

**THE CORPORATION OF THE TOWN OF AMHERSTBURG
BY-LAW NUMBER 2012-61**

A BY-LAW TO AUTHORIZE CERTAIN CAPITAL WORKS OF THE CORPORATION OF THE TOWN OF AMHERSTBURG (THE "MUNICIPALITY"); TO AUTHORIZE THE SUBMISSION OF AN APPLICATION TO THE ONTARIO INFRASTRUCTURE AND LANDS CORPORATION ("OILC") FOR FINANCING SUCH CAPITAL WORKS; TO AUTHORIZE TEMPORARY BORROWING FROM OILC TO MEET EXPENDITURES IN CONNECTION WITH SUCH WORKS; AND TO AUTHORIZE LONG TERM BORROWING FROM OILC 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 OILC 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 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 after December 31, 2003 in connection with eligible capital projects to make application to OILC for such financing by completing and submitting an application on the form provided by OILC (the "Application");

AND WHEREAS the Municipality has submitted an Application to OILC to request financing for the Projects 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 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 or Chief Administrative Officer of an Application and the submission by such authorized official of an Application, duly executed by such authorized official, to OILC for the financing of the Projects in the maximum aggregate principal amount of \$4,968,422.03 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 or Budget Supervisor 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 or Budget Supervisor 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 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 and/or Budget Supervisor are hereby authorized, pending the substantial completion of a Project or as otherwise agreed with OILC, 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 OILC may require (a “**Note**”); and the Treasurer is authorized to sign such certifications as OILC 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 OILC may otherwise require, the Mayor and the Treasurer or Budget Supervisor are hereby authorized to enter into long term borrowing in respect of the Projects 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 (“**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 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 Debentures (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.
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 and/or Budget Supervisor are hereby authorized to execute and deliver the Note, the Mayor and the Treasurer or Budget Supervisor are hereby authorized to enter into, execute and deliver the Financing Agreement and to cause Debentures to be issued, the Clerk and Treasurer or Budget Supervisor 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 or Chief Administrative


Officer or Clerk 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 23rd day of July, A.D. 2012.


Wayne Hurst, Mayor


Brenda Percy, Clerk