

FINANCING AGREEMENT

THIS AGREEMENT (the "**Agreement**"), made in duplicate, dated and effective as of 4th day of November, 2016.

BETWEEN: ONTARIO INFRASTRUCTURE AND LANDS CORPORATION
(hereinafter referred to as "**OILC**");

And

THE CORPORATION OF THE VILLAGE OF MERRICKVILLE-WOLFORD
(hereinafter referred to as the "**Municipality**")

WHEREAS:

OILC has advised the Municipality that its loan application 1117, (the "**Application**"), has been approved;

OILC agrees to make financing available to the Municipality up to a maximum aggregate principal amount of \$555,000.00 (Five Hundred Fifty Five Thousand Dollars) (the "**Committed Amount**") for the project(s) listed in the Application and more particularly described in Schedule "A" hereto (each, a "**Project**"), subject to the terms and conditions set out in this Agreement.

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged by the parties, the Municipality and OILC hereby agree as follows:

1. **Definitions.** In this Agreement:

- (a) "**Act**" means the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended from time to time.
- (b) "**Agreement**" means the agreement constituted by this agreement including all schedules attached hereto and referenced documents, as the same may be amended, restated, supplemented, replaced, otherwise modified or terminated from time to time. Terms such as "hereof", "herein" and "hereto" refer to this Agreement.
- (c) "**Business Day**" means a day on which banking institutions in Toronto, Ontario, Canada and the Municipality are not authorized or obligated by law or executive order to be closed, other than Saturday or Sunday.
- (d) "**Committed Amount**" has the meaning given to it in the second recital hereof; and when used in reference to a particular Project, "Committed Amount" means the portion of the Committed Amount allocated to such Project in Schedule "A" hereto.

- (e) **“Facility Termination Date”** means the earlier of Termination Date and the date on which the obligations of OILC hereunder have been terminated pursuant to paragraphs 8(b) or 8(c) hereof.
- (f) **“Issue Date”** for a Debenture means the date on which the Debenture is issued. The date on which the Debenture is issued will be either be “Requested Date of Debenture” or the “Revised Date of Debenture” as such dates are further identified on Schedule “A”.
- (g) **“Principal Amount”** of an interest-bearing Debenture means the amount stated to be payable by the maturity date of the Debenture, exclusive of any interest.

2. **Representations and Warranties.**

The Municipality represents and warrants to OILC that:

- (a) the information contained in the Application, to the extent that it relates to the Municipality or the Project(s), is true and correct in all material respects as of the date of this Agreement;
- (b) the financing applied for in the Application relates only to expenditures in respect of the Project(s) that were or will be actually made by the Municipality on or after January 1, 2004;
- (c) long term financing for the Project(s) by way of one or more debentures (individually a **“Debenture”**, collectively the **“Debentures”**) to be issued to OILC, and the entering into of this Agreement have been approved by authorizing by-law duly passed by the Council of the Municipality in full compliance with the Act and the regulations made thereunder and more particularly described in Schedule “B” hereto (the **“Authorizing By-law”**);
- (d) the principal amount of financing allocated to each Project in the Authorizing By-law does not exceed the expenditures approved by the Municipality in respect of such Project;
- (e) the Municipality is not now subject to any restructuring order under Part V of the Act; accordingly, no approval of the Project(s), the Application or the borrowings applied for in the Application is required to be given by any transition board or commission appointed in respect of the restructuring of the Municipality and the Municipality undertakes to notify OILC if it becomes subject to any restructuring order under Part V of the Act; and
- (f) the Municipality is not currently in default under any debentures and undertakes to immediately inform OILC if it is in default under any such financial obligations at any time.

3. **Use of Proceeds.**

- (a) The Municipality covenants and agrees that:
 - (i) the proceeds of each Debenture shall be applied only to either:

- (1) capital expenditures in respect of hard and soft capital costs actually made or to be made if OILC in its sole discretion has agreed to purchase a Debenture prior to the expenditure of all or any portion of the Committed Amount on the Project(s), by the Municipality on or after January 1, 2004 if such costs are directly related to the Project(s) in respect of which the Debenture is being issued; or
- (2) legal costs and expenses directly related to the issue of such Debenture;

and not to any other purpose.

- (b) For greater certainty, OILC is not responsible for ensuring that the proceeds of and Debentures are in fact used in the manner specified in paragraph 3(a) above.

4. Conditions Precedent to Debenture Purchases. OILC shall not purchase any Debenture until each of the following conditions precedent, has been satisfied, in which case OILC may purchase any Debenture in accordance with paragraphs 5 and 6:

- (i) OILC shall have received a Treasurer's Certificate, dated as of the Issue Date ("**Debenture Treasurer's Certificate**");
- (ii) OILC shall have received a legal opinion from the municipality's external legal counsel, dated as of the Issue Date, addressed to OILC in form and substance satisfactory to OILC;
- (iii) the purchase price for any Debenture, when added to the aggregate amount of Debentures then outstanding in respect of a Project, does not exceed the Committed Amount for that Project;
- (iv) the representations and warranties of the Municipality set out in paragraph 2 hereof shall be true and correct as at the date of the request to purchase a Debenture, as evidenced by the Debenture Treasurer's Certificate;
- (v) the Municipality shall not be in material default of any of its obligations under this Agreement as at the Issue Date, as evidenced by the Debenture Treasurer's Certificate;
- (vi) at OILC's sole discretion, if any issues that were raised in any audit conducted under paragraph 11 (a) have been resolved to OILC's satisfaction and/or OILC has neither required an audit under paragraph 11 (a) nor is such an audit ongoing; and
- (vii) none of the events specified in paragraph 8(c) shall have occurred and be continuing.

5. Purchase of Debentures.

- (a) Provided that the Municipality is not in default under this Agreement, that all of the conditions precedent listed in paragraph 4 have been satisfied and that none of the events specified in paragraph 8(c) shall have occurred and be continuing, and upon satisfaction of such other usual and customary conditions precedent as OILC and its legal counsel may reasonably require, and subject to paragraph 6 hereof, OILC agrees to purchase Debentures from the Municipality on the Issue Date that is identified on the attached Schedule "A" . The Issue Date being the 1st or 15th or the next following Business Day of a calendar month or at a time or times to be determined at the sole discretion of OILC, on or prior to the Facility Termination Date in an aggregate Principal Amount not to exceed the Committed Amount and subject to the detailed Debenture purchase process to be provided to the Municipality. Notwithstanding OILC's ability to purchase Debentures from the Municipality at its sole discretion as noted above and subject to its rights contained in paragraphs 6(a), 8(b) and 8(c) below, should the Municipality not issue Debenture(s) on the Issue Date, the Municipality shall have a period of one year from the Issue Date to issue Debenture(s) to OILC. Should the Municipality fail to issue Debenture(s) within the one year period, OILC shall have the right to terminate this Agreement in accordance with paragraphs 8(b) and (c) below.
- (b) If OILC agrees to purchase Debenture(s) from the Municipality prior to the expenditure of all or any portion of the Committed Amount on the Project(s), the Municipality agrees that it will submit an annual Treasurer's Report, in the form to be provided by OILC, to OILC verifying that all proceeds of such Debenture(s) have been used exclusively for the financing of the Project(s) during the relevant period. The first such report shall be due on the first anniversary of the purchase of the Debenture(s) by OILC and subsequent reports shall be due annually thereafter on subsequent anniversaries until such time as all the proceeds of such Debenture(s) have been expended.
- (c) The purchase price for Debentures will be tendered to the Municipality by electronic transfer of funds to an account of the Municipality maintained with a deposit-taking institution, such account to be designated by notice in writing to OILC by the execution and delivery of the attached Schedule "D" to this Agreement and the Municipality undertakes to notify OILC immediately in writing of any changes in its designated account for the purposes of such deposit.

6. Issue of Debentures

- (a) The Municipality shall notify OILC sixty (60) days in advance of the Issue Date as noted on Schedule "A" hereto. If the Debenture(s) will not be offered for purchase on such date the Municipality shall propose another Issue Date subject to OILC's rights under paragraph 5(a) and subject to OILC's right to reject the new Issue Date.
- (b) OILC is not responsible for ensuring that the proceeds of any Debenture are in fact used for the Debenture Project(s) designated as such by the Municipality pursuant to paragraph 3(a) above.
- (c) The interest rate for each Debenture (the "**Debenture Interest Rate**") shall be fixed by OILC based on OILC's cost of funds plus OILC's prevailing spread

assigned to the borrower sector for program delivery costs and risks. A rate confirmation letter will be sent to the Municipality by OILC confirming the Debenture Interest Rate to be offered for the Debenture and the Municipality's acceptance of such rate shall be conclusive proof of acceptance of the Debenture Interest Rate offered.

- (d) Payments of principal and interest due on each Debenture shall be made by pre-authorized debit from an account of the Municipality maintained with a deposit-taking institution, such account to be designated by notice in writing to OILC by the execution and delivery of the attached Schedule "D" to this Agreement, together with such other authorizations, voided cheques and other documentation as the deposit-taking institution and the rules of the Canadian Payments Association may require for such pre-authorized debit, and the Municipality undertakes to notify OILC immediately in writing of any changes in its designated account for the purposes of pre-authorized debits.

7. Right of Deduction.

As security for the satisfaction by the Municipality of its payment obligations under the Debenture(s), the Municipality hereby agrees, pursuant to section 25 of the *Ontario Infrastructure and Lands Corporation Act, 2011* (Ontario), as amended from time to time hereafter, 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 any Debenture(s) and to pay such amounts to OILC from the Consolidated Revenue Fund.

8. Term, Termination and Default.

- (a) This Agreement shall terminate ten (10) Business Days following the date on which the last obligations outstanding hereunder are paid in full or following the purchase by OILC of the last Debenture to be issued pursuant to this Agreement (the later of the two dates means the "Termination Date") unless earlier terminated in accordance with paragraphs (b) or (c) below, in which case the "Termination Date" means the date on which this Agreement shall terminate, in accordance with such paragraph.
- (b) OILC may terminate its obligations under this Agreement on thirty (30) days prior notice in writing to the Municipality if in the reasonable opinion of OILC the Municipality is in material default under this Agreement, other than for any cause enumerated in (c) below or if OILC rejects a new Issue Date pursuant to section 6(a) or the Municipality fails to issue Debenture(s) within the specified time period enumerated in section 5(a).
- (c) OILC may terminate any or all of its obligations under this Agreement immediately, subject to paragraph (d) below,
 - (i) if the Municipality:

- (1) reaches or exceeds its updated debt and financial obligation limit received from the Ministry of Municipal Affairs and Housing;
 - (2) has failed to meet and pay any of its obligations under any debentures issued by the Municipality or interest thereon when due and after payment thereof has been duly demanded;
 - (3) has failed to meet and pay any of its other debts or liabilities when due and default in payment is occasioned from financial difficulties affecting the Municipality;
 - (4) has or may become involved in financial difficulties such that default or unusual difficulty in meeting debts or obligations or in providing adequate funds to meet current expenditures may ensue, or has failed to levy the necessary rates to meet current expenditures; or
 - (5) uses the proceeds of any Debenture for any purpose other than financing the Project(s) in the manner specified in Schedule "A" of this Financing Agreement.
- (ii) if the Ontario Municipal Board makes an order under section 21 of the *Municipal Affairs Act* (Ontario), as amended, or any successor legislation to vest in the Ministry of Municipal Affairs and Housing control and charge over the administration of all the affairs of the Municipality as set forth in the order; or
 - (iii) if issues raised in an audit required under paragraph 16(a) have not been resolved to OILC's satisfaction within a reasonable time after the Municipality has been notified of such issues.
- (d) If OILC elects to terminate its obligations under this Agreement pursuant to paragraph 8(c) hereof, it shall give notice in writing of such termination to the Municipality, specifying the reason for such termination. Upon delivery of such notice OILC shall have no further obligation to purchase any Debentures hereunder. In addition to any rights or remedies that OILC may have at law or in equity to enforce such obligations, OILC may request that the Minister of Finance exercise the authority described in paragraph 7.
 - (e) If OILC elects to terminate its obligations under this Agreement in accordance with paragraphs 8(b) or (c) above, OILC, at its discretion, shall assess any losses that it may incur as a result of the early termination as follows: if on the Termination Date the outstanding principal balance on the Debenture(s) is less than the net present value of the Debenture(s), the Municipality shall pay the difference between these two amounts to OILC.

9. Communications Requirements

- (a) OILC and the Municipality will work together to ensure that OILC financing of Project(s) receives recognition and prominence through agreed upon communications activities. An example of such activity could include signage at each Project site signifying Government of Ontario project financing.
- (b) OILC reserves the right to undertake its own communications activities in relation to OILC financing of the Project(s) at any time in its sole discretion and at its expense.
- (c) All joint communications activities between the Municipality and OILC must comply with the Government of Ontario's Visual Identity Directive and guidelines.

10. Indemnity

To the fullest extent permitted by law, the Municipality shall indemnify and hold harmless OILC, its officers, directors, agents, subcontractors and employees and agents (collectively, the "**Indemnified Parties**") from and against all (a) claims and causes of action, pending or threatened, of any kind (whether based in contract, tort or otherwise) by third parties or by whomever made related to or arising out of or in any way related to this Agreement or the Project(s) and (b) liabilities, losses, damages, costs and expenses (including, without limitation, legal fees and disbursements) suffered or incurred by any of the Indemnified Parties in connection with any claims or causes of action described in paragraph (a) above. The obligations contained in this paragraph shall survive the termination or expiry of this Agreement.

11. General Provisions

- (a) (i) OILC reserves the right to audit compliance with this Agreement at any time. Such right will survive any termination of this Agreement. The cost of any such audit will be at OILC's or the Municipality's expense at OILC's sole discretion. Municipalities are required to keep any supporting documents required for any such audit for a minimum of seven (7) years.
- (ii) The Municipality's obligation to provide an annual Treasurer's Report as described in paragraph 5(b) shall survive any termination of this Agreement.
- (b) No amendment, restatement, supplement, replacement, other modification or termination of any provision of this Agreement is binding unless it is in writing and signed by each party.
- (c) The Municipality may not assign its rights or transfer its obligations under this Agreement without the prior written consent of OILC. OILC may assign its rights or transfer its obligations under this Agreement without the prior written consent of the Municipality by giving thirty (30) days notice of such assignment or transfer to the Municipality. This Agreement enures to the benefit of and binds the parties and their respective successors and permitted assigns.
- (d) This Agreement, together with the Schedules, the Application, the Note, the Treasurer's Certificate, the Debenture Treasurer's Certificate, the annual Treasurer's Report and the Debenture(s), constitutes the entire agreement

between the parties with respect to the subject matter referenced in those documents and supersedes all prior agreements, negotiations, discussions, undertakings, representations, warranties and understandings, whether written or oral.

- (e) Each party shall from time to time promptly execute and deliver all further documents and take all further action reasonably necessary or appropriate to give effect to the provisions and intent of this Agreement.
- (f) This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in the Province of Ontario.
- (g) This Agreement and any amendment, restatement, supplement, replacement, other modification or termination of any provision of this Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitute one and the same instrument.
- (h) Either party may deliver an executed copy of this Agreement by fax but that party shall immediately deliver to the other party an original executed copy of this Agreement.
- (i) Unless otherwise specified, each notice to a party must be given in writing and delivered personally or by courier, sent by prepaid registered mail or transmitted by fax to the address or fax number set out in Schedule "C".
- (j) If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, the illegality, invalidity or unenforceability of that provision will not affect:
 - (i) the legality, validity or enforceability of the remaining provisions of this Agreement; or
 - (ii) the legality, validity or enforceability of that provision in any other jurisdiction.

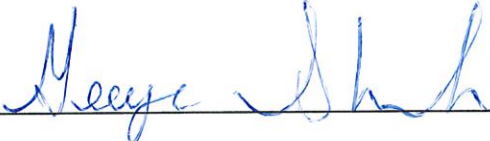
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IN WITNESS WHEREOF the parties hereto have executed the Agreement effective as of the date first above written.

ONTARIO INFRASTRUCTURE AND LANDS CORPORATION

per: 

Steve Rohacek
Senior Vice President, Municipal Business Development & Lending

per: 


George Skariah
Senior Vice President, Finance and Risk

We have the authority to bind the corporation

THE CORPORATION OF THE VILLAGE OF MERRICKVILLE-WOLFORD

per: 

David Nash, Mayor

per: 

Sheila Kehoe, Treasurer

We have the authority to bind the corporation

Executed by the above parties as authorized by By-Law 28-16 of the Municipality.

SCHEDULE "A"
FINANCING SCHEDULE

Ontario Infrastructure and Lands Corporation

Financing Schedule

Program Year: 2016/2017

Organization Name: THE CORPORATION OF THE VILLAGE OF MERRICKVILLE-WOLFORD

Date: November 04, 2016

Approved Loan Amount: \$555,000.00

Please review, complete areas where indicated, sign, date and return the form to OILC. The following information will be incorporated into the OILC Financing Agreement.

The following lists the project information outlined in your application. Please verify that the project details are correct. You may amend the project completion dates or the total project cost if this information has changed since the application was submitted. Transfers between projects or categories are at OILC's discretion and require pre-approval.

A. Project Details

Project Information						Financing Information				
Project ID	Project Name	Category	Start Date (mm/dd/yyyy)	Completion Date (mm/dd/yyyy)	Total Project Cost	OILC Loan Amount	Term	Type	Requested Date of debenture* (mm/dd/yyyy)	Revised Date of Debenture (mm/dd/yyyy)
1	**Pumper	MOI	06/27/2016	12/02/2016	\$350,000.00	\$350,000.00	20 y	Amortizing	12/02/2016	<input type="text"/>
2	**Equipment (Grader & plow truck)	MOI	05/09/2016	11/30/2016	\$205,000.00	\$205,000.00	10 y	Amortizing	12/02/2016	<input type="text"/>
					\$555,000.00	\$555,000.00				

*Please note, debentures are to be purchased after expenditures have been incurred. Please review and adjust the Date of Debenture if required ensuring adequate time for the debenture purchase. For further clarifications or questions, please contact Jennifer Tang, Manager – Loan Administration at 416-314-5363.

nese projects are not eligible for Construction Advances. Funds can only be requested for these projects by way of Debentures.

Financing Schedule

Program Year: 2016/2017

Organization Name:

THE CORPORATION OF THE VILLAGE OF MERRICKVILLE-WOLFORD

Date: November 04, 2016

Approved Loan Amount: \$555,000.00

B. Construction Financing Quarterly Forecast

If you wish to participate in the construction loan program, please indicate the amount of construction financing you require per fiscal quarter and per debenture. A reminder that OILC provides construction advances based on incurred project expenditures, unless prior approval has been sought.

Project ID	DEC-FEB 2017	MAR-MAY 2017	JUN-AUG 2017	SEP-NOV 2017	DEC-FEB 2018	MAR-MAY 2018	JUN-AUG 2018	SEP-NOV 2018	DEC-FEB 2019	MAR-MAY 2019
1										
2										

Project ID	JUN-AUG 2019	SEP-NOV 2019	DEC-FEB 2020	MAR-MAY 2020	JUN-AUG 2020	SEP-NOV 2020	DEC-FEB 2021	MAR-MAY 2021	JUN-AUG 2021	SEP-NOV 2021
1										
2										

Financing Schedule

Program Year: 2016/2017

Organization Name:

THE CORPORATION OF THE VILLAGE OF MERRICKVILLE-WOLFORD

Date: November 04, 2016

Approved Loan Amount:

\$555,000.00

C. Authorization

I agree that these are the terms for the OILC loan. I understand that OILC will use this information to draft the Financing Agreement.

Treasurer Shaila Kehoe

Signature Shaila Kehoe

Date Nov 14/16

PRINT NAME

DIRECTIONS: Please mail or courier the original signed Financing Schedule to OILC, 1 Dundas Street West, 20th Floor, Toronto, ON M5G 2L5

