

**WATER SUPPLY AGREEMENT**  
**CITY OF SUDBURY - WHITEFISH LAKE INDIAN RESERVE NO. 6**

**SCHEDULE "A"**

**DEFINITIONS**

1. For the purposes of this Agreement, unless the context otherwise requires:

- (a) "FIRST NATION" shall mean Whitefish Lake First Nation;
- (b) "CITY" shall mean the City of Greater Sudbury;
- (c) "PERSON" shall include an individual, corporation, partnership, business and/or firm;
- (d) "WATER" shall mean potable water (water storage, fire flows, fire storage) supplied from and by the City's water distribution system;
- (e) "SCHEDULE" shall mean an appendix document attached to and forming part of this Agreement;
- (f) "COMMUNITY WATER WORKS" shall mean all of the water mains, services and appurtenances within the First Nation Lands;
- (g) "CITY BOUNDARY" shall mean that area included within the City of Greater Sudbury and extending to point where the intersection of Junction Creek and Reserve Road meet the northerly boundary of the First Nation Lands;
- (h) "FIRST NATION LANDS" shall mean the Whitefish Lake Indian Reserve No. 6.

**WATER SUPPLY AGREEMENT**  
**CITY OF SUDBURY - WHITEFISH LAKE INDIAN RESERVE NO. 6**

**SCHEDULE "B"**

**DESIGNATED PERSONS**

1. Community Health Representative
2. Director of Community Infrastructure

## **WATER SUPPLY AGREEMENT**

**CITY OF SUDBURY - WHITEFISH LAKE INDIAN RESERVE NO. 6**

Insert Band Council Resolution (BCR)

# Request for Decision City Council



Type of Decision									
Meeting Date	May 29th, 2003				Report Date	May 21, 2003			
Decision Requested		Yes	<input checked="" type="checkbox"/>	No	Priority	<input checked="" type="checkbox"/>	High		Low
	Direction Only				Type of Meeting		Open		Closed

Report Title
Re: Municipal Corporations

Policy Implication + Budget Impact	
<input type="checkbox"/>	This report and recommendation(s) have been reviewed by the Finance Division and the funding source has been identified.
N/A	
<input checked="" type="checkbox"/>	Background Attached

Recommendation
For information only.
Recommendation Continued

Recommended by the General Manager
 Doug Wukosinic General Manager of Corporate Services

Recommended by the C.A.O.
 Mark Mieto C.A.O.

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Date: May 21, 2003

## Report Prepared By

Ron Swiddle  
Director of Solicitor and Clerks, City Solicitor

## Division Review

Ron Swiddle  
Director of Solicitor and Clerks, City Solicitor**Introduction**

Under the *Municipal Act, 2001*, C. 25 S.O. 2001, municipalities were allowed to establish corporations subject to Regulations that were to be passed. At the time that the Act was passed, it was not known what these Regulations would say, and what corporations would be allowed, if any.

A new Regulation, 168/03, has just been passed by the Province. This deals with municipal business corporations, and sets out the abilities and limitations of municipalities to establish corporations. This report outlines the contents of this Regulation for Council's information.

**Business Corporations**

A copy of the entire Regulation is attached. At this point the Regulation is only in English, but a French version is to be expected. Under the Regulation, a municipality may incorporate a corporation or business corporation for the following purposes only:

1. To operate and maintain a public transportation system.
2. To operate and maintain a waste management service for the collection, storage, disposal or recycling of residential waste.
3. To promote the municipality through the collection and dissemination of information and the preparation of economic development strategic plans.
4. To provide municipal administrative services to other bodies, excluding enforcement services.
5. To operate a municipal capital facility.
6. To construct, operate, maintain and own:
  - i) nursing home or an approved charitable home;
  - ii) recreational, tourism and cultural facilities except libraries;
  - iii) parking facilities;
  - iv) public transportation systems;
  - v) waste management facilities including recycling.

If a corporation is established for one of the above purposes, the lands related to the facility must still be owned by the municipality.

It is important to note that these purposes are limited to **new operations** only. Accordingly, the City could not move the operation of Pioneer Manor, for example, to a new corporation. The City could use a new corporation to deal with a new nursing home only.

Accordingly, these corporations are expected to be more useful in the establishment of municipal - private partnerships, not in establishing new ways of handling existing business.

These corporations may only operate within the municipal boundaries or within another municipality with the agreement of that municipality.

Date: May 21, 2003

## Business Case

Under the Regulation, before a municipality incorporates a corporation, purchases shares in it, or amends it, the municipality must undertake a business case study. This study must address certain mandatory items including projected financial consequences for the next five years, advantages and disadvantages and risk for the municipalities, comparisons with other options, public accountability requirements, policies on access, financial auditing and reporting requirements, and financial risks.

Before incorporating a corporation municipalities shall hold at least one public meeting with 30 days notice. This would thus also require a municipality to amend its notice by-law to establish a notice provision.

(Even though no recommendation is coming forward at this time to incorporate a corporation, staff will be presenting an amendment to the notice by-law in order to streamline the process should Council ever wish to take such action in the future. This amendment is expected on the next Council meeting.)

At the public hearing copies of the proposed by-laws and the business case studies must be reviewed for comment, and the case study must be available to the public at least 30 days before the meeting.

## Limitations

A corporation shall not incorporate another corporate body. A corporation cannot enter into a trust agreement except for financing purposes. A corporation may only invest in securities that a municipality could enter into.

A corporation would be governed by the *Municipal Conflict of Interest Act* and by the *Municipal Freedom of Information and Protection of Privacy Act*.

A municipality may incorporate only if the corporation's purpose is to provide a service, system or facility that could be provided directly by the municipality.

A municipality may appoint persons to establish the corporation on its behalf and may enter into contracts with the corporation.

A municipality may provide assistance to the corporation under certain circumstances and with certain limitations.

Before incorporating, a municipality shall notify the Minister of Municipal Affairs and Housing and any other related Ministry that has provided funding.

This regulation would have no effect on the community development corporations already in place as they would be established under the community development corporations sections of the *Municipal Act*.

Until the passage of this regulation, municipalities were not allowed to proceed with corporations. It is now clear that municipalities can do so, but under strict limitations and for very limited purposes. Municipalities cannot transfer existing operations to corporations, but may use them as a planning tool for new items in the future.

**Municipal Act, 2001  
Loi de 2001 sur les municipalités**

**ONTARIO REGULATION 168/03**

*No Amendments*

**MUNICIPAL BUSINESS CORPORATIONS**

**Notice of Currency:**\* This document is up to date.

\*This notice is usually current to within two business days of accessing this document. For more current amendment information, see the Table of Regulations (Legislative History).

*This Regulation is made in English only.*

**Interpretation**

**1. (1)** In this Regulation,

"corporation" means a corporation incorporated by a municipality under this Regulation;

"municipal capital facilities" includes only,

(a) facilities that are,

(i) used by the council,

(ii) for the general administration of the municipality,

(iii) related to the provision of transit and transportation systems, or

(iv) for the collection and management of residential waste and garbage,

(b) facilities that combine the facilities described in clause (a),

(c) municipal community centres and facilities used for cultural, recreational or tourist purposes,

(d) parking facilities ancillary to any of the facilities described in clauses (a), (b) and (c),

(e) municipal general parking facilities;

"private person" means a person who is not a municipality, the Province of Ontario, Canada or an agent of any of them;

"wholly-owned" in reference to a corporation owned by a municipality or municipalities,

includes a corporation incorporated under Part III of the *Corporations Act* if a municipality, by itself or together with other municipalities, has an entitlement to all of the voting rights allocated to the members of the corporation. O. Reg. 168/03, s. 1 (1).

(2) A corporation incorporated under this Regulation is a prescribed corporation under subsection 203 (1) of the Act. O. Reg. 168/03, s. 1 (2).

### Creation of corporations

2. (1) A municipality may incorporate one or more corporations under the *Business Corporations Act* or under Part III of the *Corporations Act* for one or more of the following purposes:

1. To operate and maintain a public transportation system.
2. To operate and maintain a waste management service for the collection, transfer, storage, disposal or recycling of residential waste.
3. To promote the municipality for any purpose through the collection and dissemination of information and the preparation of economic development strategic plans to advance the municipality's economic goals and objectives.
4. To provide municipal administrative services to municipalities, local boards, public hospitals, universities, colleges and school boards, excluding enforcement of any Act, regulation or by-law.
5. To be a party to an agreement made under section 110 of the Act and under the agreement operate and maintain one or more municipal capital facilities of a municipality that is also party to the agreement.
6. To construct, operate, maintain and own, including ownership of the land related thereto, one or more of the following facilities:
  - i. A nursing home under the *Nursing Homes Act* or an approved charitable home for the aged under the *Charitable Institutions Act*.
  - ii. Recreation, tourism and cultural facilities, except public libraries.
  - iii. General parking facilities.
  - iv. Public transportation systems.
  - v. Waste management facilities for the collection, transfer, storage, disposal and recycling of residential waste. O. Reg. 168/03, s. 2 (1).

(2) Paragraphs 1 to 5 of subsection (1) do not permit the corporation incorporated for or carrying on a purpose described in those paragraphs to own the land related to the facility,



system or service described in those paragraphs. O. Reg. 168/03, s. 2 (2).

(3) The purposes described in paragraph 6 of subsection (1) are limited to the construction, operation, maintenance and ownership of facilities that are new when the corporation first carries on its business with respect to them. O. Reg. 168/03, s. 2 (3).

(4) A municipality may incorporate a corporation alone or together with one or more other municipalities. O. Reg. 168/03, s. 2 (4).

(5) A corporation may only operate,

(a) within the boundaries of the incorporating municipality or municipalities if it or they are single-tier municipalities;

(b) within the boundaries of a lower-tier municipality if the lower-tier municipality is an incorporating municipality or it agrees to allow the corporation to operate in the lower-tier municipality;

(c) within the boundaries of an upper-tier municipality if the upper-tier municipality is an incorporating municipality or it agrees to allow the corporation to operate in the upper-tier municipality; or

(d) within any municipality with its agreement. O. Reg. 168/03, s. 2 (5).

(6) The operations of a corporation under clause (5) (b) do not require the agreement of the upper-tier municipality and the operations of a corporation under clause (5) (c) do not require the agreement of any lower-tier municipality. O. Reg. 168/03, s. 2 (6).

(7) The articles of incorporation or letters patent, including any subsequent articles or supplementary letters patent, shall restrict the powers or limit the objects of a corporation to carrying on one or more of the purposes set out in subsection (1) and subsection 3 (1). O. Reg. 168/03, s. 2 (7).

(8) A municipality shall ensure that the articles of incorporation of a corporation, including any subsequent articles, or the letters patent of a corporation, including any supplementary letters patent, meet the requirements of this section and section 3. O. Reg. 168/03, s. 2 (8).

(9) Letters patent issued under Part III of the *Corporations Act* in respect of a corporation incorporated under paragraph 3 of subsection (1) shall restrict membership in the corporation to the incorporating municipality or to another municipality that has agreed to allow the corporation to carry on business in that municipality. O. Reg. 168/03, s. 2 (9).

(10) Despite subsection (1), a corporation incorporated under paragraph 3 of subsection (1) or carrying on business that includes the purpose identified by that paragraph shall only be incorporated under Part III of the *Corporations Act*. O. Reg. 168/03, s. 2 (10).

### **Regional Municipality of York**

3. (1) A corporation incorporated by The Regional Municipality of York for any purpose described in paragraph 1 or 5 of subsection 2 (1) or subparagraph 6 iii or iv of subsection 2 (1) may be incorporated for one or more of the following additional purposes:

1. To develop one or more sites for an industrial, commercial or institutional use if the sites are part of, abut or are necessary for a system or facility of the corporation for public transportation.

2. To develop one or more sites for and construct, operate and maintain one or more housing projects used in whole or in part for residential accommodation on those sites, including facilities used for ancillary purposes, and located in one or more buildings used in whole or in part for residential accommodation if the sites are part of, abut or are necessary for a system or facility of the corporation for public transportation.

3. To sell, lease or otherwise dispose of or encumber all or any part of a site or project referred to in paragraph 1 or 2 to support or benefit a system or facility of the corporation for public transportation. O. Reg. 168/03, s. 3 (1).

(2) The purposes described in subsection (1) are limited to the construction, operation, maintenance and ownership of facilities or projects that are new when the corporation first carries on its business with respect to them. O. Reg. 168/03, s. 3 (2).

#### **Holding corporations**

4. (1) A municipality may incorporate a corporation under the *Business Corporations Act* with articles of incorporation that restrict the powers of the corporation to those necessary to acquire, hold, dispose of and otherwise deal with,

(a) shares of one or more corporations incorporated by the municipality;

(b) shares of one or more corporations incorporated by another municipality that the first municipality has agreed to allow to carry on business in the municipality;

(c) shares of a corporation incorporated by the municipality under section 142 of the *Electricity Act, 1998*; or

(d) any combination of shares described in clauses (a), (b) and (c). O. Reg. 168/03, s. 4 (1).

(2) The articles of incorporation of a corporation to which subsection (1) applies shall restrict the ownership of any and all voting and non-voting shares in the corporation to the incorporator. O. Reg. 168/03, s. 4 (2).

#### **Result of non-compliance**

5. Any of the following matters may be considered sufficient cause under section 240 of the *Business Corporations Act* or under section 317 of the *Corporations Act*, as applicable, to cancel the certificate of incorporation of a corporation or the letters patent or supplementary letters

patent of a corporation:

1. The corporation does not meet the requirements of this Regulation.
2. A certificate is issued under the *Business Corporations Act* that is inconsistent with this Regulation.
3. Letters patent or supplementary letters patent are granted under the *Corporations Act* that are inconsistent with this Regulation.
4. The corporation acts outside the purposes to which it is restricted by its articles or letters patent. O. Reg. 168/03, s. 5.

#### **Business case study**

6. (1) A municipality shall undertake a business case study before it,
  - (a) incorporates a corporation;
  - (b) purchases shares in a corporation that the municipality has agreed to allow to carry on business in the municipality;
  - (c) becomes a member of a corporation incorporated under Part III of the *Corporations Act*; or
  - (d) submits articles of amendment or any other articles under the *Business Corporations Act* or supplementary letters patent under the *Corporations Act*. O. Reg. 168/03, s. 6 (1).
- (2) The business case study shall, at a minimum, address the following matters:
  1. The projected financial consequences for the next five years, including the advantages and disadvantages and risks for the municipality, and a comparison with other options considered for providing the same service or facility.
  2. The scope of the business to be carried on by the corporation and the permitted purposes or objects of the corporation.
  3. The governance structure to be set out in the articles of incorporation, by-laws, letter patents and other documents of the corporation, including the composition, role and term of office of the directors of the corporation.
  4. The accountability requirements of the corporation to the municipality and its taxpayers, including,
    - i. a policy on access by the public to the records and meetings of the corporation,
    - ii. a summary of any proposed or existing agreements between the municipality and the

- corporation or between the corporation and its shareholders,
- iii. a summary of all financial reporting or audit requirements,
  - iv. a statement of the financial risk to the municipality related to the corporation and its activities, and
  - v. a statement of any tax implications to the municipality, including the expected tax treatment of the corporation.
5. The original value, as estimated by the treasurer of the municipality, of any investment by the municipality in the corporation, including any assets to be transferred to the corporation and services or other benefits to be provided to it.
6. The value of any proposed investment in the corporation by a private person.
7. The original value, as estimated by the treasurer of the municipality, of any funds contributed by the Province of Ontario towards the purchase or improvement of any assets intended to be transferred to the corporation and evidence that section 21 has been complied with.
8. The winding-up provisions of the corporation, including provisions respecting voluntary dissolution, bankruptcy, involuntary wind-up and the disposition of assets.
9. The authority of the municipality to provide any facility or program that is to be provided by the corporation for the municipality.
10. The corporation's proposed or existing policy on setting fees and charges and an explanation of how the municipality will protect the interest of taxpayers and ensure that value for money is being obtained in delivering services.
11. How the municipality intends to address any labour and employment issues that arise as a result of the proposed action by the municipality.
12. An asset management plan for any corporation that will receive municipal assets.
13. How the municipality will ensure that both itself and the corporation adhere to applicable performance standards for the delivery of services and comply with any other duty or obligation required of the municipality or corporation under any Act, regulation or policy directive issued by the Province.
14. The public competition process used or to be used to select any investor in the corporation who is a private person.
15. Other matters that the municipality considers to be appropriate. O. Reg. 168/03, s. 6 (2).

### **Public participation**

7. (1) Before incorporating a corporation, a municipality shall,

(a) hold at least one public meeting;

(b) give at least 30 days notice of the public meeting or meetings; and

(c) ensure that copies of the proposed by-law authorizing the incorporation, with the business case study attached, are made available to the public at least 30 days before the meeting or, if there is more than one meeting, before the first meeting. O. Reg. 168/03, s. 7 (1).

(2) Any person who attends a meeting under this section may make representations relating to the proposed by-law and the business case study. O. Reg. 168/03, s. 7 (2).

(3) After the public meeting or meetings have been held, the municipality may adopt the business case study and pass the proposed by-law. O. Reg. 168/03, s. 7 (3).

(4) If a proposed by-law or the business case study is changed following a meeting under this section, the municipality may elect to hold further meetings or may elect to not hold further meetings and the decision of the municipality is final. O. Reg. 168/03, s. 7 (4).

(5) Nothing in this section restricts the ability of a municipality to hold other public meetings before the completion of the business case study. O. Reg. 168/03, s. 7 (5).

(6) The proposed by-law may only be passed within the one-year period following the completion of the business case study. O. Reg. 168/03, s. 7 (6).

#### **Limitations on actions of corporation**

8. (1) A corporation shall not act as an incorporator of another corporate body that is incorporated under any Act. O. Reg. 168/03, s. 8 (1).

(2) A corporation may not enter into a trust agreement, except a trust agreement or indenture for the purpose of obtaining financing for the corporation. O. Reg. 168/03, s. 8 (2).

(3) A corporation may only invest in securities prescribed under section 418 of the Act and, for the purpose of this subsection, any regulation made under subsection 418 (6) of the Act applies to the corporation as if it were a municipality. O. Reg. 168/03, s. 8 (3).

(4) To expand or otherwise carry on its purposes, a corporation, other than a corporation incorporated under section 4, may acquire all of the voting and non-voting shares of,

(a) another corporation incorporated under this Regulation;

(b) a body corporate incorporated under any Act of Ontario if the articles of incorporation of the body corporate restrict the powers or limit the objects of the body corporate to carrying on one or more of the purposes set out in subsection 2 (1). O. Reg. 168/03, s. 8 (4).

(5) A body corporate, the shares of which have been acquired under subsection (4), must be dissolved and its remaining assets and liabilities transferred to the acquiring corporation within one year of the date of the acquisition of the shares. O. Reg. 168/03, s. 8 (5).

(6) A corporation may become a member of another corporation incorporated under Part III of the *Corporations Act* only if they both have the same objects and if the corporation is allocated a minimum of 51 per cent of the voting rights allocated to members of the other corporation, but nothing in this section prevents a corporation from joining an industry or professional association. O. Reg. 168/03, s. 8 (6).

### **Deemed members**

9. The directors and officers of a corporation that is wholly-owned by a municipality or municipalities are deemed to be members for the purposes of the *Municipal Conflict of Interest Act*. O. Reg. 168/03, s. 9.

### **Deemed institutions**

10. A corporation that is wholly-owned by a municipality or municipalities and a corporation incorporated under paragraph 4 of subsection 2 (1) are deemed to be institutions for the purposes of the *Municipal Freedom of Information and Protection of Privacy Act*. O. Reg. 168/03, s. 10.

### **Limitation**

11. A municipality may incorporate a corporation only if,

(a) the corporation's purpose is to provide a service, system or facility that could be provided directly by the municipality; or

(b) the corporation is incorporated under section 4. O. Reg. 168/03, s. 11.

### **Appointments by municipality**

12. A municipality may appoint one or more persons to sign articles of incorporation or subsequent articles or an application for letters patent or supplementary letters patent for the incorporation of a corporation on its behalf and the municipality may appoint or authorize the appointment of the directors, officers or members of the corporation or of a corporation incorporated by another municipality that is carrying on business in the municipality. O. Reg. 168/03, s. 12.

### **Goods and services**

13. (1) A municipality may enter into a contract for goods or services with a corporation only as the result of a public competition process. O. Reg. 168/03, s. 13 (1).

(2) Despite subsection (1), a municipality may enter into a contract for goods or services with a corporation incorporated by the municipality or a corporation the shares of which the

municipality has purchased, without a public competition process, if the corporation is wholly-owned by the municipality or by the municipality together with other municipalities and the corporation is limited by its articles of incorporation or letters patent to providing services to that municipality or those municipalities. O. Reg. 168/03, s. 13 (2).

(3) Despite subsection (1), a municipality may enter into a contract for goods or services with a corporation incorporated by the municipality or a corporation the shares of which the municipality has purchased, that is not wholly-owned by the municipality or municipalities, without a public competition process, if any private person who invests in shares of the corporation has been selected through a public competition process described in paragraph 14 of subsection 6 (2) as part of the business case study for the corporation undertaken by the municipality. O. Reg. 168/03, s. 13 (3).

(4) Despite subsections (2) and (3), a municipality shall not enter into a contract for goods or services with a corporation authorized to carry on business with respect to a waste management service or facility without a public competition process. O. Reg. 168/03, s. 13 (4).

#### **No assignment**

14. A municipality shall not assign or transfer any right granted to it in any agreement between the municipality and the Province of Ontario to a corporation without first obtaining the consent of the Minister responsible for the agreement. O. Reg. 168/03, s. 14.

#### **Inspection**

15. A municipality may inspect the accounting or other financial records of a corporation of which it is a shareholder or member at any time upon reasonable notice to the corporation. O. Reg. 168/03, s. 15.

#### **Financial statements**

16. A municipality may require a corporation of which it is a shareholder or member to submit audited financial statements to the municipality at any time upon reasonable notice to the corporation. O. Reg. 168/03, s. 16.

#### **Holding of shares and voting rights**

17. (1) Subject to subsection (2), a municipality may acquire, hold, dispose of and otherwise deal with shares of a corporation incorporated by it or with shares of a corporation incorporated by another municipality that is carrying on business in the municipality. O. Reg. 168/03, s. 17 (1).

(2) A municipality, by itself or together with other municipalities that hold shares in a corporation, must at all times retain at least 51 per cent of the total voting rights attached to all voting shares issued by the corporation. O. Reg. 168/03, s. 17 (2).

(3) A municipality, by itself or together with other municipalities, must at all times maintain an

entitlement to at least 51 per cent of the total voting rights allocated to the members of a corporation incorporated under Part III of the *Corporations Act*. O. Reg. 168/03, s. 17 (3).

### Debt instruments

18. (1) A municipality may acquire, hold, dispose of and otherwise deal with bonds, debentures, promissory notes, mortgages and other evidences of indebtedness of a corporation only if the debt would be incurred as the result of,

(a) the transfer of a municipal property asset to a corporation incorporated by the municipality or to a corporation incorporated by another municipality that the municipality has agreed to allow to carry on business in the municipality; or

(b) an action taken by the municipality under section 19. O. Reg. 168/03, s. 18 (1).

(2) In this section,

"municipal property asset" means an asset of a municipality that is land, equipment or other goods. O. Reg. 168/03, s. 18 (2).

### Deemed commercial enterprise

19. (1) A corporation is deemed to be a commercial enterprise under section 106 of the Act. O. Reg. 168/03, s. 19 (1).

(2) Despite subsection (1), a municipality may provide assistance to a corporation,

(a) if the corporation is wholly-owned by the municipality or by the municipality and other municipalities and the corporation is limited by its articles or letters patent to providing services to that municipality or those municipalities;

(b) if the purpose of the assistance is to subsidize the cost of public transportation facilities or services or public access to recreational and cultural facilities; or

(c) if the municipality is party to an agreement with the corporation to operate and maintain municipal capital facilities under section 110 of the Act. O. Reg. 168/03, s. 19 (2).

(3) The types of assistance that may be provided under subsection (2) are,

(a) exemption from taxation or development charges or other assistance under an agreement or a by-law made under section 110 of the Act if the municipality is party to an agreement with the corporation to operate and maintain municipal capital facilities under that section;

(b) assistance provided by the council exercising its authority under subsection 28 (6) or (7) of the *Planning Act*;



- (c) giving, lending or selling any property of the municipality, including money;
  - (d) guaranteeing borrowing;
  - (e) providing the services of employees of the municipality. O. Reg. 168/03, s. 19 (3).
- (4) The assistance provided under clause (3) (c), (d) or (e) need not be at fair market value. O. Reg. 168/03, s. 19 (4).
- (5) Nothing in subsection (2), (3) or (4) authorizes a municipality to provide assistance,
- (a) inconsistent with a purpose of a corporation;
  - (b) as a transfer that would not be permitted under section 22;
  - (c) for or in respect of an investment or other transaction made by a corporation under section 8; or
  - (d) for or in respect of a share transaction under section 17. O. Reg. 168/03, s. 19 (5).
- (6) The treasurer shall prepare a statement of the value of any grant or an estimate of the fair market value of any other assistance provided at less than fair market value under subsection (2). O. Reg. 168/03, s. 19 (6).
- (7) The municipality shall attach the estimate or statement to the agreement or other documentation evidencing the grant or assistance. O. Reg. 168/03, s. 19 (7).

### **Status of corporation**

20. (1) A corporation is not a local board for the purposes of any Act. O. Reg. 168/03, s. 20 (1).
- (2) Despite subsection (1), a corporation is deemed to be a local board for purposes of the *Environmental Assessment Act*, the *Municipal Conflict of Interest Act*, and sections 270 and 271 of the *Municipal Act, 2001*. O. Reg. 168/03, s. 20 (2).
- (3) Despite subsection (1), if a corporation is wholly-owned by the municipality alone or together with other municipalities, it is deemed to be a local board for the purposes of the *Development Charges Act, 1997*. O. Reg. 168/03, s. 20 (3).

### **Condition for incorporation**

21. (1) Before incorporating a corporation, a municipality shall notify the Minister of Municipal Affairs and Housing and any other Minister whose Ministry has made a financial contribution to an asset that is intended to be transferred to the corporation of the value, as estimated by the treasurer of the municipality, of any funds contributed at any time by the Province of Ontario to the purchase or improvement of any assets intended to be transferred to the corporation. O. Reg. 168/03, s. 21 (1).

(2) A Minister who receives a notice under subsection (1) may accept the valuation of the treasurer of the municipality or may otherwise determine the value of the contribution and shall notify the municipality in writing within six months of the receipt of the notice as to the requirement for repayment or to indicate the release of the Province's interest in the asset being transferred or the proceeds of the transfer. O. Reg. 168/03, s. 21 (2).

(3) A municipality may not incorporate a corporation until one of the following conditions are met:

1. Six months have passed since notice was given under subsection (1) and no response has been received by the Province within that period.
2. The Province has notified the municipality of its acceptance of the valuation by the treasurer and of any requirement for repayment.
3. The Province has notified the municipality of its rejection of the valuation by the treasurer, of its own valuation and of any requirement for repayment.
4. The Province has notified the municipality that it releases its interest in the asset being transferred or in the proceeds of the transfer. O. Reg. 168/03, s. 21 (3).

(4) The fact that the incorporating municipality has not complied with this section may be considered sufficient cause under section 240 of the *Business Corporations Act* or under section 317 of the *Corporations Act*, as applicable, to cancel the certificate of incorporation of a corporation or the letters patent or supplementary letters patent of a corporation. O. Reg. 168/03, s. 21 (4).

### Transfer of land

22. (1) A municipality may only sell land to a corporation if the sale is consistent with the purpose of the corporation and the land is vacant land. O. Reg. 168/03, s. 22 (1).

(2) A municipality may lease or otherwise dispose of any land to a corporation only if the lease or other disposition is consistent with the purpose of the corporation and is for a period, including any possible renewal of the lease or other option to extend the period of disposition, of not more than 40 years. O. Reg. 168/03, s. 22 (2).

(3) Despite subsections (1), (2) and (4), a municipality shall not sell, lease or otherwise dispose of land to a corporation if the land is used for parks or housing projects, as described in paragraph 2 of subsection 3 (1). O. Reg. 168/03, s. 22 (3).

(4) Despite subsection (1), a municipality may sell land that has existing buildings or structures on it to a corporation incorporated under subsection 3 (1) if the buildings or structures are being used exclusively for or are necessary for the maintenance and operation of a transportation system. O. Reg. 168/03, s. 22 (4).

(5) The following, if not being used, is vacant land for the purposes of this section:

1. Land that has no buildings or structures on it.
2. Land upon which a building or structure is being built.
3. Land upon which a building or structure has been built if no part of the building or structure has yet been used.
4. Land upon which a building or structure has been built if the building or structure is substantially unusable. O. Reg. 168/03, s. 22 (5).

(6) Any occupation of a building or structure is a use, for the purpose of paragraph 3 of subsection (5), and once a building or structure has been occupied, the land upon which the building or structure is located cannot be vacant land unless the building or structure becomes substantially unusable. O. Reg. 168/03, s. 22 (6).

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# Request for Decision City Council




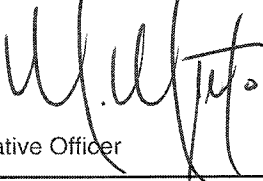
Type of Decision									
Meeting Date		Thursday, May 29 <sup>th</sup> , 2003				Report Date		May 13 <sup>th</sup> , 2003	
Decision Requested		<input checked="" type="checkbox"/>	Yes		No	Priority		<input checked="" type="checkbox"/>	High
		Direction Only				Type of Meeting		<input checked="" type="checkbox"/>	Open
									Closed

Report Title
<b><i>Pilot Project - EMS Training Innovation</i></b>

Policy Implication + Budget Impact	
<input checked="" type="checkbox"/>	This report and recommendation(s) have been reviewed by the Finance Division and the funding source has been identified.
<p>No current budget impact. Funding is provided within the existing budget, through a reallocation of funds from the training budget to the salary and fringe benefit budget. Full-time staff complement increases by two (2).</p>	
Background Attached	

Recommendation
<p>THAT Council approve the <i>Pilot Project - Training Innovation</i> of the Emergency Medical Services Division as a permanent program within the EMS Division.</p> <p>THAT two (2) Training Officer positions currently filled with seconded staff be made permanent full time positions.</p>
Recommendation Continued

Recommended by the General Manager
 Tim P. Beadman General Manager Emergency Services (Acting)

Recommended by the C.A.O.
 Mark Mieto Chief Administrative Officer

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Date: May 2, 2003

## Report Prepared By



Joseph Nicholls  
Acting Director, Emergency Medical Services Division

## Division Review

**Background:**

The Greater Sudbury Emergency Medical Services Division's mission is to deliver the highest level of professional pre-hospital medicine. In recognition of our commitment to quality care and service delivery, the EMS Division undertook a review of our legislated training requirements and the methodology by which we were delivering this material. From this review, it was evident that the EMS Division needed to improve upon its ability to address its training needs internally.

Previously, in-house training had been provided in a "bulk" type delivery model, where ten (10) to fifteen (15) Paramedics were brought in on their scheduled days off to attend training sessions. These types of large training sessions done on duty are not operationally feasible as the Service is unable to contend with the demands for the backfilling of staff that are required. In addition, The Collective Agreement requires that the Employer pay premium rates for the scheduling of this type of "bulk" training making this mode of delivery not only problematic, but financially inefficient.

In order to satisfy the Greater Sudbury Emergency Medical Services' objective of providing an excellent standard of care to the community and the necessary training to provide such care, a new model for training delivery needed to be developed.

The on-going training of Paramedic staff is critical to the delivery of quality pre-hospital care for the Greater Sudbury community. In an attempt to maintain and enhance the skill level of our Paramedics, while having the ability to introduce new training programs and technological advances and to effectively utilize its own resources, the Division implemented a new system delivery model under a Pilot Project in 2002, entitled *"Pilot Project - EMS Training Innovation"*. This pilot project was brought forth to Council as an information report on June 13, 2002.

The objective of the Pilot Project Training Program was to provide in-house Training and Education programs through our own EMS Division Training Officers. In accordance with Basic Life Support Patient Care Standards, this model of delivery ensures that legislative standards of care are met, minimizing the risk of inappropriate para-medical treatment while allowing each Paramedic employed with the Service to have the opportunity to obtain the continuing education necessary to maintain the competencies required to provide ambulance services.

The Training Officer's deliver "competency-based" adult learning programs in a supportive and non-threatening manner while the Paramedics are on duty primarily utilizing the non-peak call periods at the employees work stations.

Date: May 2, 2003

During the *Pilot Project - EMS Training Innovation* the Training Officers have developed and delivered to the employees numerous training initiatives such as:

- Comprehensive Orientation (for all new employees or those employees who are returning to work following extended absences)
- New Equipment Training such as the ZOLL M-Series Defibrillator and Bayer Elite Glucometer
- Documentation Standards
- Winter Driving Safety
- Four-Wheel Drive Orientation
- Driver Training

As well, the Training Officers have been very effective in resolving patient care deficiencies that have been identified through established Quality Service Review audit processes. In consultation with the Sudbury Base Hospital Program and its Medical Directors, they have developed a variety of methods to provide "competency based" adult learning opportunities to our employees. These remedial training sessions are carried out in a manner that addresses the employee's skill competencies in a supportive manner at the same time minimizing the operational impact on the EMS Division.

In addition to the core responsibilities of training and remediation, the Training Officers have been active in:

- Developing an annual employee competency review of Basic Life Support Standards
- Addressing Paramedic recruitment and retention through information and presentations at local Colleges
- Providing public and allied agency education
- Utilizing innovative technology such as computers by bringing the classroom to Paramedics in their various work stations
- Pursuing the use of Intranet as a delivery model for some educational material
- Identification and development of new Quality Service Review initiatives
- Promoting public education on accident prevention and the community's access to Emergency Services.

The training program's primary function is a Continuing Quality Improvement (QA) process that identifies employee and EMS Division training needs. It addresses those identified needs in a manner that best meets the training and operational needs of the Emergency Medical Services Division and the MOHLTC - Land Ambulance Certification Standards ultimately improving employee and Divisional performance.

This new delivery model has been well received by both the staff and the Sudbury Base Hospital Program. It reduces the need for Paramedics to attend training on their scheduled days off reducing the demand on our employees personal time. Training is completed while staff are on duty which is an efficient use of Paramedic down-time. The Division has seen improvements in Paramedic documentation and have not experienced reoccurring problems with those employees that have received remedial training. In addition, several new pieces of equipment have been placed into service once staff have demonstrated competency in their use enhancing the standard of pre-hospital medical care for the community.

Based on the success of the *Pilot Project - EMS Training Innovation*, the EMS Division recommends that the Pilot Project be converted to a permanent EMS program. There is no budget impact once approved; the EMS Division will permanently allocate \$170,000.00 (salaries & benefits) from the existing EMS Operations - Professional Development and Training account to the Field Supervisors and Training Officers salary account to support the two (2) permanent full-time Training Officers.

# Request for Decision City Council




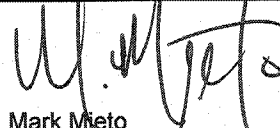
Type of Decision									
Meeting Date		May 29, 2003				Report Date		May 22, 2003	
Decision Requested		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		Priority		<input checked="" type="checkbox"/> High	<input type="checkbox"/> Low	
		Direction Only				Type of Meeting		<input checked="" type="checkbox"/> Open	<input type="checkbox"/> Closed

Report Title
<b>Transit Funding</b>

Policy Implication + Budget Impact	
<input checked="" type="checkbox"/>	This report and recommendation(s) have been reviewed by the Finance Division and the funding source has been identified.
<input checked="" type="checkbox"/>	Background Attached

Recommendation
<p>THAT Council approve \$800,000 in expenditures from the Equipment Replacement Reserve Fund for Greater Sudbury Transit fleet expansion, renewal and replacement and that this \$800,000 come from the \$1.7 million that was reallocated to the Equipment Replacement Reserve Fund by Council on April 23, 2003</p> <p>and further that the Council of the City of Greater Sudbury request an allocation of \$225,000 from the Ontario Transit Renewal Program for the replacement and rebuilding of conventional transit vehicles during 2003.</p>
Recommendation Continued

Recommended by the General Manager
 Name Caroline Hallsworth and Title General Manager of Citizen & Leisure Services

Recommended by the C.A.O.
 Name Mark Mieto and Title Chief Administrative Officer

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Date: May 22, 2003

## Report Prepared By

Name Caroline Hallsworth  
and Title General Manager of Citizen & Leisure Services

## Division Review

Name  
and Title

**Executive Summary:**

On April 23 the Finance Committee approved a one time transfer of \$1.7 million to the Equipment Replacement Reserve Fund to address fleet needs in Public Works, Fire and Transit. This report describes the proposed Greater Sudbury Transit fleet management program which makes use of \$800,000 of these funds. Greater Sudbury Transit is eligible for Ontario Transit Renewal Program (OTRP) funding which provides funding for the replacement and rebuilding of the conventional transit fleet at a rate of 2/3 municipal contributions and 1/3 provincial funding. The purchase of vehicles which expands the size of the fleet is not eligible for this funding. A resolution of Council, dated no later than May 2003, is required to be submitted to the Ministry of Transportation in order to secure OTRP funding.

**Background:**

On April 23, 2003 the Finance Committee report entitled "Outstanding Long Term Financial Plan Issues" was approved by Council. Within that report it was noted that "funding gaps have been identified for all of the City's fleet requirements - Public Works, Fire and Transit" as a result of which a one time transfer of \$1.7 million was made to the Equipment Replacement Reserve Fund. In meetings between Public Works, Corporate Services, Emergency Services and Citizen and Leisure Services fleet needs were reviewed and the staff group recommended that \$800,000 of this funding be made available for Greater Sudbury Transit Fleet Renewal, particularly since a portion of the funds would be eligible for matching through the Ontario Transit Renewal Program.

The Ontario Transit Renewal Program was developed to assist municipalities in the replacement and refurbishment of aging transit vehicles as part of the provincial government's commitment, announced in September 2001, to invest in a provincial transportation system. Renewal funds may be used for one of two purposes:

- Funds may be used to replace transit vehicles on the basis of one transit vehicle purchased for each transit vehicle replaced
- Funds may be used for major refurbishments or rebuilds of buses that will extend the lifespan of the vehicle by at least six years. Only one refurbishment is allowed in the lifespan of a specific transit vehicle

As has been previously reported to Council, there are two challenges facing the Greater Sudbury transit fleet. The transit fleet is aging and no new vehicles have been purchased since 1998. Our oldest vehicle currently on the road is a 1976 vehicle with in excess of 1.5 million kilometres on the odometer. The second challenge facing Greater Sudbury Transit is that service has been



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expanded, particularly in the commuter areas and there are no longer sufficient numbers of vehicles in the fleet to continuously ensure services. It is imperative that we add two buses to the fleet in order to keep up to our increased service, double cohorts, our preventative maintenance and our rebuild programs. With this in mind, Greater Sudbury Transit staff, in consultation with the other departments, have developed a capital program for Greater Sudbury Transit that allows us to replace and refurbish older vehicles and thus take advantage of the Ontario Transit Renewal Funding while purchasing two used vehicles (which are not eligible for Ontario Transit Renewal Funding) to allow us to immediately expand the size of the fleet at the lowest cost to the municipality. It should be noted that due to the demands on the transit vehicle manufacturing industry, new vehicles ordered in 2003 will not be available for delivery until 2005.

In 2002 Council allocated \$1,456,128 to transit fleet renewal. These funds were allocated for the replacement of the following vehicles:

- Bus #861 1986 with 19 years of service
- Bus #862 1986 with 19 years of service
- Bus #871 1987 with 18 years of service
- Bus #872 1987 with 18 years of service
- Bus #873 1987 with 18 years of service

In developing the RFP for the purchase of these five new low floor vehicles, it was apparent that the costs for new transit vehicles have increased and that amount initially set aside would be just short of what is required to replace these five vehicles. Therefore, it is recommended that \$150,000 be added from the 2003 transit allocation towards the replacement cost of these buses so as to allow Greater Sudbury Transit to purchase 5 new low floor buses. This will bring the municipal funding for the 5 new buses to \$1.5 million which will be matched by the province in 2005 when the vehicles are delivered in the amount of \$750,000 which represents the 1/3 Ontario Transit Renewal Program funding.

Currently, the Greater Sudbury Transit Fleet is comprised of 48 buses. At peak periods there are 38 buses in regular service, 2 buses on scheduled miscellaneous services such as charters, 1 bus in the body shop and 2 buses in the maintenance shop which leaves 5 vehicles for miscellaneous daily use including breakdowns. Other Northern Ontario Transit properties have between 7 and 13 vehicles available for miscellaneous use and service breakdowns. In order to rebuild or refurbish the existing fleet, we would be required to take at least one additional vehicle out of service at a time. With the double cohort beginning school in September, we believe that we will be required to add doubles to a number of our runs serving the post-secondary institutions which could further reduce the number of buses available for miscellaneous and breakdown usage. Therefore, it is imperative that the Greater Sudbury Transit increase the size of its fleet to 50 vehicles immediately.

The Ontario Transit Renewal Program does not provide funding for increasing the size of the transit fleet. Furthermore, the delay for the acquisition of new vehicles is at least two years and Greater Sudbury Transit has an urgent and immediate need to increase the size of the fleet. The most economical and timely manner in which to increase the size of the fleet is to purchase used vehicles at an approximate cost of \$100,000 per vehicle. In 2003, \$200,000 has been allocated for the purchase of two used buses.