

By-law 2015-65

A By-law of the City of Greater Sudbury to Authorize the Submission of an Application to Ontario Infrastructure and Lands Corporation ("OILC") for Financing Certain Ongoing Capital Works of the City of Greater Sudbury (the "Municipality") being the Biosolids Management Facility; to Authorize Temporary Borrowing from OILC to Meet Expenditures in Connection with such Works and to Authorize Long Term Borrowing for such Works through the Issue of Debentures to OILC

Whereas the *Municipal Act, 2001* (Ontario), as amended, (the "**Act**") provides that a municipal power shall be exercised by by-law unless the municipality is specifically authorized to do otherwise;

And Whereas the Municipality has authorized, by the passage of Council resolution 2011-01, the capital work(s) described in column (1) of Schedule "A" (individually a "**Capital Work**", collectively the "**Capital Works**", as the case may be) in the amount of the respective estimated expenditure set out in column (2) of Schedule "A", subject in each case to approval by OILC of the financing for such Capital Work(s) requested by the Municipality in the Application as hereinafter defined;

And Whereas the Municipality has procured the construction of the Capital Works in accordance with its procurement policy being By-Law 2006-270, which By-Law was repealed and replaced by By-Law 2014-1 effective December 1, 2014;

And Whereas before the Council of the Municipality approved the Capital Work(s) in accordance with section 4 of Ontario Regulation 403/02 (the "**Regulation**"), the Council of the Municipality had its Treasurer calculate an updated limit in respect of its then most recent annual debt and financial obligation limit received from the Ministry of Municipal Affairs and Housing (as so updated, the "**Updated Limit**"), and, on the basis of the authorized estimated expenditure for the Capital Work or each Capital Work, as the case may be, as set out in column (3) of Schedule "A" (the "**Authorized Expenditure**" for any such Capital Work), the Treasurer calculated the estimated annual amount payable in respect of the Capital Work or each Capital Work, as the case may be, and determined that the estimated annual amount payable in respect of the Capital Work or each Capital Work, as the case may be, did not cause the Municipality to exceed the Updated Limit, and accordingly the approval of the Ontario Municipal Board pursuant to the Regulation, was not required before any such Capital Work was authorized by the Council of the Municipality;

And Whereas subsection 405 (1) of the Act provides, amongst other things, that a municipality may authorize temporary borrowing to meet expenditures made in connection with a work to be financed in whole or in part by the issue of debentures if, the municipality is an upper-tier municipality, a lower-tier municipality in a county or a single-tier municipality and it has approved the issue of debentures for the work;

And Whereas subsection 401(1) of the Act provides that a municipality may incur a debt for municipal purposes, whether by borrowing money or in any other way, and may issue debentures and prescribed financial instruments and enter prescribed financial agreements for or in relation to the debt;

And Whereas the Act also provides that a municipality shall authorize long term borrowing by the issue of debentures or through another municipality under section 403 or 404 of the Act;

And Whereas OILC has invited Ontario municipalities desirous of obtaining temporary and long term debt financing in order to meet capital expenditures incurred on or after January 1, 2004 in connection with eligible capital works to make application to OILC for such financing by completing and submitting an application on the form provided by OILC;

And Whereas the Municipality has completed and submitted an application to OILC (the "**Application**") to request financing for the Capital Work(s) by way of long term borrowing through the issue of debentures to OILC and by way of temporary borrowing from OILC pending the issue of such debentures;

And Whereas OILC has accepted and has approved the Application;

Now therefore the Council of the City of Greater Sudbury hereby enacts as follows:

1. The Council of the Municipality hereby confirms, ratifies and approves the execution by the Chief Financial Officer & Treasurer of the Application and the submission by such authorized official of the Application, duly executed by such authorized official, to OILC for the financing of the Capital Work(s) in the maximum aggregate principal amount of \$31,000,000.00 substantially in the form of Schedule "B" hereto and forming part of this By-law, with such changes thereon as such authorized official may hereafter, approve such execution and delivery to be conclusive evidence of such approval.

2. The Mayor and the Chief Financial Officer / Treasurer are hereby authorized to negotiate and enter into, execute and deliver for and on behalf of the Municipality a financing agreement (a "**Financing Agreement**") with OILC that provides for temporary and long term borrowing from OILC in respect of the Capital Work(s) on such terms and conditions as such authorized official may approve, such execution and delivery to be conclusive evidence of such approval.

3. The Mayor and/or the Chief Financial Officer / Treasurer are hereby authorized, pending the substantial completion of the Capital Works or each Capital Work, as the case may be, or as otherwise agreed with OILC, to make temporary borrowings pursuant to section 405 of the Act in respect of the Capital Works or of each Capital Work, as the case may be, on the terms and conditions provided in the Financing Agreement and on such other terms and conditions as such authorized officials may agree, and to sign such evidence of indebtedness as OILC may require (the "**Note**") and to deliver the Note to OILC, such execution and delivery to be conclusive evidence of such agreement; and the Chief Financial Officer / Treasurer is authorized to sign such certifications as OILC may require in connection with such borrowings in respect of the Capital Work(s); provided that the amount of borrowings allocated to the Capital Works or each Capital Work, as the case may be, does not exceed the Authorized Expenditure for such Capital Work and does not exceed the related loan amount set out in column (3) of Schedule "A" in respect of such Capital Work.

4. Subject to the terms and conditions of the Financing Agreement and such other terms and conditions as OILC may otherwise require, the Mayor and the Chief Financial Officer / Treasurer are hereby authorized to long term borrow for the Capital Work(s) and to issue debentures to OILC on the terms and conditions provided in the Financing Agreement and on such other terms and conditions as such authorized officials may agree (the "**Debentures**"); provided that the principal amount of the Debentures issued in respect of the Capital Work or of each Capital Work, as the case may be, does not exceed the Authorized Expenditure for such Capital Work and does not exceed the related loan amount set out in column (3) of Schedule "A" in respect of such Capital Work.

5. In accordance with the provisions of section 25 of the *Ontario Infrastructure and Lands Corporation Act, 2011*, as amended from time to time hereafter, as security for the payment by the Municipality of the indebtedness of the Municipality to OILC under the Note and/or the Debentures, as the case may be (the "**Obligations**"), the Municipality is hereby authorized to agree in writing with OILC that the Minister of Finance is entitled, without notice to the Municipality, to deduct from money appropriated by the Legislative Assembly of Ontario for

payment to the Municipality, amounts not exceeding the amounts that the Municipality fails to pay OILC on account of the Obligations and to pay such amounts to OILC from the Consolidated Revenue Fund.

6. For the purposes of meeting the Obligations, the Municipality shall provide for raising in each year as part of the water and wastewater user fees, the amounts of principal and interest payable in each year under the Note and/or any outstanding Debenture.

7. (a) The Mayor and/or the Chief Financial Officer / Treasurer are hereby authorized to execute and deliver the Note, to enter into, execute and deliver the Financing Agreement and to issue the Debentures, and one or more of the Clerk and the Chief Financial Officer / Treasurer are hereby authorized to generally do all things and to execute all other documents and papers in the name of the Municipality in order to perform the Obligations of the Municipality under the Financing Agreement, to execute and deliver the Note and to issue the Debentures, and the Chief Financial Officer / Treasurer is authorized to affix the Municipality's municipal seal to any such documents and papers.

(b) The money realized in respect of the Note and the Debentures, including any premium, and any earnings derived from the investment of the money, after providing for the expenses related to the execution and delivery of the Note and to the issue of the Debentures, if any, shall be apportioned and applied to the respective Capital Work and to no other purpose except as permitted by the Act.

8. This By-law shall come into full force and effect upon passage.

Read and Passed in Open Council this 31st day of March, 2015



Brian Bigger Mayor



Caroline Hallsworth Clerk

Schedule "A"
to By-Law Number 2015-65

(Ongoing Capital Work(s))

(1)	(2)	(3)
<u>Description of Capital Work</u>	<u>Estimated Expenditure</u>	<u>Loan Amount</u>
Biosolids Management Facility	\$63,000,000.00	\$31,000,000.00

Schedule "B"
to By-Law Number 2015-65

ONTARIO INFRASTRUCTURE AND LANDS CORPORATION (OILC)
LOAN APPLICATION

Application ID: R10068 **Program Year:**
Application Submit Date:

A. GENERAL INFORMATION - Borrowing Municipality

Name: The City of Greater Sudbury ID: 53005
Address: 200 Brady Street City: Sudbury, ON
Postal Code: P3A 5P3
Name of Treasurer(or Title: CFO & Treasurer
equivalent): Lorella Hayes
Telephone Number: (705) 674-4455 X4310 Fax No.: (705) 673-0344
Email: lorella.hayes@city.
greaterudbury.on.ca

B. CONTACT INFORMATION

Questions regarding the information contained in the application form should be addressed to:

Name: Ed Stankiewicz Title: Manager of Financial Planning
and Budgeting
Telephone: (705) 674-4455 X4342 Fax No.: (705) 673-0344
Email: ed.stankiewicz@city.greaterudbury.on.
ca

C. PROJECT SUMMARY INFORMATION

<u>No.</u>	<u>Project Name</u>	<u>Category</u>	<u>Type</u>	<u>Loan Amount</u>
1	Biosolids Management Facility	Sewage Treatment Infrastructure		\$31,000,000.00
Total Loan Amount				\$31,000,000.00

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ONTARIO INFRASTRUCTURE AND LANDS CORPORATION (OILC)
LOAN APPLICATION

Project Details - Sewage Treatment Infrastructure

Project Name	Biosolids Management Facility
Category	Sewage Treatment Infrastructure
Construction Start Date	Aug-03-2010
Construction End Date	Apr-17-2015

Please indicate below if any aspect of the project pertains to:

Energy Conservation: ☐ Yes ☒ No

The Municipal Eco Challenge Fund (MECF) is a three year, \$20 million grant and \$200 million loan initiative to help municipalities reduce Green House Gas (GHG) emissions from their infrastructure.

Please indicate whether the loan is for a project that will reduce energy consumption or GHG emissions from a municipally-owned facility (building, arena, etc.).

☐ Yes ☒ No

Is this project also being considered for an MECF grant?

☐ Yes ☒ No

Please provide :

An estimate of the reduction in energy consumption or GHG emissions as a result of the project.

or

A short description of the energy conservation benefits.

Address of the project:

2121 Kelley Lake Road

Type of work (e.g. new construction, renovation of existing facilities, redevelopment, deferred maintenance, etc.):

new construction

Description of the project:

The Biosolids Management Facility processes sewage sludge, which is a normal end product of the sewage treatment process, to create a product with low odour potential and little environmental impact. Biosolids management facilities use a heat and/or chemical process to kill harmful organisms called pathogens present in untreated sewage sludge.

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ONTARIO INFRASTRUCTURE AND LANDS CORPORATION (OILC)
LOAN APPLICATION

The N-Viro process recovers essential nutrients from bio-organic materials such as source-separated organics (SSO) and dewatered biosolids and returns them to our soils for many uses, including agricultural soil amendment and soil for land reclamation. The process blends the bio-organic materials with inert alkaline material such as lime kiln dust and cement kiln dust to produce a product known as N-Rich®.

The contractor is financing 100% of the construction costs until substantial completion. The City will then pay 75% of the construction price or \$47.3 million to the contractor and the contractor will finance the remaining 25% over the 20 year operating period. The City at substantial completion will receive an \$11 million grant from PPP Canada. Some internal resources will also be applied to this capital payment leaving a requirement for external debt financing of approximately \$31 million.

Additional comments:

What is the life span of the project in years? (i.e. the physical asset)

40

Please identify your Ministry contact (If applicable)

Ministry:

Contact Name:

Contact Phone:

ONTARIO INFRASTRUCTURE AND LANDS CORPORATION (OILC) LOAN APPLICATION

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ONTARIO INFRASTRUCTURE AND LANDS CORPORATION (OILC)
LOAN APPLICATION

D. DEBT AND REPAYMENT SUMMARY

Financial Information Returns (FIR)

Please be aware that OILC will be unable to complete the processing of your application until you have filed your most current FIR with the Ministry of Municipal Affairs and Housing. If you have not filed your FIR, you should submit your application to OILC and send your FIR to MMAH as soon as possible.

ARL

Please provide a copy of the Borrower's most recent ARL issued by MMAH.

Existing Borrowing:

Please provide the following details on the existing debt, including capital leases and unsecured debt.

Loan #	Loan Purpose	Initial Amount Borrowed	Amount Outstanding as per Most Recent Audited Financials	Annual Interest Rate (%)	Date Borrowed (mm/dd/yy)	Maturity Year	Summary of Existing Pledges, Conditions, Covenants	Payment Type	Periodic Amount Payable	Payment Frequency
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Please elaborate on re-financing plans and options for any existing "interest only" debt, if applicable

Existing Encumbrances:

Does the Borrower have any existing liens, pledges and any other encumbrances on existing assets?

☐ Yes ☒ No

If yes, please provide details:

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ONTARIO INFRASTRUCTURE AND LANDS CORPORATION (OILC)
LOAN APPLICATION

OILC Loan Repayment Information

Please indicate the source(s) of revenue you plan to use to repay the OILC Loan.

Contribution to OILC Loan Payments (%)

Source

Taxation	
User Fees	100.00
Service Charges	
Development Charges	
Connection Fees	
Subsidies	
Other	
Total	100.00

Description of Other Source

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Audited Financial Statements

A copy of the most recent audited financial statements must be attached with this loan application.

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ONTARIO INFRASTRUCTURE AND LANDS CORPORATION (OILC)
LOAN APPLICATION

E. LITIGATION

Is there any litigation threatened or existing which would affect any projects or substantially impair the Borrower's ability to pay debt service costs on its general obligation indebtedness? Please indicate Yes or No.

☐ Yes ☒ No

Please complete the Certificate of Litigation template found under the Forms menu.

F. NON-REPAYMENT OF LOANS OR DEBENTURES

In the last 10 years has the Borrower ever failed to make a loan or debenture repayment on time to any lender, including to the Provincial Government?

☐ Yes ☒ No

If yes, please provide details. If necessary, attach details.

G. PROVINCIAL GRANTS AS SECURITY

Pursuant to OILC's enabling legislation, the Minister of Finance may deduct funds from provincial grants to the Borrower appropriated by the Legislative Assembly of Ontario for payment to OILC to satisfy any outstanding unpaid amounts owed by the Borrower to OILC.

H. ATTACHMENTS

Please ensure all required documents are submitted with the signed application. OILC requires originals as noted below to be mailed or couriered. Also, please retain a copy of all documents submitted to OILC for your records.

- Loan Application Signature Page signed and dated by the appropriate individual (original to be submitted)
- Certified and sealed copy of OILC template By-Law authorizing project borrowing and applying for a loan (original with seal)
- Certificate of Treasurer Regarding Litigation using the OILC template (original, signed & sealed)
- Updated Certified Annual Repayment Limit Calculation (original)
- OMB approval if exceeding debt repayment limit, if applicable
- Capital Plan if applicable
- Project management letter

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ONTARIO INFRASTRUCTURE AND LANDS CORPORATION (OILC)
LOAN APPLICATION

- ☐ I acknowledge and agree that all of the above referenced documents must be submitted in the form required by OILC and understand that the application will not be processed until such documents have been fully completed and received by Infrastructure Ontario.

Please note: OILC retains the right to request and review any additional information or documents at its discretion.

- ☐ I acknowledge that I have read and understood the Project Management and Best Practices Reporting Requirements

Confidential Information

OILC is an institution to which the *Freedom of Information and Protection of Privacy Act* (Ontario) applies. Information and supporting documents submitted by the Borrower to process the loan application will be kept secure and confidential, subject to any applicable laws or rules of a court or tribunal having jurisdiction.