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Council MTG. of July 27/16

Agenda Item # 8.1.

**THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN**

**BY-LAW NUMBER 2016-28**

**A BY-LAW TO AUTHORIZE CERTAIN NEW CAPITAL WORKS OF THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN (THE "MUNICIPALITY"); TO AUTHORIZE THE SUBMISSION OF AN APPLICATION TO 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 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 it is now deemed to be expedient to authorize for the purposes of the Municipality the new capital work(s) described in column (2) of Schedule "A" (individually a "**Capital Work**", collectively the "**Capital Works**", as the case may be) attached hereto and forming part of this By-law ("**Schedule "A"**") in the amount of the respective estimated expenditure set out in column (3) of Schedule "A", subject in each case to approval by OILC of the financing for such Capital Work(s) that will be requested by the Municipality in the Application as hereinafter defined;

AND WHEREAS 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 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, (collectively the "**Estimated Annual Amount Payable**") and determined that the Estimated Annual Amount Payable does not cause the Municipality to exceed the Updated Limit, and accordingly the approval of the Ontario Municipal Board pursuant to the Regulation, is not required before any such Capital Work is 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;

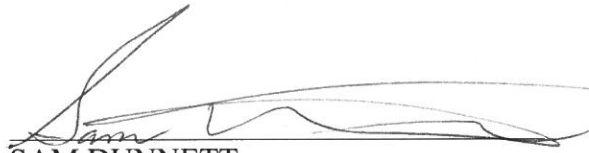
NOW THEREFORE THE COUNCIL OF THE COROPORATION OF THE MUNICIPALITY OF MAGNETAWAN ENACTS AS FOLLOWS:

1. The Council of the Municipality hereby confirms, ratifies and approves the execution by the 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 \$1,300,000 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.
  - (a) The undertaking of the Capital Work or of each Capital Work, as the case may be, 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 undertaking of the Capital Work or of each Capital Work, as the case may be, 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 are necessary for the undertaking of the Capital Work or of each Capital Work, as the case may be; and
  - (d) where applicable, the undertaking of the Capital Work or of each Capital Work, as the case may be, 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 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 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 the Capital Work 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 Work 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 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 Work or to 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 (4) of Schedule “A” in respect of such Capital Work.
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 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 (4) of Schedule “A” in respect of such Capital Work.
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 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.

7. For the purposes of meeting the Obligations, 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/or 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 issue the Debentures, one or more of the Clerk and the 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 and to execute and deliver the Note and to issue the Debentures, and the 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 that 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.
9. This By-law takes effect on the day of passing.

ENACTED AND PASSED this 27<sup>th</sup> day of July, A.D. 20 16.



SAM DUNNETT,  
MAYOR



ANDREW FARNSWORTH  
CLERK-ADMINISTRATOR

**Schedule "A"**  
**to By-Law Number 2016-28**  
**(New Capital Work(s))**

(1)	(2)	(3)	(4)
<u>Capital Work Number</u>	<u>Description of Capital Work</u>	<u>Estimated Expenditure</u>	<u>Loan Amount</u>
16033	Reconstruction and Resurfacing of 9.9 km of Nipissing Road; 18.9 km of Ahmic Lake Road; and 0.75 km of Ahmic Street and George Street.	\$1,700,000	\$1,300,000

**Schedule "B"**

**Please insert the OILC Application into Schedule "B".**





**ONTARIO INFRASTRUCTURE AND LANDS CORPORATION (OILC)  
LOAN APPLICATION**

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**Application ID:** 16033 **Program Year:** 2016/2017  
**Application Submit Date:** Jul-12-2016

**A. GENERAL INFORMATION - Borrowing Municipality**

Name: The Municipality of Magnetawan ID: 49041  
Address: PO Box 70 City: Magnetawan  
4304 Hwy 520 Postal Code: P0A1P0  
Name of Treasurer(or equivalent): Linda Saunders Title: Treasurer  
Telephone Number: 705-387-3947 Fax No.: 705-387-4875  
Email: treasurer@magnetawan.com

**B. CONTACT INFORMATION**

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

Name: Andrew Farnsworth Title: Clerk-Administrator  
Telephone: 705-387-3947 Fax No.: 705-387-4875  
Email: clerk@magnetawan.com

**C. PROJECT SUMMARY INFORMATION**

<u>No.</u>	<u>Project Name</u>	<u>Category</u>	<u>Type</u>	<u>Loan Amount</u>
1	Nipissing/Ahmi Lk. Rds. Reconstruction	Municipal Roads Infrastructure		\$1,300,000.00
<b>Total Loan Amount</b>				<b>\$1,300,000.00</b>

**ONTARIO INFRASTRUCTURE AND LANDS CORPORATION (OILC)  
LOAN APPLICATION**

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**Project Details - Municipal Roads Infrastructure**

**Project Name** Nipissing/Ahmi Lk. Rds. Reconstruction  
**Category** Municipal Roads Infrastructure  
**Construction Start Date** Aug-15-2016  
**Construction End Date** Sep-09-2016

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:

Nipissing Road South, and Ahmic Lake Road, Magnetawan.

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

resurfacing and reconstruction

Description of the project:

Nipissing Road South (8300m) - full reconstruction, including culvert replacement, new gravel and double layer tar and chip surface treatment.  
Ahmic Lake Road West (9900m) - full reconstruction, including culvert replacement, new gravel and double layer tar and chip surface treatment.

**ONTARIO INFRASTRUCTURE AND LANDS CORPORATION (OILC)  
LOAN APPLICATION**

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Ahmic Lake Road East (9000m) - this road section was reconstructed in 2009 and requires a new protective tar and chip sinle layer surface treatment to extend its useful life.  
Ahmic Harbour, George and Ahmic Streets (750m) - resurfacing with HL4/CCAP pavement.

Additional comments:

The loan application is to cover the cost of resurfacing only. Reconstruction costs will be paid through munipal taxation and reserve funding in the approximate amount of \$400,000

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

10

Please identify your Ministry contact (If applicable)

Ministry: Infrastructure Ontario  
Contact Name: Gavin Maitland  
Contact Phone: 416-327-5755

**ONTARIO INFRASTRUCTURE AND LANDS CORPORATION (OILC)  
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**Project Information**

**Project Name** Nipissing/Ahmi Lk. Rds. Reconstruction

**Category** Municipal Roads Infrastructure

**Project Cost (A)** \$1,700,000.00

**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>
Taxation-Reserves for reconstruction costs	Existing	\$400,000.00
<b>Total Amount (B)</b>		<b>\$400,000.00</b>
<b>OILC Loan Amount (A-B)</b>		<b>\$1,300,000.00</b>

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>
Sep-01-2016	\$1,300,000.00	10	Serial
<b>Total Long-Term Financing</b>	<b>\$1,300,000.00</b>		

**ONTARIO INFRASTRUCTURE AND LANDS CORPORATION (OILC)  
LOAN APPLICATION**

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**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:

**ONTARIO INFRASTRUCTURE AND LANDS CORPORATION (OILC)  
LOAN APPLICATION**

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**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 (%)

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

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 AND LANDS CORPORATION (OILC)  
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 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

**ONTARIO INFRASTRUCTURE AND LANDS CORPORATION (OILC)  
LOAN APPLICATION**

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- 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.