

THE CORPORATION OF THE CITY OF BROCKVILLE

By-Law Number 096-2006

Being a By-Law to Delegate Authority to the Outgoing Council to Pass By-Law(s) to Authorize the Issue of Debentures or other Prescribed Financial Instruments for Purposes of the Corporation of the City of Brockville after the first day during the Election for a New Council before the New Council takes Office following the Election

WHEREAS the *Municipal Act, 2001*, S.O. 2001, c. 25, 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 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 subsection 275 (1) of the Act provides that the Council of a local municipality shall not take any action described in subsection 275 (3) of the Act after the first day during the election for a new Council on which it can be determined that one of the following applies to the new Council that will take office following the election:

1. If the new Council will have the same number of members as the outgoing Council, the new Council will include less than three-quarters of the members of the outgoing Council.
2. If the new Council will have more members than the outgoing Council, the new Council will include less than three-quarters of the members of the outgoing Council or, if the new Council will include at least three-quarters of the members of the outgoing Council, three-quarters of the members of the outgoing Council will not constitute, at a minimum, a majority of the members of the new Council.
3. If the new Council will have fewer members than the outgoing Council, less than three-quarters of the members of the new Council will have been members of the outgoing Council or, if at least three-quarters of the members of the new Council will have been members of the outgoing Council, three-quarters of the members of the new Council will not constitute, at a minimum, a majority of the members of the outgoing Council;

AND WHEREAS subsection 275 (3) of the Act provides that the actions referred to in subsection 275 (1) of the Act are,

- (a) the appointment or removal from office of any officer of the municipality;
- (b) the hiring or dismissal of any employee of the municipality;
- (c) the disposition of any real or personal property of the municipality which had a value exceeding \$50,000 when it was acquired by the municipality; and
- (d) making any expenditures or incurring any other liability which exceeds \$50,000.

AND WHEREAS subsection 275 (4) of the Act provides that clauses 275 (3) (c) and 275 (3) (d) do not apply if the disposition or liability was included in the most recent budget adopted by the Council before nomination day in the election;

AND WHEREAS subsection 275 (6) of the Act provides that nothing in section 275 prevents any person or body exercising authority delegated by council;

AND WHEREAS the Council of The Corporation of the City of Brockville (the "**Municipality**") has authorized the undertaking of the purposes of the Municipality (individually a "**Project**", collectively the "**Projects**") set out in Column (2) of Schedule "A" attached hereto and forming part of this By-law ("**Schedule "A"**") and desires to issue debentures or other prescribed financial instruments for the Projects in the respective amounts specified in Column (6) of Schedule "A";

AND WHEREAS there is concern that a determination may be made under subsection 275(1) of the Act based on which the Council shall not take any action described in subsection 275(3) of the Act after the first day during the election for a new Council unless the Council has delegated authority in accordance with subsection 275(6) of the Act, it is now deemed expedient, before the new Council takes office following the election, for the outgoing Council of the Municipality to authorize long term borrowing for the Projects, provided that the principal amount of borrowings allocated to any Project does not exceed the amount approved by the Council of the Municipality to be financed through the issue of debentures or other prescribed financial instruments for such Project (the "**Approved Amount**"), as described in Schedule "A", provided that the long-term borrowing for any such Project does not exceed the lesser of the useful life of the Project and 10 years and further provided that the annual interest rate in respect of the long-term borrowing does not exceed 6% per annum;


NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF BROCKVILLE HEREBY ENACTS AS FOLLOWS:

1. THAT in the event that a determination is made under subsection 275(1) of the Act based on which the Council of the Municipality is prohibited from taking any action described in subsection 275(3) of the Act, at any time after the first day during the election for a new Council and before the new Council takes office following the election, the outgoing Council of the Municipality is hereby authorized to pass a by-law or by-laws, as the case may be, to authorize long-term borrowing in respect of the Projects through the issue of debentures or other prescribed financial instruments and the outgoing Council of the Municipality is hereby authorized to pass any by-laws to authorize the issue of debentures or other prescribed financial instruments in respect thereof (the "**Debentures**"), provided that the total principal amount of borrowings allocated to any Project does not exceed the approved amount to be financed for such Project as set out in Column (4) of Schedule "A", provided that the long-term borrowing for any such Project does not exceed the lesser of the useful life of the Project and 10 years and further provided that the annual interest rate in respect of the long-term borrowing does not exceed 6% per annum. For purposes of meeting the obligations of the Municipality in respect of any Debentures, the Municipality shall, in accordance with the Act, provide for raising in each year as part of the general levy, the amounts of principal and interest payable in each year under any outstanding Debentures, 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.
2. THAT in the event that a determination is made under subsection 275(1) of the Act based on which the Council of the Municipality is prohibited from taking any action described in subsection 275(3) of the Act, at any time after the first day during the election for a new Council and before the new Council takes office following the election, any one or more of the Mayor and the Treasurer of the Municipality are hereby authorized to cause Debentures to be issued, the Clerk and the Treasurer are hereby severally authorized to generally do all things and to execute all other documents and papers in the name of the Municipality in order to carry out the issuance of the Debentures, and the Treasurer is authorized to affix the Municipality's municipal seal to any such documents and papers.

3. THAT for greater certainty, the Council of the Municipality hereby delegates to the outgoing Council of the Municipality authority to pass any by-law deemed to be necessary or appropriate in connection with the long-term financing of any one or more of the Projects in accordance with this By-law and the Act.

Given under the Seal of the
Corporation of the City of Brockville
and passed this 26th Day of September, 2006


MAYOR


CLERK

THE CORPORATION OF THE CITY OF BROCKVILLE

BY-LAW NUMBER ●

SCHEDULE "A"

(1)	(2)	(3)	(4)	(5)	(6)
By-law	Project Description	Estimated Cost (excluding Interest)	Approved Principal Amount to be Financed Through the Issue of Debentures or Other Prescribed Financial Instruments	Amount of Debentures Previously Issued	Principal Amount of Debentures or Other Prescribed Instruments to be Issued
		\$	\$	\$	\$
1. 045-2006	Louis Street reconstructions – from Perth to William	670,800.00	500,400.00	NIL	500,400.00
2. 045-2006	C.N. Railway crossing improvements.				
3. 045-2006	Water Street Park Development.	1,000,000.00	125,000.00	NIL	125,000.00
4. 045-2006	Front Avenue Reconstruction – from Park to Ormond	375,000.00	100,000.00	NIL	100,000.00
5. 045-2006	North Augusta Road – C.N. Overpass.	495,125.00	368,868.00	NIL	368,868.00
6. 045-2006	Ormond Street railway crossing improvements.	650,000.00	98,000.00	NIL	98,000.00
7. 045-2006	California Avenue – Laurier Blvd Intersection improvements	38,000.00	38,000.00	NIL	38,000.00
		100,000.00	100,000.00	NIL	100,000.00
8. 045-2006	Railway crossing upgrades – Parkedale Avenue				
9. 045-2006	Water Pollution Control Plant – Replace Digester Gas & liquid membrane.	23,000.00	23,000.00	NIL	23,000.00
		210,000.00	210,000.00	NIL	210,000.00
10. 045-2006	Asphalt / Concrete Program.				
		375,000.00	295,000.00	NIL	295,000.00