

**THE CORPORATION OF THE
TOWNSHIP OF ASPHODEL-NORWOOD
BY-LAW No. 2009-54**



A by-law to establish development charges for the Township of Asphodel-Norwood

WHEREAS *the Council of the Corporation of the Township of Asphodel-Norwood (hereinafter referred to as “Council”) anticipates that the Corporation of the Township of Asphodel-Norwood (hereinafter called “the municipality”) will experience additional development, including redevelopment throughout the municipality in the next ten years and Council further anticipates that this development will increase the need for services;*

AND WHEREAS *Section 2 of the Development Charges Act 1997 (hereinafter referred to as “the Act”) authorizes Council to pass a by-law for the imposition of development charges in certain circumstances where the development of land increases the need for services;*

AND WHEREAS *Council retained the services of **Clark Consulting Services** to prepare a report and make recommendations with respect to a development charge policy;*

AND WHEREAS *Council wishes to establish the development charges by-law under The Development Charges Act, 1997.*

AND WHEREAS *Council, pursuant to Section 12 of the Act, held a public information meeting on May 4, 2009;*

AND WHEREAS *Council has approved:*

- i) levels of service standard by Resolution 146/09 on May 4, 2009;
- ii) the growth related capital program by Resolution 145/09 on May 4, 2009;

AND WHEREAS *Council desires to ensure that the capital cost of meeting growth related demands for, or a burden on, municipal services does not place a financial burden on the Municipality and the existing taxpayers;*

AND WHEREAS *Council has received and studied a report “Development Charges Report Township of Asphodel-Norwood” prepared by **Clark Consulting Services** dated February, 2009, and subsequent commentaries (hereinafter referred to as the “**Clark Report**”) and approves recommendations therein, as hereinafter noted, including:*

- i) a uniform charge for each particular use other than water supply and sewage treatment, anywhere in the municipality;

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- ii) service standards based on the existing (or highest in the past ten years) service standard of the municipality;
- iii) that development charges be established for all development based on capital expenditure benefit attributions;

AND WHEREAS Council has considered the comments of people at the said public meetings and comments subsequently received;

AND WHEREAS Council has complied with the pre-enactment requirements set out in sections 10, 11 & 12 of the Act;

AND WHEREAS Section 293 of the *Municipal Act, 2001, S.O. 2001, c.25* in part authorizes Council to set up and maintain a consolidated reserve account;

NOW THEREFORE this by-law is **ENACTED** as a by-law of the Corporation of the Township of Asphodel-Norwood as follows:

DEFINITION AND USES:

1. In this by-law, unless a contrary intention appears, a term has the same meaning as that which exists in the *Act* or any regulation made pursuant to Section 68 of the Act, both as amended from time to time.
2. In this by-law:
 - a) “Act” means the Development Charges Act, 1997, S.O. 1997, c.27;
 - b) “Advance Services” means those service components set out in Schedule “B” as advance services.
 - c) “agricultural use” means lands, buildings, or structures, excluding any portion thereof used as a dwelling unit, used, designed or intended to be used for the purpose of a bona fide farming operation including, but not limited to, animal husbandry, bee keeping, dairying, fallow, field crops, fish farming, forestry, fruit farming, horticulture, livestock, market gardening, pasturage, poultry keeping, the growing, raising, packing, treating, storing, and sale of produce produced on the premises, and other activities customarily carried on in the field of agriculture;
 - d) “board” means a board of education, public school board, secondary school board, Catholic school board, Protestant school board, or a board as defined in Subsection 1(1) of the *Education Act*, R.S.O. 1990, c.E.2, as amended;
 - e) “building or structure” means a structure occupying an area greater than ten square metres consisting of a wall, roof, and floor or any of them or a

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- structural system serving the function thereof including an air-supported structure, excluding a farm building;
- f) “Building Code Act” means the *Building Code Act*, S.O. 1992, c.23, as amended, and all Regulations thereto including the Ontario Building Code, 1997, as amended;
- g) “Development” means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size thereof and includes preparation for such building activity and redevelopment.
- h) “Development Charge” means a charge calculated in accordance with the rules set out in the *Development Charges Act, 1997* and imposed against development in the Municipality as set out in this By-law.
- i) “Dwelling Unit” means one or more habitable rooms designed or intended to be used together as a single and separate housekeeping unit by one or more persons, containing its own culinary facilities,
- j) “Farm Building” means any part of a building which is not used for residential purposes and which building is located on 3 or more hectares of land and which building is used solely for farm and farm related activities carried out on the same farm and includes barns, implement sheds, seasonal roadside stands and silos but does not include processing or year round wholesale or retail facilities.
- k) “Grade” means the average level of proposed or finished ground adjoining a building or structure at all exterior walls.
- l) “Gross Floor Area” means the sum total of the total areas of all floors in a building or structure, whether at, above, or below-grade, measured between the exterior faces of the exterior walls of the building or structure or from the centre line of a common wall separating two uses, or from the outside edge of a floor where the outside edge of the floor does not meet an exterior or common wall, and:
- (i) includes the floor area of a mezzanine and air-supported structure and the space occupied by interior walls partitions;
 - (ii) excludes any parts of the building or structure used for the parking and loading of vehicles; and
 - (iii) where a building or structure does not have any walls, the gross floor area of the building or structure shall be the total of the area of all floors, including the ground floor, that are directly beneath the roof of the building or structure;
- m) “Industrial Building” means a building used for or in connection with,

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- (i) manufacturing, producing, processing, storing or distributing something;
 - (ii) research or development in connection with manufacturing, producing or processing something;
 - (iii) retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production, or processing takes place;
 - (iv) office or administrative purposes, if they are,
 - (1) carried out with respect to manufacturing, producing, processing, storage or distributing of something, and
 - (2) in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution.
 - n) “Owner” means the owner of land or any person authorized by such owner to make one or more applications described in Section 7 of this by-law for the development of such land;
 - o) “Place of Worship,” means that part of a building or structure that is exempt from taxation as a place of worship under the *Assessment Act, R.S.O., 1990*, as amended.
 - p) “Use” means occupation and utilization for a particular purpose, practice or benefit.
3. Pursuant to Section 2 of the Act, all uses of any land, buildings or structures upon which development charges are imposed within the municipality are:
- a) a residential development;
 - b) a non-residential development.
4. The development charge with respect to the use of any land, buildings or structures shall be calculated as follows:
- a) in the case of residential development, or the residential portion of a mixed-use development, based upon the number of dwelling units;
 - b) in the case of non-residential development or the non-residential portion of a mixed-use development based upon the gross floor area devoted to the use.
5. In this by-law
- a) “residential” means designed, adopted or used as a home or residence of one or more individuals who reside or dwell there permanently or seasonally and includes:
 - (i) a “single detached dwelling” means a residential building consisting of one dwelling unit and not attached to another structure;
 - (ii) a “semi-detached dwelling” means a residential building that is divided vertically into two or more dwelling units, each dwelling unit having

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- one or two vertical walls, but no other parts attached to another structure;
- (iii) a “row dwelling” means a residential building containing not less than three units with each unit separated by a common or party wall or walls with a separate outside entrance to each unit;
 - (iv) a “duplex dwelling” means a residential building that is divided horizontally into two dwelling units;
 - (v) a “triplex dwelling” means a residential building that is divided into three dwelling units;
 - (vi) an “apartment building” means a residential building, consisting of four or more dwelling units, which is not a single detached dwelling, a semi-detached dwelling, a row dwelling, a duplex or a triplex;
 - (vii) a “seasonal dwelling” means a single detached dwelling occupied on a non-permanent basis, the owner(s), occupant(s), having another permanent address, but does not include nursing homes, hotels, motels, tourist homes, bed & breakfast establishments, student residences, barracks, or any other development of an institutional nature and included in the municipality’s zoning by-law as a non-residential use.
 - (viii) Senior apartment means an apartment building or unit that is occupied by one or more individuals who require accessibility modifications or provincially-funded support services in order to live independently in the community.
- b) “Non-residential development” means development other than residential development as defined above, and includes development for commercial, farm, hunt camp, industrial and institutional uses.
 - c) “Institutional Uses” include student residences, nursing homes, and seniors’ accommodation which consist of bedrooms with or without private sanitary facilities, plus common areas for kitchen and eating facilities and common recreation/activity areas.

LANDS AFFECTED:

- 6. Pursuant to Section 2 (7) of the Act, this by-law applies to all lands within the geographic limits of the Corporation of the Township of Asphodel-Norwood (hereinafter referred to as “the municipality”), whether or not the land or use is exempt from taxation under Section 3 of the *Assessment Act, R.S.O., 1990*.

DESIGNATED SERVICES:

- 7. Pursuant to Section 7 of the Act, the municipality hereby designates the services listed in Schedule “A” attached hereto and forming part of this by-law as the services for which the development charge is imposed.

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DEVELOPMENT CHARGES IMPOSED:

8. Subject to Section 14 below and Section 6 of the Act, development charges as hereinafter provided shall be imposed upon, and shall be applied, calculated and collected in accordance with the provisions of this by-law in connection with the development of all land within the Municipality for residential uses and non-residential uses where,
- a) the development of the land will increase the need for services, and
 - b) the development requires,
 - (i) the passing of a zoning by-law or of an amendment thereto under section 34 of the Planning Act, R.S.O., 1990,
 - (ii) the approval of a minor variance under section 45 of the *Planning Act, R.S.O., 1990*,
 - (iii) a conveyance of land to which a by-law passed under subsection 50 (7) of the Planning Act, R.S.O., 1990,
 - (iv) the approval of a plan of subdivision under section 51 of the Planning Act, R.S.O., 1990,
 - (v) a consent under section 53 of the Planning Act, R.S.O., 1990,
 - (vi) the approval of a description under section 9 of the *Condominium Act*,
or
 - (vii) the issuing of a permit under the *Building Code Act*, in relation to a building or structure.

DEVELOPMENT CHARGES - AMOUNTS:

9. Residential
- The amount of the residential development charge payable with respect to lands which are the subject of any approvals mentioned in Section 7, above shall be calculated in accordance with Schedule “B”, subject to any exemption hereinafter provided.
10. Non-residential
- The amount of the non-residential development charge payable with respect to lands which are the subject of any approvals mentioned in Section 7 above shall be calculated in accordance with Schedule “B”, subject to any exemptions herein after provided.
11. Institutional
- Notwithstanding Section 9(b) above, for Institutional uses, the charge shall be calculated on the basis of 50% of the rate set out in Schedule “B” subject to any exemptions herein after provided.

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12. Specific Area - Norwood
- a) Streetlighting and Sidewalks, Norwood: In instances where development occurs within the Village of Norwood, the boundaries of which are illustrated on Schedule "D" attached to this by-law, an additional development charge will apply in accordance with Schedule "B", specifically relating to Streetlighting and Sidewalks subject to any exemptions hereinafter provided.
 - b) Stormwater Management, Norwood: In instances where development occurs within the Village of Norwood, the boundaries of which are illustrated on Schedule "D" attached to this by-law, and will tie into the Stormwater Management System within the Village of Norwood, an additional development charge will apply in accordance with Schedule "B", specifically relating to Stormwater Management subject to any exemptions hereinafter provided.

CREDITS/ANNUAL ADJUSTMENTS:

13. Credit for previous development charge payments and lot levies: A credit shall be applied to the development charge calculated in Sections 9, 10 and 11 above for any previous development charge or lot levy payment. The onus shall be upon the owner/applicant to provide proof of earlier payments.
14. The development charge shall be adjusted annually on January 1st of each year to reflect the change in construction prices as reported in the Statistics Canada quarterly construction price statistics publications (catalogue no. 62-007).

EXEMPTIONS:

15. This by-law does not apply with respect to approvals related to the residential development of land, buildings or structures that would have the affect only,
- a) of permitting the enlargement of an existing dwelling unit;
 - b) of creating a maximum of two additional dwelling units in an existing single detached dwelling where the total gross floor area of the additional dwelling unit or units is less than or equal to the gross floor area of the dwelling unit already in the building;
 - c) of creating a maximum of one additional dwelling unit in an existing semi-detached dwelling or row dwelling where the gross floor area of the additional dwelling unit is less than or equal to the gross floor area of the dwelling unit already in the building; or
 - d) of creating a maximum of one additional dwelling unit in any other existing residential building where the gross floor area of the additional dwelling unit is less than or equal to the gross floor area of the smallest dwelling unit already in the building.

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16. If a development includes the enlargement of the gross floor area of an existing non-residential building, the amount of the development charge that is payable is the following:
- a) if the gross floor area is enlarged by 50 per cent or less, the amount of the development charge in respect of the enlargement is zero; and
 - b) if the gross floor area is enlarged by more than 50 per cent, development charges are payable on the amount by which the enlargement exceeds 50 per cent of the gross floor area before the enlargement.
 - c) for a new building up to 250 sq. m. of gross floor area shall be exempt. New non-residential development in excess of 250 sq. m. shall pay a development charge based on the gross floor area in excess of 250 sq. m..
17. For the purpose of this by-law only the terms “gross floor area” and “existing industrial building” shall have the same meaning as those terms have in *Ont. Reg 82/98* made under the Act.
18. In this Section, for greater certainty in applying the exemption herein:
- a) the gross floor area of an existing industrial building shall be determined as of the date this by-law comes into force; and
 - b) the gross floor area of an existing industrial building is enlarged where there is a bona fide increase in the size of the existing building and the enlarged area is attached to existing industrial building and is used for or in connection with an industrial purpose as set out in Subsection 1(1) of *O. Reg. 82/98*. Without limiting the generality of the foregoing, the exemption in this Section shall not apply where the enlarged area is attached to the existing industrial building by means only of a tunnel, bridge, canopy, corridor or other passageway, or through a shared below grade connection such as a service tunnel, foundation, footing or a parking facility.
 - c) for the purpose of interpreting the definition of “existing industrial building” contained in *O. Reg. 82/98*, regard shall be had for the classification of the lands in question pursuant to the *Assessment Act*, R. S. O. 1990, c. A.31, as amended, and in particular; whether the lands fall within a tax class such that taxes on the land are payable at an industrial rate; and, whether more than 50% of the gross floor area of the building or structure on the land has an industrial property code for assessment purposes.

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CATEGORIES OF EXEMPT USES

19. The following categories of uses are hereby designated as being exempt from the payment of development charges:
- a) land, buildings or structures owned by and used for the purposes of a municipality and exempt from taxation under Section 3 of the *Assessment Act*, R.S.O. 1990, c.A.31, as amended;
 - b) lands, buildings or structures owned by and used for the purposes of a board and exempt from taxation under Section 3 of the *Assessment Act*, R.S.O. 1990, c.A.31;
 - c) buildings or structures used as public hospitals governed by the *Public Hospitals Act*, R.S.O. 1990, c.P.40, as amended;
 - d) land, buildings or structures used for institutional church use and exempt from taxation under the *Assessment Act*, R.S.O. 1990, c.A.31, as amended;
 - e) the development of non-residential farm buildings constructed for bona fide farm uses, which qualify as a farm business, being that which operates with a valid Farm Business Registration Number and is assessed in the Farmland Realty Tax Class;
 - f) affordable housing. Council may also waive a development charge for a related use upon request (i.e. Non-profit agency-sponsored construction – example: Habitat for Humanity).

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20. Residential, Commercial and Industrial development that uses the following sustainable technologies will be eligible for the discounts identified below:

Development Charge Discount Applicable to New Residential, Commercial and Industrial Buildings		
Tactic	Inclusions	Discount as a Percentage of Development Charges
Green Technologies	Solar hot water system Transpired solar collectors Solar photovoltaic system Permeable pavement Storm water system Ultra low flow water appliances Approved Grey Water Systems	5% for any inclusion or any combination of inclusions
LEED Certified	Certified and registered with the <i>Canada Green Building Council</i> as meeting the applicable LEED Canada 1.0 Rating System (or its successor)	20%
LEED Silver		22.5%
LEED Gold		25%
LEED Platinum		27.5%

SPECIAL PROVISIONS:

1. Development charges are hereby imposed upon all lands that are developed for residential, non-residential and institutional uses, in accordance with Sections 10 and 11 respectively above insofar as,
 - a) the growth-related net capital costs are attributable development, and
 - b) the growth-related net capital costs are attributable to the service being provided at the time of enactment of this by-law, and the standard of service prevailing at the time this by-law is enacted or at any time within the ten year period preceding enactment of this by-law is maintained.
 - c) Where two or more of the actions described in Section 8(b) are applicable only one development charge shall be calculated and collected in accordance with the provisions of this by-law.
 - d) Notwithstanding subsection, if two or more of the actions described in section

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8(b) occur at difference times, and if the subsequent action has the effect of increasing the need for municipal services as designated in Schedule "A", an additional development charge on the additional residential units and/or non-residential floor area shall be calculated and collected in accordance with the provision of this by-law.

TIMING OF CALCULATION AND PAYMENT:

2. The development charge shall be calculated as of, and shall be payable on.
 - a) the date a building permit is issued in relation to a building or structure on land to which the development charge applies, less any amount paid pursuant to subsection (b) after the enactment of this by-law.
 - b) Notwithstanding subsection (a), those portions of the development charge attributable to advance services shall be payable, with respect to an approval of a plan of subdivision under section 51 of the Planning Act, R.S.O., 1990 as amended, immediately upon the owner entering into the subdivision agreement, subject to any applicable exemptions contained in this by-law, and calculated in the case of residential development or the residential portion of a mixed-use development, based upon:
 - (i) the proposed number of dwelling units; and
 - (ii) with respect to blocks intended for future development, the maximum number of dwelling units permitted under the contemplated zoning.

3. Notwithstanding Section 21 above, an Owner and the Municipality may enter into an agreement:
 - a) providing for the payment of a development charge before otherwise required;
 - b) providing for payment of all or any portion of the development charge on dates later than the issuing of a building permit or the entering into of a subdivision agreement;
 - c) whereby an owner provides services in lieu of the payment of all or any portion of a development charge.

DEMOLITION CREDIT:

4. Upon presentation of satisfactory evidence to the Municipality of the pre-demolition development of the property, where there is a redevelopment of land on which there was formerly erected a building or structure, the following credit shall be allowed against the development charge otherwise payable pursuant to this by-law which credit shall be calculated:
 - a) with respect to a residential building or structure or the residential portion of a mixed-use building or structure that has been demolished, by multiplying the

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number of dwelling units demolished within two years of the date of building permit application by the development charge for the relevant demolished units in effect on the date when the units are demolished or October 1, 1998, whichever is the later date.

- b) with respect to a non-residential building or the non-residential portion of a mixed-use building or structure that has been demolished by multiplying the Gross Floor Area of that portion of the building demolished within two years of the date of the building permit application by the applicable development charge for the relevant demolished building or structure in effect on the date when the building or structure was demolished or October 1, 1998 which ever is the later date.
- c) the replacement of a building destroyed by fire or similar unintended action shall be exempt from payment of a development charge so long as the replacement occurs within five (5) years and the replacement is for the same number of residential units or for a non-residential building of the same floor area. Additional residential units or non-residential floor area shall be subject to the normal provisions of this by-law.

PAYMENT BY MONEY OR THE PROVISION OF SERVICES:

- 5. Payment of development charges to the municipality shall be by
 - a) cash or by cheque.
 - b) In the alternative to payment by the means provided in subsection (a), the municipality may, by an agreement entered into with the owner, accept the provision of services in full or partial satisfaction of the development charge otherwise payable.

BUILDING PERMIT ISSUANCE:

Where development charges apply to land in relation to which a building permit is required, unless an agreement is entered into pursuant to Section 24(b) above, the building permit shall not be issued until the development charge has been paid in full.

DEVELOPMENT CHARGE RESERVE FUNDS:

- 6. All payments received by the municipality pursuant to this By-law, including income on investments of the reserve funds, shall be apportioned among the reserve funds in accordance with Schedule "B" and paid into the respective reserves as follows:

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Residential Portion of Development Charges:

Township Wide:

Basic	Percentage
Planning and Development	5.3%
Transportation, Public Works	56.4%
Protection to Persons and Property, Fire	14.4%
Emergency Management	0.2%
By-law Enforcement	0.6%
Health Services	0.6%
Recreation & Cultural	14.6%
Library	7.9%
Total	100%

WITHDRAWALS FROM RESERVE FUNDS:

1. That no monies be withdrawn from the said reserve funds except:
 - a) refunds, including interest, if applicable, as hereinafter set out, and
 - b) to meet growth related net capital costs for which the development charge was imposed, as set out in Appendix “B” and in the *Clark Report*, subject to any modifications to project definition, budget priority and phasing , as may occur as part of the municipality’s annual capital budget process, or amendments to this by-law. Council may withdraw funds from the municipal services reserve fund based on project definition, budget priority and phasing as aforesaid.

ANNUAL STATEMENTS RE: RESERVE FUNDS:

2. That the treasurer provides an annual statement to Council on or before May 31 of each year for the preceding calendar year for each development charge reserve fund, in accordance with the format set out in Schedule “C” attached hereto and forming part of this by-law.

REFUNDS:

3. Notwithstanding the foregoing, if a development charge is paid at the time a building permit is issued and no building proceeds pursuant to the said permit and the building permit has expired, the registered owner may apply to the treasurer of the municipality for a refund of the development charge paid at the time the building permit was issued within one year of payment to the municipality provided the building permit is surrendered with the said refund application, if not already surrendered.

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Where this by-law or any development charge prescribed under this by-law is amended or repealed either by order of the Ontario Municipal Board or by resolution of the Council, the treasurer shall forthwith calculate and refund the amount of any overpayment as a result of such amendment or repeal.

Upon issuing a refund, the municipality will retain an administrative fee of \$150.00 per building application.

4. Refunds that are required to be paid under Section 29 shall be paid with interest to be calculated from the date on which the overpayment was collected to the date on which the refund is paid. The interest rate shall be the Bank of Canada rate on the day the by-law comes into force, updated on the first business day of every January, April, July and October.

FULL FORCE AND EFFECT

5. This By-law, known as the "Development Charges By-law, 2009", shall come into force and effect on January 1, 2010.
6. This by-law shall continue in force and effect until five years from the date of adoption by Council, unless it is repealed at an earlier date.

READ a FIRST and SECOND TIME THIS 21st day of September, 2009.

Reeve, Doug Percy

Clerk, Valerie Przybilla

READ a THIRD TIME and FINALLY passed in Open Council this _____ day of _____, 2009.

Reeve, Doug Percy

Clerk, Valerie Przybilla

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SCHEDULE 'A'

Designated Service Categories for which Development Charges are imposed.

1. **PLANNING AND DEVELOPMENT**
2. **TRANSPORTATION SERVICES, PUBLIC WORKS**
3. **PROTECTION TO PERSONS AND PROPERTY**
FIRE AND RESCUE
EMERGENCY MANAGEMENT
BY-LAW ENFORCEMENT
4. **HEALTH SERVICES**
5. **RECREATION AND CULTURAL SERVICES**
6. **LIBRARY SERVICES**
7. **STREETLIGHTS AND SIDEWALKS, NORWOOD**
8. **STORMWATER MANAGEMENT, NORWOOD**

All as more particularly set out in a Report by *Clark Consulting Services* dated February, 2009. Designated Services do not include local services and local connections as excluded by Section 2(5) of the *Act*.

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SCHEDULE "B"

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SCHEDULE "C"

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SCHEDULE "D"