



## RESOLUTION 2011-09

### A Resolution Relative to An Agreement for Sewer Services Related to the Lorden Commons Subdivision

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First Reading: 5/16/11

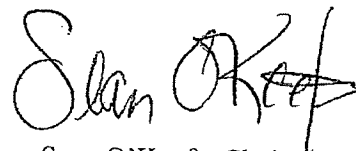
Adopted: 5/16/11

**WHEREAS** The Planning Board recently granted conditional approval to the Lorden Commons Subdivision; and

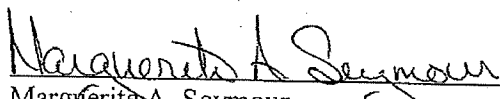
**WHEREAS** It is in the public interest that said subdivision be serviced by municipal sewer; and

**WHEREAS** The Town and the applicant have agreed that the extension of the municipal sewer into the development shall remain privately owned and maintained,

**NOW THEREFORE BE IT RESOLVED** by the Londonderry Town Council that the Town Manager is hereby authorized to execute all necessary documents to grant access to the municipal sewer system to CBI and Lorden Commons Sewer Company, LLC pursuant to the terms and conditions of an Agreement as set forth below.



Sean O'Keefe, Chairman  
Town Council

  
Marguerite A. Seymour  
Town Clerk/Tax Collector

(TOWN SEAL)

**A TRUE COPY ATTEST:**  
xx/xx/xx



AN AGREEMENT FOR SEWER SERVICES RELATED TO THE LORDEN COMMONS  
SUBDIVISION

- WHEREAS Chinburg Builders, Inc. is proposing a Conservation Subdivision, Lorden Commons Subdivision (LCS), as permitted by the Town of Londonderry Zoning Ordinance on Tax Map 16 Lot 38. The proposed housing density of the LCS is permissible only with community or public sanitary sewer. The sanitary sewer collection system (gravity and force main) are proposed to be located within the Town's future right of way. The sanitary sewer system servicing this area is being proposed to be operated by the Lorden Commons Sewer Company, LLC, a private sewerage disposal service, subject to New Hampshire Public Utilities Commission approval and regulations.
- WHEREAS Chinburg Builders, Inc. shall petition, and obtain approval, for granting a private sewer utility in the Town of Londonderry from the New Hampshire Public Utilities Commission (NHPUC) to operate and maintain a sewer utility to service the residential lots once Map 16 Lot 38 is subdivided, upon terms and conditions as the NHPUC and the Town of Londonderry permits in accordance with applicable laws and regulations.
- WHEREAS On May 11, 2011, Londonderry Planning Board granted Chinburg Builders, Inc.(CBI) conditional approval of a proposed development known as the Lorden Commons Subdivision (LCS) on the condition that CBI receives governmental approvals and makes necessary contractual arrangements to ensure construction and ongoing operation and maintenance of adequate sewerage disposal facilities at the expense of CBI, its successors or assigns and/or the users of the sewerage system, and not at the expense of the Town of Londonderry; and,
- WHEREAS CBI proposes to provide private sewage disposal services, subject to Public Utilities Commission (PUC) regulation, to the LCS; and,
- WHEREAS CBI and Lorden Commons Sewer Company, LLC (LCSC) propose to provide the necessary sewerage disposal facilities and services in the LCS; and,
- WHEREAS Sewage generated in Londonderry is treated and disposed of in Manchester by an Intermunicipal Agreement between the Town and the City under which the Town pays the City of Manchester for sewage disposal services; and,

WHEREAS The Town Sewer User Ordinance is designed to apportion certain of the Town's sewerage disposal costs to users of the services in Londonderry; and

WHEREAS In order to fulfill the sewage disposal of the LCS, CBI and LCSC must assure payment of the Town's cost of disposal of sewage generated by the LCS;

NOW THEREFORE BE IT RESOLVED that in consideration of the foregoing and the mutual promises herein contained, LCSC, CBI and the Town hereby agree as follows:

1. CBI and/or LCSC agree to comply with the terms and conditions as set forth in the Intermunicipal Sewer Agreement between Manchester and Londonderry.
2. The Town shall provide appropriate assistance to CBI and/or LCSC in obtaining all required State and Local sewerage permits for the LCS sewerage disposal system.
3. CBI and /or LCSC shall, at their expense, construct, reconstruct, repair, maintain, operate and own the sewerage system for LCS , which sewage system shall be designed and constructed in accordance with plans and specifications approved by the New Hampshire Department of Environmental Services and the Town of Londonderry.
4. CBI shall provide all prospective purchasers of lots in the LCS with written notice of the private nature of sewage disposal systems provided by LCSC and sewage disposal fees payable to LCSC.
5. A connection fee of \$200 per residential unit will be paid by LCSC to the Town prior to construction of the private sewer line service for each phase of subdivision development. The fee is subject to revision over time by the Town.
6. An access fee of \$3,467 per residential unit will be paid by LCSC to the Town prior to issuance of a Certificate of Occupancy for each unit. The fee is subject to revision over time by the Town.
7. Quarterly, the Town shall bill LCSC at the then prevailing user charge fee, for sewer service for all sewered dwellings in the LCS, and LCSC shall be responsible for payment and any interest and late charges that may accrue under the Town Sewer User Ordinance. The fee is subject to revision over time by the Town. LCSC failure to pay in a timely manner shall justify the Town in requesting action by the PUC under RSA 374:47-a, or take action with respect to any other remedies that may be available to the Town. The LCSC agrees to bill its residential customers monthly, and to collect payment from customers, in exchange for private sewer facilities.
8. LCSC shall provide and maintain a letter of credit or other acceptable surety in the amount of \$9,600 (representing an estimated two quarterly payments) to

secure LCSC's obligation for timely payments as set forth in paragraph 7 above. Said amount shall be adjusted annually by the Town to reflect changes to the Sewer User Charge Ordinance, Rate Schedule, and the actual experience of sewer use in the LCS. Said amount can be divided and paid over two years.

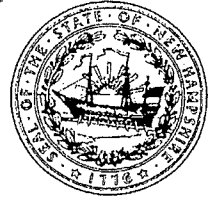
9. LCSC shall make available all reports of inspections and maintenance work to the Town of Londonderry Department of Public Works and Engineering, to include any emergency repairs, as well as all reports required under the rules of the Public Utilities Commission or the New Hampshire Department of Environmental Services.
10. The Town and the City of Manchester may establish an inspection, monitoring and sampling program to assure adequate control of waste water discharge from the LCSC private sewerage system in the LCS.
11. This Agreement shall be subject to approval by the PUC.
12. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, legal representatives or assigns.
13. The interpretation of this Agreement and the rights and obligations of the parties herein shall be governed by the Laws of the State of New Hampshire.
14. LCSC and/or CBI shall indemnify and hold the Town harmless with respect to any claims, demands, charges, penalties, debts, costs, including that of Town staff and experts and attorney's fees, or lawsuits, in law or at equity, arising out of the operation of the private sewage disposal system provided for under the terms of this Agreement.
15. LCSC shall obtain casualty and liability insurance in amounts customary for a comparable private sewage system.
16. Maintenance, operations and inspections of the sewage system, to include the pumps station, emergency generator system, gravity and force mains, shall be performed by CBI, LCSC or a designee in accordance with accepted industry standards and procedures, including compliance with NHDES, Town of Londonderry and OSHA standards. LCSC, CBI or their designee shall be responsible for emergency service repairs. Any improvements and/or maintenance repairs shall be submitted to the Londonderry Department of Public Works and Engineering for review and approval. Such improvements and maintenance repairs shall not include normal and customary maintenance measures.
17. LCSC shall have the right upon obtaining a permit from the Town of Londonderry Department of Public Works and Engineering, to enter onto public roadway Right-of-Way to repair a failure of the sewer line and system, if necessary. Construction would be performed in accordance with Town of Londonderry and NHDES standards and regulations. The Department of Public Works and Engineering shall be notified of any proposed work in advance. All work

performed within the Town's right of way shall be in accordance with the Town of Londonderry's – Permit to Conduct Work Within the Town's Right of Way or Easement. The Town shall be permitted to inspect said repairs and costs of said inspections shall be the responsibility of LCSC.

18. LCSC, CBI or their designee shall pay the costs of such service, including the Town of Londonderry quarterly user charge, the operation and maintenance expenses of the facilities, the general and administrative expenses of the company, and debt service related to the sewer facilities.
19. The Lorden Commons Homeowner's Association (HOA) shall be established with documents to be reviewed and approved by the Town. This HOA shall include reference to the Private Sewer System Utility, and shall be recorded at the Rockingham County Registry of Deeds. The Utility shall be referenced in each individual deed
20. This Agreement supersedes all prior negotiations, representations, understandings or contracts, either written or oral, and may not be modified or amended except by a written instrument, executed by both parties.
21. In the event the Town brings an action in court or before an administrative agency to enforce any term of this agreement, including the failure of CBI, LCSC, or their designees to pay any charge when due, and the Town is successful in enforcing its claim, then CBI, LCC or their designees shall be responsible for all reasonable costs incurred by the Town, including but not limited to, attorneys' fees, expert costs and the costs of staff time.



State of New Hampshire  
**Department of Environmental Services**  
29 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-3503 FAX (603) 271-2982



Attachment D

JAB

## WASTEWATER CONNECTION PERMIT

Project Name: Lorden Estates - Phase 1  
Location: Calla Road / Iris Lane  
Engineer: Jonathan S. Ring, P.E. - Jones & Beach Engrs.

Municipality/POTW: Londonderry  
Official Signature: John R. Trottier - Asst. Dir. PW & Engr'ing  
Date of Request: 3/11/2011

PERMIT/REQUEST NUMBER

D2011-0408

FLOW: 22,500 gallons/day

APPROVED DATE 5/3/2011

The Department of Environmental Services has reviewed and hereby approves the request as follows:  
Approval of the connection to the municipality's wastewater facilities is based on a review of the supporting information submitted and is subject to the conditions indicated below.

### CONDITIONS:

Approval applies only to the sewerage plans and sewer connection request.

This approval will become void if the sewerage construction or discharge has not begun within two years of the approved date.

All sewerage construction must comply with the requirements of Chapter Env-Wq 700, the Standards of Design and Construction for Sewerage and Wastewater Treatment Facilities

DES-approved design dwgs for est. 2,417 LF-8" dia. SDR 35 PVC sanitary sewer, 150 gpm G-R duplex pumping station, and 4,128 LF-4" dia. DI force main serving Phase I residential development are enclosed for Town's records.

Issued by:

*S. H. Roberts*  
Stephen H. Roberts, P.E.

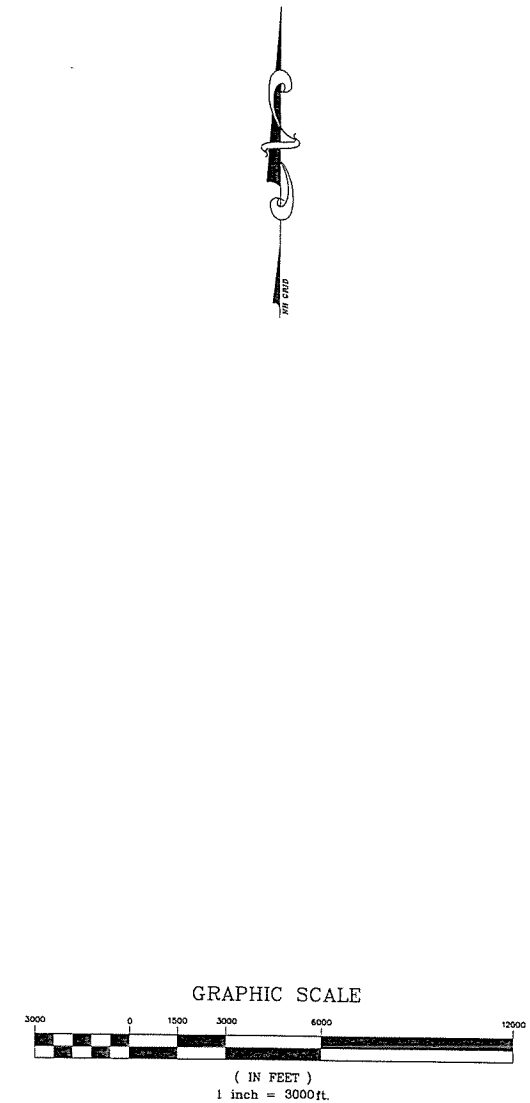
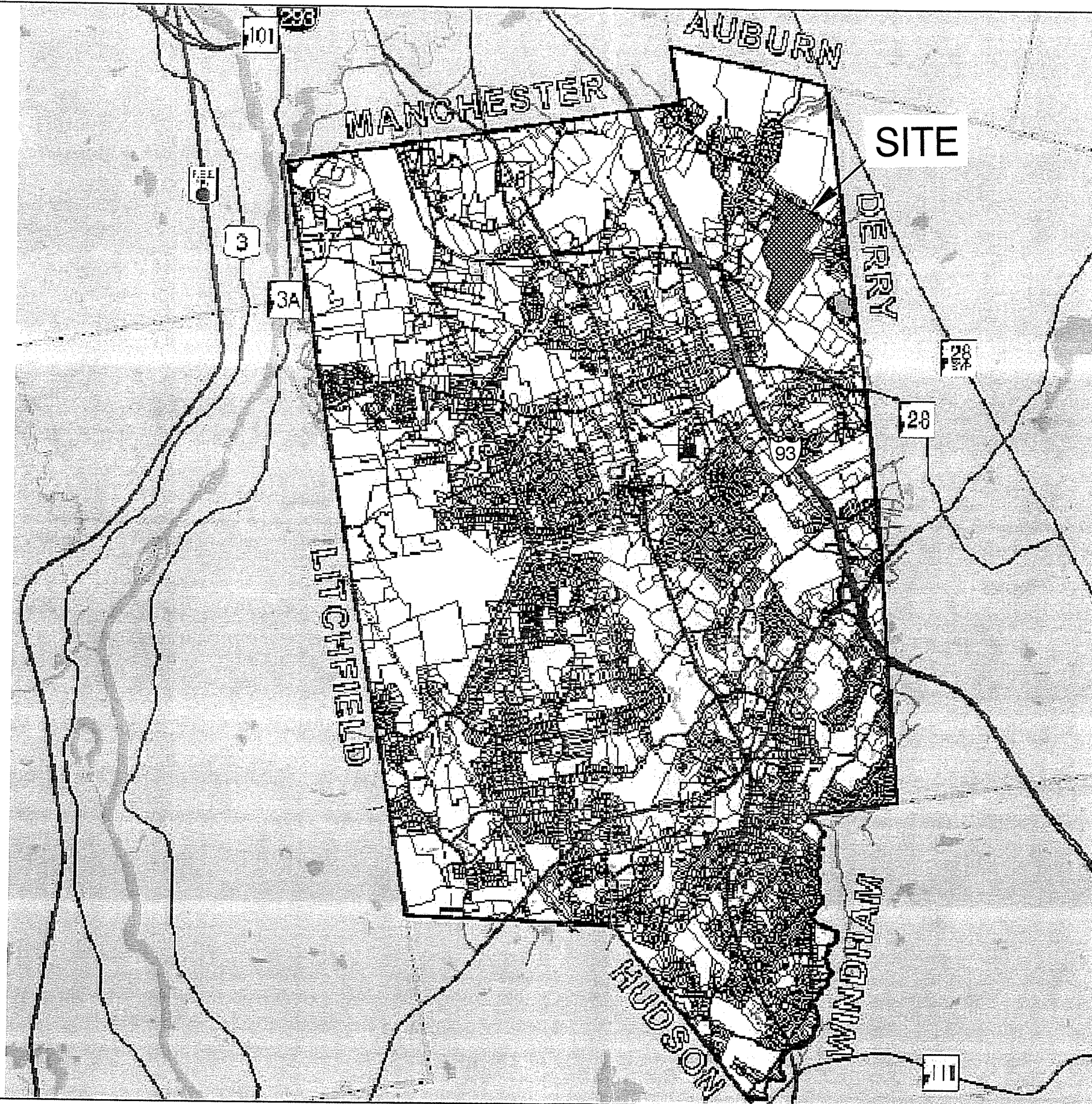
WATER DIVISION - WASTEWATER ENGINEERING BUREAU - DESIGN REVIEW SECTION

cc Jonathan S. Ring, P.E. - Jones & Beach Engrs.

10070



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PROJECT PARCEL  
TOWN OF LONDONDERRY, NH  
TAX MAP 16, LOT 38  
10,251,761 S.F. (235.35 ACRES)  
APPLICANT  
CHINBURG BUILDERS, INC.  
ATTN: ERIC CHINBURG  
8 NEWMARKET ROAD  
DURHAM, NH 03824

Design: FKV	Draft: FKV	Date: 2/16/11
Checked: JSR	Scale: 1"=3000'	Project No.: 10070
Drawing Name: 10070-SEWER-ATTACHMENT.dwg		
THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM JONES & BEACH ENGINEERS, INC. (JBE). ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO JBE.		

REV.	DATE	REVISION	BY
0	2/16/11	ISSUED FOR REVIEW	FKV

**J/B** Jones & Beach Engineers, Inc.  
85 Portsmouth Ave. Civil Engineering Services 603-772-4746  
PO Box 219 FAX: 603-772-0227  
Stratham, NH 03885 E-MAIL: JBE@JONESANDBEACH.COM

Plan Name:	ATTACHMENT A MAP OF TOWN OF LONDONDERRY
Project:	LORDEN ESTATES - PHASE 1 17 OLD DERRY ROAD, LONDONDERRY, NH
Owner of Record:	KENNETH A. LORDEN TRUST (TAX MAP 16 LOT 38) THOMAS H. & LORRAINE G. LORDEN, TRUSTEES

DRAWING No.  
**A**  
SHEET 1 OF 1  
JBE PROJECT NO. 10070