide any of them into classes and deal with each class in different ways;

(d) establish fees or other charges for services, activities or things provided or done by the municipality or for the use of property under the ownership, direction, management or control of the municipality;

(e) subject to the regulations, provide for a system of licences, permits or approvals, including any or all of the following:

(i) establishing fees, and terms for payment of fees, for inspections, licences, permits and approvals, including fees related to recovering the costs of regulation,

(ii) establishing fees for licences, permits and approvals that are higher for persons or businesses who do not reside or maintain a place of business in the municipality,

(iii) prohibiting a development, activity, industry, business or thing until a licence, permit or approval is granted,

(iv) providing that terms and conditions may be imposed on any licence, permit or approval, and providing for the nature of the terms and conditions and who may impose them,

(v) providing for the duration of licences, permits and approvals and their suspension or cancellation or any other remedy, including undertaking remedial action, and charging and collecting the costs of such action, for failure to pay a fee or to comply with a term or condition or with the by-law or for any other reason specified in the by-law, and

(vi) providing for the posting of a bond or other security to ensure compliance with a term or condition;

(f) except where a right of appeal is already provided in this or any other Act, provide for an appeal and the body that is to decide the appeal, and related matters;

(g) require persons who do not reside or have a place of business in the municipality to report to the municipal office before conducting business in the municipality; and

(h) require pawnbrokers to report all transactions by pawn or purchase to the head of council or to the police.

NOW THEREFORE BE IT ENACTED as a by-law of the Rural Municipality of Rosser as follows:

1. THAT the purpose of this by-law is:

- a. to provide for the imposition of capital levies on lots affected by the amendment of a zoning by-law;
- b. to provide for the imposition of capital levies on lots affected by the making of a variance order;
- c. to provide for the imposition of capital levies on lots where uses may be permitted under the zoning by-law and are subject to permitted uses with specific standards;
- d. to provide for the imposition of capital levies as on all new lots created by subdivision of lands and units/buildings created by condominium property regime within the RCPL and all units/buildings in the condominium;
- e. to provide for the imposition and recovery of costs for future municipal improvement costs including developing, repairing, expanding, replacing or renewing the capital infrastructure of the Municipality and the enforcement of municipal bylaws within the RCPL;

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- f. to provide for the reimbursement of the construction of excess capacity by a developer and the imposition of excess costs to owners of other lands benefitted by the excess capacity where an owner has constructed or paid for all or part of the capacity of a public works in excess of the capacity required for the owner's proposed development;
 - g. to provide for the reimbursement of the construction of excess capacity and the imposition of excess costs where the municipality has contributed or paid for the excess capacity of a public works in excess of the capacity required for a development and for the reimbursement from owners of other lands benefitted by the excess capacity;
 - h. to provide fees and charges for professional and like services required in consideration of zoning by-law amendments, variance orders, permitted uses with specific standards applications and subdivision applications;
 - i. at the discretion of Council, to provide for the establishment of reserve funds for such levies set out above.
2. **THAT** this By-law shall affect all and only the lands within the RCPL.
3. **THAT** where additional studies, professional opinions, technical studies, public hearings, studies are required prior to a zoning by-law amendment, variance application, permitted use with specific standards application or a subdivision receiving consideration from Council, the owner/developer/agent shall agree that the actual cost of any and all services required will be borne by the owner of the lands.
4. **THAT** where Council approves the zoning by-law amendment, variance application, permitted use with specific standards application or subdivision subject to a development agreement, the owner/developer/agent is responsible to pay all technical, professional, consultative, or other services required by the Municipality to prepare and register the development agreement on all lands affected by the development agreement.
5. **THAT** actual costs incurred by the Municipality may be billed to the owner/developer/agent in interim stages. All costs incurred shall be an amount owing to the Municipality by the owner of the property and may be collected by the Municipality in the same manner as a tax against the land.
6. **THAT** a capital levy be assessed, charged and imposed upon any applicant for a zoning by-law amendment, a variance application, a permitted use with specific standards application and from all new lots or units in any building within the RCPL and the Municipality granted subdivision approval in accordance with the prescribed fees set forth in Schedule "C" to this By-law.
7. **THAT** the Chief Administrative Officer is hereby authorized to increase annually any fee imposed pursuant to this By-law by an amount equal to or less than the rate of inflation. Where a fee has not been increased for a year or more, the Chief Administrative Officer may increase the fee by the cumulative rate of inflation, compounded annually, since the year in which the fee was last increased, provided that such cumulative fee increase must not exceed 5% for the period of time prior to 12 months preceding the cumulative fee increase. For the purposes of this section, "rate of inflation" means the annual average change in construction inflation.
8. **THAT** where units are constructed upon a small parcel (less than 20 acres), a capital levy be calculated and charged upon any applicant requiring a building permit for a unit in any new building in accordance with the prescribed fee structure set forth in this By-law.

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9. **THAT** the Council may in their absolute discretion in development agreements allow for an alteration in capital lot levies where the zoning by-law amendment (re-zoning), subdivision, and/or variance or permitted use with specific standards will not immediately require services or where the lot sizes are considered by Council, in their absolute discretion, such that capital lot levies, on a per acre basis, should be altered.
10. **THAT** dedication fees shall be paid as a condition of zoning by-law amendments, variance applications, permitted use with specific standards applications and subdivision approvals and said matter shall not be approved:
 - a. except subject to a condition requiring the payment of the applicable capital levies, fees and charges;
 - b. until such capital levies, fees and charges have been paid or arrangements satisfactory to the Municipality for the payment of the capital levies, fees and charges have been made, including, if required, the posting of security to ensure payment of the capital levies, fees and charges in accordance with such arrangement;
11. **THAT** the Municipality may create reserve funds for the purposes of capital levies paid to the Municipality pursuant to this By-law and funds paid into the reserve funds shall be used for any purposes related to costs associated with the development of lands including developing, repairing, expanding, replacing or renewing the capital infrastructure of the Municipality and the enforcement of municipal bylaws within the RCPL.
12. **THAT** this By-Law shall come into force and take effect upon third reading and passing of this by-law and shall apply to all conditional letters of approval issued by the *Inland Port Special Planning Authority* dated after this date.
13. **THAT** should any provision of this By-Law be declared to be invalid by a court of competent jurisdiction, it is the intent of Council of the Rural Municipality of Rosser that it would have passed all other provisions of this By-Law independent of the elimination of any such portion as may be declared invalid.
14. **THAT** By-law No. 5-2016 is repealed upon third reading and passing of this by-law.

DONE AND PASSED by the Council of the Rural Municipality of Rosser, in Council, duly assembled at 0 077E PR221, Rosser in the Province of Manitoba, this 27th day of September, 2022.

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Frances Smees, Reeve



Larry Wandowich, Chief Administrative Officer

RECEIVED First Reading September 13th, 2022

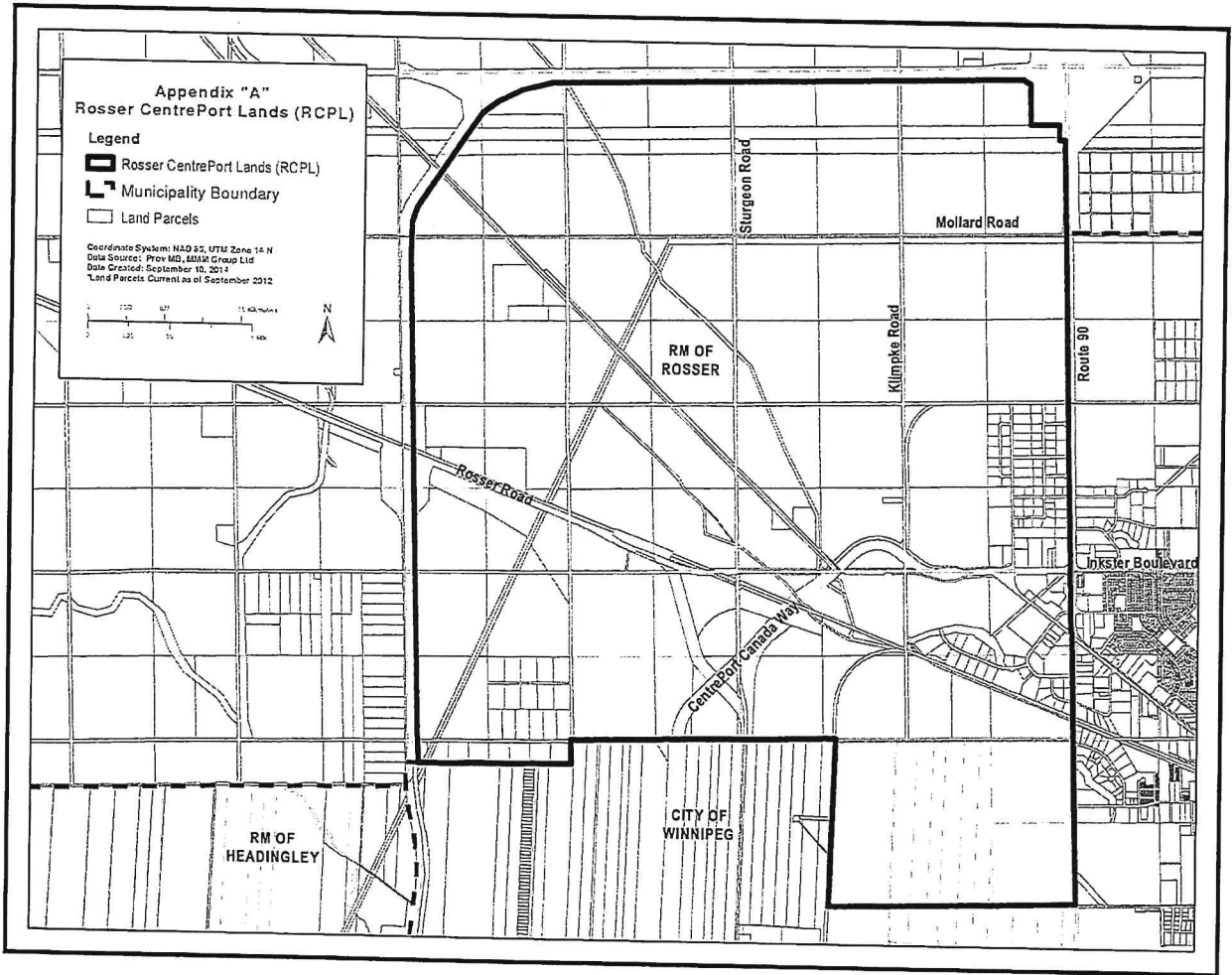
RECEIVED Second Reading September 27th, 2022

RECEIVED Third Reading September 27th, 2022

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SCHEDULE "A" TO BY-LAW NO. 8-22



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SCHEDULE "B" TO BY-LAW NO. 8-22

1. Drainage Study/system;
2. Water and sewage treatment and distribution system;
3. Fire and Police (protection services) and major equipment purchase;
4. Roads and road systems (maintenance and improvement of existing roads);
5. Public works building(including protective services) and major equipment (long term planning);
6. Parks and walkways;
7. Nuisance grounds, environmental collection and refuse collection areas and equipment, if not otherwise a private enterprise service;
8. Other capital works, structures and equipment.

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SCHEDULE "C" TO BY-LAW NO. 8-22

Capital Development Levies

As a condition of approval of subdivision, variance application or permitted use with specific standards, the applicant shall pay a capital levy of:

Development Charge/Fee	Fixed Amount	Amount Per Acre
Contribution to Public Forum Expenses/Electronic Access	\$1,600.00	
Administration Fee	\$3,350.00	
ⁱ Actual Costs for: Legal, Consulting, Engineering & Advertising Costs	Actual Costs	
ⁱⁱ Dedication Fee	10% of assessed land value	
Capital Lot Levy for Fire		\$1,532.00
Regional Water Treatment Plant, Trunk Line to the Reservoir, Reservoir and Pump Station		\$2,680.00
Capital Water Feedermain Contribution Levy		\$19,108.00
Capital Sewer Forcemain & Interceptor Contribution Levy		\$34,407.00
Development related plans/studies including storm water management, transportation, and land use planning		\$275.00
Parks and Walkways		\$800.00
Transit		\$1,610.00
Municipal Roads and Related Infrastructure including signalization		\$5,375.00
Storm Water Drainage		\$2,000.00
Off-Site Levy		\$5,000.00
Oversize Improvements		\$2,000.00
ⁱⁱⁱ City of Winnipeg - Up-Front Fee:		
Based upon developed assessed market value for each New Property that is a commercial, industrial and other non-residential property, a charge equal to Three Thousand Four Hundred and Seventy (\$3,470.00) Dollars for each Five Hundred Thousand (\$500,000.00) Dollars of Developed Assessed Market Value		
^{iv} City of Winnipeg - Utilities Buy-In Charge:	Set Amount	
5/8 inch Water Meter for wastewater service	\$3,000.00	
3/4 inch Water Meter for wastewater service	\$4,500.00	
1 inch Water Meter for wastewater service	\$7,500.00	
1 1/2 inch Water Meter for wastewater service	\$15,200.00	
2 inch Water Meter for wastewater service	\$24,300.00	
2 1/2 inch Water Meter for wastewater service	\$45,600.00	
4 inch Water Meter for wastewater service	\$70,350.00	
Total Fixed Amounts:	\$4,950.00	
^v Total Per Acre Amounts:		\$74,787.00

ⁱ Actual Costs to be paid in addition to Capital Lot Levies

ⁱⁱ Dedication Fee to be paid in addition to Capital Lot Levies

ⁱⁱⁱ City of Winnipeg Up-Front Fee (pursuant to 2022 Fees and Charges Schedule), to be paid in addition to Capital Lot Levies

^{iv} City of Winnipeg Utilities Buy-In Charge (pursuant to 2022 Fees and Charges Schedule), to be amended from time to time by the City of Winnipeg, to be paid in addition to Capital Lot Levies

^v Total does not include Actual Costs, Dedication Fee, City of Winnipeg Up-Front Fee or City of Winnipeg Utilities Buy-In Charge

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I. WHITELAND / BROOKPORT DEVELOPMENT

A. Whiteland Services Ltd. – Front Ending Agreement

1. Wastewater Improvements (Oversizing)

Total Cost: \$344,500.00

Total Acres: 226.03

Percentage of Proportionate Share Paid By Roll Number

- 1) North of BrookPort - Roll No. 91000 (146.03 acres) shall pay 65% of the Proportionate Share = \$223,925.00

2. Intersection Improvements including Acquisition for Intersection Lands

Total Cost: \$933,342.94

Total Acres: 322.07

Percentage of Proportionate Share Paid By Roll Number

- 1) BrookPort 2 - Roll No. 91450 (80 acres) shall pay 25% of the Proportionate Share

= \$233,335.74

- 2) BrookPort 3, BrookPort 4 and Kelly's Trucking shall pay 45% of the Proportionate Share, which is as follows:

BrookPort 3 (89.40 acres) and Brookport 4 (29.51 acres) - Roll No. 91500

= \$346,825.00

Kelly's Trucking – Roll No. 91500 (25.01 acres)

= \$73,179.32

- 3) Roll No. 90800 (20.06 acres) shall pay 5% of the Proportionate Share

= \$46,667.15

A. Rural Municipality of Rosser

1) Signalization

Total Cost: \$411,000.00

One-Time Contribution

- 1) NW corner of intersection – Whitelands Roll No. 91400 shall pay 25% of the Proportionate Share = \$102,750.00

2) Forcemain Use – Capital Contribution (Farmer Avenue and the Interceptor)

Total Cost: \$450,000

One-Time Contribution

- 1) 50% of the estimated construction costs (through LI2)

3) Lift Station Upgrades

Total Cost: \$710,000.00 estimated (actual costs to be paid)

- 1) Mollard – Roll No. 91000 shall pay = \$324,189.25 (estimated)

- 2) BrookPort 3 - Roll No. 91500 shall pay = \$239,524.95 (estimated)

- 3) BrookPort 4 - Roll No. 91500 shall pay = \$79,064.67 (estimated)

- 4) Kelly's Trucking - Roll No. 91500 shall pay = \$67,222.38 (estimated)

II. STEELE / INKSPORT DEVELOPMENT

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A. Steele Business Park GP Ltd.

1. Red Fife Way Upgrade and cul-de-sac (Front-ending Repayment)

Total Cost: \$243,900.00 estimated (actual costs to be paid)

Percentage of Proportionate Share Paid By Roll Number

- 1) Steele - Roll No. 86300 shall pay 50% of the Proportionate Share
= \$121,950.00
- 2) Inksport - Roll No. 81600 shall pay 50% of the Proportionate Share
= \$121,950.00

2. Red Fife Road Multipurpose Path

Total Cost: \$46,510.00 estimated (actual costs to be paid)

- 1) Steele - Roll No. 86300 shall pay the total cost

B. Rural Municipality of Rosser

1. Roadway Upgrades

Total Cost: \$659,007.00

Total Acres: 118.41

Per Acre Cost: \$5,565.47

One-Time Contribution

- 1) Steele - Roll No. 86300 shall pay for 17.19 acres = \$95,670.39
- 2) Inksport - Roll No. 81600 shall pay for 101.22 acres = \$ 563,336.61

2. Lift Station Upgrade

Total Cost: \$250,000.00

Total Acres: 85.19

One-Time Payment

- 1) Inksport - Roll No. 81600 shall pay for 68 acres = \$210,000.00

III. MANITOBA WATER SERVICES BOARD ("MWSB") DEVELOPMENT

A. MWSB / Rosser

1. Waterline / Pipe

Total Cost: \$625,302.48

Total Acres: 666.92

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MWSB Water Line

Total Cost: \$625,918.29

Roll No	Name	Acres	Amount	Comments
81800	John Hiebert	1.51	\$ 1,417.17	
86400	Katherine Healey	1.18	\$ 1,107.45	
86630	SuYuen Sung Tak	13.57	\$ 12,735.73	
86650	10030225 Manitoba Ltd.	10.18	\$ 9,554.14	
86750	Brian Roy Roche	54.29	\$ 50,952.29	
86775	Imperial Seed Ltd.	20.06	\$ 18,826.73	
82100	Sheilagh Ryan	29.71	\$ 27,883.45	
81100 i)	His Majesty the King	214.00	\$ 200,843.43	Phase 1 of

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81100 ii)	His Majesty the King	12.50	\$ 11,731.51	E of CCW part of current Roll No.
82300	SCC Property Ltd.	194.00	\$ 182,073.02	
81110	DIA Enterprises Inc.	30.73	\$ 28,840.74	