

BY-LAW NUMBER 2009-26

**A BY-LAW TO AUTHORIZE CERTAIN CAPITAL WORKS OF THE CORPORATION OF TOWN OF AMHERSTBURG (THE "MUNICIPALITY"); TO AUTHORIZE THE SUBMISSION OF AN APPLICATION TO THE ONTARIO INFRASTRUCTURE PROJECTS CORPORATION ("OIPC") FOR FINANCING SUCH CAPITAL WORKS; TO AUTHORIZE TEMPORARY BORROWING FROM OIPC TO MEET EXPENDITURES IN CONNECTION WITH SUCH WORKS; AND TO AUTHORIZE LONG TERM BORROWING FROM OIPC FOR SUCH WORKS THROUGH THE ISSUE OF DEBENTURES**

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 it is now deemed to be expedient to authorize for the municipal purposes of the Municipality the new capital works described in column (2) of Schedule "A" (individually a "Project", collectively the "Projects") attached hereto and forming part of this By-law ("Schedule "A") in the amount of the estimated expenditure set out in column (3) of Schedule "A", subject in each case to approval by OIPC of the financing for such Projects that will be requested by the Municipality in the Application as hereinafter described;

AND WHEREAS in accordance with section 4 of Ontario Regulation 403/02, the Council of the Municipality has had its Treasurer update its 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 expenditure for each Project as set out in column (3) of Schedule "A" ("Authorized Expenditure"), the Treasurer has calculated the estimated annual amount payable in respect of each Project (collectively the "Project Limits") and has determined that the aggregate of the Project Limits does not exceed the Updated Limit, and accordingly the approval of the Ontario Municipal Board under the *Ontario Municipal Board Act* (Ontario), as amended, is not required before any such Project is authorized by Council;

AND WHEREAS subsection 405(1) of the Act provides 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,

- (a) 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;
- (b) the municipality is a lower-tier municipality in a regional municipality and it has approved the work and the upper-tier municipality has approved the issue of debentures for the work; or
- (c) the municipality has approved the issue of debentures for another municipality or a school board under section 404;

AND WHEREAS subsection 405(4) of the Act provides that a municipality may delegate the power set out in subsection 405(1) to the head of council, to the treasurer, or to both of them;

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 OIPC has invited Ontario municipalities desirous of obtaining temporary and long term debt financing in order to meet capital expenditures incurred after December 31, 2003 in connection with eligible capital projects to make application to OIPC for such financing by completing and submitting an application on the form provided by OIPC (the "**Application**");

AND WHEREAS the Municipality has submitted an Application to OIPC to request financing for the Projects by way of long term borrowing through the issue of debentures to OIPC and by way of temporary borrowing from OIPC pending the issue of such debentures;

AND WHEREAS OIPC has accepted and has approved the municipality's application;

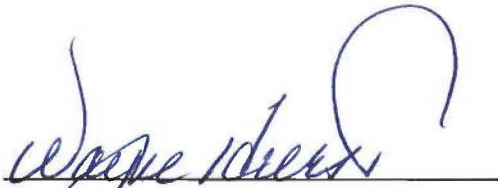
NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF AMHERSTBURG ENACTS AS FOLLOWS:

1. The Council of the Municipality hereby confirms, ratifies and approves the completion by the Treasurer of an Application and the submission by such authorized official of an Application, duly executed by such authorized official, to OIPC for the financing of the Projects in the maximum aggregate principal amount of \$2,000,000 substantially in the form of Schedule "B" hereto and forming part of this By-law, with such changes thereon as such authorized official approved.
2.
  - (a) Construction of each Project in the amount of the respective estimated Authorized Expenditure set out in column (3) of Schedule "A" is hereby approved and authorized;
  - (b) any one or more of the Mayor and the Treasurer are hereby authorized to conclude contracts on behalf of the Municipality for the construction of the Projects in accordance with the Municipality's usual protocol;
  - (c) where applicable, the Engineer of the Municipality will forthwith make such plans, profiles and specifications and furnish such information as in the opinion of the Engineer is necessary for the construction of the Projects; and
  - (d) where applicable, the construction of the Projects shall be carried on and executed under the superintendence and according to the direction and orders of such Engineer.
3. The Mayor and the 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 OIPC that provides for temporary and long term borrowing from OIPC in respect of the Projects on such terms and conditions as such authorized officials may approve, such execution and delivery to be conclusive evidence of such approval.
4. The Mayor and/or the Treasurer are hereby authorized, pending the substantial completion of a Project or as otherwise agreed with OIPC, to make temporary borrowings pursuant to section 405 of the Act in respect of each Project, 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 OIPC may require (a "**Note**"); and the Treasurer is authorized to sign such certifications as OIPC may require in connection with such borrowings in respect of the Projects; provided that the amount of borrowings allocated to any Project does not exceed the Authorized Expenditure for such Project and does not exceed the loan amount set out in column (4) of Schedule "A" in respect of such Project.
5. Subject to the terms and conditions of the Financing Agreement and such other terms and conditions as OIPC may otherwise require, the Mayor and the Treasurer are hereby authorized to enter into long term borrowing in respect of the Projects and to issue debentures to OIPC on the terms and conditions provided in the Financing Agreement and on such other terms and conditions as such authorized officials may agree ("**Debentures**"); provided that the principal amount of such

Debentures issued in respect of a Project does not exceed the Authorized Expenditure for such Project and does not exceed the loan amount set out in column (4) of Schedule "A" in respect of such Project.

6. In accordance with the provisions of section 18 of the *Ontario Infrastructure Projects Corporation Act, 2006* (Ontario), as security for the payment by the Municipality of any indebtedness of the Municipality to OIPC incurred under the Note or any Debentures, the Municipality is hereby authorized to agree in writing with OIPC that the Minister of Finance is entitled to deduct from money appropriated by the Legislative Assembly of Ontario for payment to the Municipality, or from money appropriated by the Assembly for payment to the Municipality in respect of specified matters, amounts not exceeding the amounts that the Municipality fails to pay to OIPC on account of the outstanding indebtedness evidenced by the Note or any Debentures issued by the Municipality to OIPC, and to pay such amounts to OIPC.
7. For the purposes of meeting the obligations of the Municipality in respect of the Note and any Debentures, the Municipality shall provide for raising in each year as part of the general levy, the amounts of principal and interest payable in each year under the Note and any outstanding Debenture, to the extent that the amounts have not been provided for by any other available source including other taxes or fees or charges imposed on persons or property by a by-law of any municipality.
8.
  - (a) The Mayor and/or the Treasurer are hereby authorized to execute and deliver the Note, the Mayor and the Treasurer are hereby authorized to enter into, execute and deliver the Financing Agreement and to cause Debentures to be issued, the Clerk and Treasurer are severally 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 and to carry out the issuance of the Note and Debentures, and the Treasurer is authorized to affix the Municipality's municipal seal to any such documents and papers.
  - (b) The proceeds realized in respect of the Note and Debentures, after providing for the expenses related to their issue, if any, shall be apportioned and applied for the respective Projects and for no other purpose except as permitted by the Act.
9. This By-law takes effect on the day of passing.

ENACTED AND PASSED this 23<sup>RD</sup> day of March, A.D. 2009.

  
WAYNE HURST, MAYOR

  
PAMELA MALOTT, CAO & CLERK

**Schedule "A"**  
**to By-Law Number 2009-26**

(1)	(2)	(3)	(4)
<u>Project Number</u>	<u>Description of Capital Work</u>	<u>Estimated Expenditure</u>	<u>Loan Amount</u>
1	Water Distribution System		2,000,000

**Schedule "B"**

**See Attached.**

**ONTARIO INFRASTRUCTURE PROJECTS CORPORATION (OIPC)  
LOAN APPLICATION**

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**Application ID:** 8169 **Program Year:** 2008/2009  
**Application Submit Date:** Mar-09-2009

**A. GENERAL INFORMATION - Borrowing Municipality**

**Name:** Amherstburg T **ID:** 37025

**Address:** 271 Sandwich St. S. **City:** Amherstburg  
**Postal Code:** N9V 2A5

**Name of Treasurer(or equivalent):** Paul Beneteau **Title:** Treasurer

**Telephone Number:** 519 736 5401 **Fax No.:** 519 736 0011

**Email:** pbeneteau@amherstburg.ca

**B. CONTACT INFORMATION**

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

**Name:** Ivan Fregonese **Title:** Supervisor of Budget Services  
**Telephone:** 519 736-5401 ext.243 **Fax No.:** 519 736 0011  
**Email:** ifregonese@amherstburg.ca

**C. PROJECT SUMMARY INFORMATION**

<u>No.</u>	<u>Project Name</u>	<u>Category</u>	<u>Type</u>	<u>Loan Amount</u>
1	Water Distribution System	Clean Water Infrastructure		\$2,000,000.00
<b>Total Loan Amount</b>				<b>\$2,000,000.00</b>

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**Project Details - Clean Water Infrastructure**

<b>Project Name</b>	Water Distribution System
<b>Category</b>	Clean Water Infrastructure
<b>Construction Start Date</b>	Jan-02-2008
<b>Construction End Date</b>	Dec-31-2008

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:

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

Description of the project:

**ONTARIO INFRASTRUCTURE PROJECTS CORPORATION (OIPC)  
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use requirements  
Sandwich Street, Park Street, Wolfe street, Murray street

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 PROJECTS CORPORATION (OIPC)  
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**Project Information**

**Project Name**      Water Distribution System  
**Category**            Clean Water Infrastructure

**Project Cost (A)** \$2,000,000.00

**Project Funding/Financing**

List existing and expected Funding/Financing sources for the project (eg. Reserves, other cash on hand, approved grants, etc.).

<u>Source/Description</u>	<u>Timing</u>	<u>Amount</u>
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<b>Total Amount (B)</b>	\$0.00
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<b>OIPC Loan Amount (A-B)</b>	\$2,000,000.00
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Please enter your long-term borrowing requirements including the estimated date the funds are required. Only include long-term borrowing in this section. If you anticipate that you will require short-term financing during the construction phase of the project, the information will be gathered as part of the Financing Agreement.

<u>Estimated Date Required</u>	<u>Amount</u>	<u>Term (in years)</u>	<u>Type</u>
Dec-31-2008	\$2,000,000.00	25	Amortizing
<b>Total Long-Term Financing</b>	<b>\$2,000,000.00</b>		

**ONTARIO INFRASTRUCTURE PROJECTS CORPORATION (OIPC)  
LOAN APPLICATION**

**D. DEBT AND REPAYMENT SUMMARY**

**Financial Information Returns (FIR)**

Please be aware that OIPC 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 OIPC 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
1	Fire Truck	\$188,480.00	\$44,199.02	3.44	01/12/2004	2009		blended principal and interest	\$41,789.00	Annual
2	Police equipment	\$395,745.00	\$247,052.00	4.31	11/29/2005	2010		blended principal and interest	\$89,787.00	Annual
3	Roads	\$1,977,527.00		4.42	01/01/2008	2018		blended principal and interest	\$246,808.00	Annual
4	Roads - Fraserville	\$2,983,417.00	\$393,783.00	6.78	01/01/1998	2008		blended principal and interest	\$420,486.00	Annual
5	Malden Improvements	\$3,683,975.00	\$1,913,406.00	5.67	01/01/2001	2012		blended principal and interest	\$476,814.00	Annual
6	Roads	\$296,619.00	\$181,850.00	2.2	12/01/2005	2010		blended principal and interest	\$62,975.00	Annual
7	Roads	\$3,729,393.00	\$3,405,821.44	4.79	11/27/2006	2016		blended principal and interest	\$469,874.00	Annual
8	Park Acquisitions	\$553,403.00	\$415,261.00	5.11	01/12/2004	2014		blended principal and interest	\$72,052.00	Annual

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9	Larry Bauer Park	\$200,000.00	\$124,854.13	4.31	11/29/2006	2010	blended principal and interest	\$45,376.00	Annual
10	Arena	\$60,999.00	\$38,079.89	4.31	11/29/2006	2010	blended principal and interest	\$13,840.00	Annual
11	Library	\$199,360.00	\$46,747.72	3.44	01/12/2004	2009	blended principal and interest	\$44,199.00	Annual
12	Sewer Separation	\$461,927.00		4.42	01/01/2008	2018	blended principal and interest	\$57,651.00	Annual
13	Sanitary Sewer	\$1,042,310.00	\$951,876.55	4.79	11/27/2006	2016	blended principal and interest	\$131,623.00	Annual
14	Malden Sewer	\$3,085,712.00	\$2,671,830.00	7.5	12/16/2002	2022	blended principal and interest	\$302,684.00	Annual
15	Water Treatment Plant	\$2,029,705.00	\$528,000.00	5.65	09/18/1998	2010	blended principal and interest	\$252,399.00	Annual
16	Waterline	\$6,500.00	\$1,524.00	3.44	01/12/2004	2009	blended principal and interest	\$1,441.00	Annual
17	5th Concession Waterline	\$76,240.00	\$32,521.00	4.5	12/13/2004	2009	blended principal and interest	\$17,367.00	Annual
18	Watermains	\$19,430.00	\$12,129.58	4.31	11/29/2004	2010	blended principal and interest	\$12,130.00	Annual
19	Waterlines	\$1,900,000.00	\$1,735,151.00	4.79	11/26/2006	2016	blended principal and interest	\$239,385.00	Annual

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

**ONTARIO INFRASTRUCTURE PROJECTS CORPORATION (OIPC)  
LOAN APPLICATION**

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If yes, please provide details:

**ONTARIO INFRASTRUCTURE PROJECTS CORPORATION (OIPC)  
LOAN APPLICATION**

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**OIPC Loan Repayment Information**

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

Source

Contribution to OIPC Loan Payments (%)

Taxation	
User Fees	100.00
Service Charges	
Development Charges	
Connection Fees	
Subsidies	
Other	
<b>Total</b>	<b>100.00</b>

Description of Other Source

**Audited Financial Statements**

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

**ONTARIO INFRASTRUCTURE PROJECTS CORPORATION (OIPC)  
LOAN APPLICATION**

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**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 OIPC'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 OIPC to satisfy any outstanding unpaid amounts owed by the Borrower to OIPC.

**H. ATTACHMENTS**

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

- Completed application signed and dated by the appropriate individuals (original)
- Certified and sealed copy of OIPC template by-law authorizing project borrowing and applying for a loan (original)
- Certificate of No Litigation using the OIPC template (original)
- Updated Certified Annual Repayment Limit Calculation (original)
- OMB approval if exceeding debt repayment limit, if applicable
- Current Audited Financial Statements

## ONTARIO INFRASTRUCTURE PROJECTS CORPORATION (OIPC) LOAN APPLICATION

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- Capital Plan if applicable
- Project management letter

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

**Please note: OIPC 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