

The Corporation of the City of North Bay

By-law No. 2014-113

A By-law to Delegate Authority to the Outgoing Council to Pass By-laws(s) to Authorize the Issue of Debentures for Capital Works

Whereas section 5 of 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 provide that the council of a 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 has a value exceeding \$50,000 at the time of disposal; 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 the 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 any authority of a municipality that is delegated to the person or body prior to the nomination day for the election of the new council;

And Whereas the council of the The Corporation of the City of North Bay (the “Council”) has authorized various capital works of the The Corporation of the City of North Bay and the issue of debentures therefor (individually a “Capital Work”, collectively the “Capital Works”) and desires to issue debentures for the Capital Works in the aggregate maximum principal amount of \$12,000,000 as set out in By-law No. 2014-17 a copy of which is included in Schedule “A” attached hereto and forming part of this By-law (“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 such day, for the outgoing Council to authorize long-term borrowing through one or more issues of debentures for any one or more of the Capital Works in the maximum principal amount of \$12,000,000 provided that the principal amount of debentures to be issued in respect of any Capital Work does not exceed the amount approved to be financed through the issue of debentures for such Capital Work, provided that the term of years of the debentures issued for any such Capital Work does not exceed the lesser of the useful life of the Capital Work and the term of 10 years, and provided that the debentures will be issued with an annual interest rate that does not exceed 4.5% per annum;

And Whereas by Resolution No. 2014-364 passed by Council at its Regular Meeting held on August 11, 2014, Council approved a By-Law to delegate authority to the outgoing Council to pass a By-Law to authorize the issue of debentures for capital works of the City of North Bay.

Now, Therefore, the Council of The Corporation of the City of North Bay 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 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 "Period"), the outgoing Council is hereby authorized to pass a by-law or by-laws, as the case may be, to authorize long-term borrowing through one or more issues of debentures in respect of any one or more of the Capital Works and the outgoing Council is hereby authorized during the Period to pass any by-laws to authorize one or more issues of debentures in respect thereof in the maximum principal amount of \$12,000,000 (the "Debentures"), provided that the term of years of the Debentures to be issued for any such Capital Work does not exceed the lesser of the useful life of the Capital Work and 10 years, and provided that the Debentures will be issued with an annual interest rate that does not exceed 4.5% per annum. For purposes of fulfilling the obligations of The Corporation of the City of North Bay in respect of the Debentures, The Corporation of the City of North Bay 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 the 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 is prohibited from taking any action described in subsection 275(3) of the Act, at any time during the Period, any one or more of the Mayor and the Treasurer are hereby authorized to cause the Debentures to be issued, the Clerk and the Treasurer are hereby individually or jointly authorized to generally do all things and to execute all other documents and papers in the name of The Corporation of the City of North Bay in order to carry out the issuance of the Debentures, and the Treasurer is authorized to affix The Corporation of the City of North Bay's municipal seal to any such documents and papers.
3. That for greater certainty, the Council hereby delegates to the outgoing Council authority to pass any by-laws during the Period deemed to be necessary or appropriate in connection with the issuance of Debentures in respect of any one or more of the Capital Works in accordance with this By-law and the Act.
4. That this By-law comes into force and takes effect on the date of its final passing and be limited to the "Lame Duck Period" of Council and shall expire on Monday, December 1, 2014.

Read a First Time in Open Council this 25th day of August, 2014.

Read a Second Time in Open Council this 25th day of August, 2014.

Read a Third Time in Open Council and Enacted and Passed this 25th day of August, 2014.

Mayor Allan McDonald

City Clerk Catherine Conrad

This is Schedule A to the Corporation of the City of North Bay By-Law No. 2014-113

The Corporation of the City of North Bay

By-Law No. 2014-17

**A By-Law to Authorize the Expenditure of Funds
Approved by the 2014 General Capital Budget
and the 2014 Water and Sanitary Sewer Capital Budget**

Whereas the *Municipal Act, 2001* (S.O. 2001, c-25), Section 326 authorizes the Council to pass a by-law for the purposes therein stated;

And Whereas the *Municipal Act, 2001* (S.O. 2001, c-25), Section 401 authorizes the Council to pass a by-law for the purposes herein stated;

And Whereas Council passed General Government Committee Report No. 2013-20 on August 12, 2013 to authorize the presentation of one all encompassing by-law for projects contained in the approved Capital Budget;

And Whereas Council passed General Government Committee Reports No. 2013-23 and 2013-24 on December 9, 2013 approving the 2014 General Capital Budget and the 2014 Water and Sanitary Sewer Capital Budget;

Now, Therefore, the Council of The Corporation of the City of North Bay Hereby Enacts as Follows:

1. That the expenditure of funds for the approved Capital Projects are hereby authorized.
2. That the Treasurer of the City of North Bay is hereby authorized to borrow from time to time from any bank or person by way of promissory note or notes temporary advances of money to meet the cost of work as aforesaid pending the completion thereof and pending the issue and sale of the debentures hereinafter referred.
3. Any promissory note or notes issued pursuant to paragraph 2 hereof shall be sealed with the seal of The Corporation of the City of North Bay and signed by the Mayor or Deputy Mayor and the Treasurer of the City of North Bay.
4. That the debentures to be issued identified and approved under the 2014 General Capital Budget to pay for the cost of such work shall bear interest at such rate as the Council may determine and shall be made payable within ten (10) years.
5. (a) That the cost of the works approved by the 2014 Water and Sanitary Sewer Capital Budget be funded first from the water and sanitary sewer rates, and if required the balance be funded by debentures to be issued to pay for the cost of such work.

(b) That the debentures to be issued to pay for the cost of such work shall bear interest at such rate as the Council may determine and shall be made payable within ten (10) years and shall be a charge against all rateable property in the Urban Service Area of The Corporation of the City of North Bay, to such an extent as the principal and interest payments are not recovered from the water and sanitary sewer rates.

Read a First Time in Open Council this 20th day of January, 2014.

Read a Second Time in Open Council this 20th day of January, 2014.

Read a Third Time in Open Council and Enacted and Passed this 20th day of January, 2014.

"Original Signature on File"
Mayor Allan McDonald

"Original Signature on File"
City Clerk Catherine Conrad