

DRAFT

THE CITY OF EDMONTON BYLAW 19144 CLEAN ENERGY IMPROVEMENT PILOT PROGRAM TAX BYLAW

WHEREAS:

Council, pursuant to Section 390.3 of the Act, wishes to pass a Clean Energy Improvement Pilot Program Tax Bylaw to establish a Clean Energy Improvement Pilot Program;

It will be necessary to borrow up to a maximum of \$8,434,400.00 to fund the Program, which will be repaid by way of a Clean Energy Improvement Tax imposed against the benefitting properties to the maximum amounts established in the Clean Energy Improvement Agreements;

In addition to this borrowing the Program may be funded by a grant made to the City in the amount of \$1,264,500;

Pursuant to Section 252(2) of the Act, a borrowing made by a municipality to pay for the costs associated with Clean Energy Improvements does not count against the debt limit of a municipality;

A Clean Energy Improvement Program is a tax financing tool designed to fund Clean Energy Improvements that will increase energy efficiency or renewable energy on eligible private properties; and

Alberta Municipal Services Corporation has been appointed the Program Administrator in accordance with the *Clean Energy Improvements Regulation*, Alta Reg 212/2018;

THEREFORE, Edmonton City Council enacts:

PART I - PURPOSE, DEFINITIONS, AND INTERPRETATION

PURPOSE

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The purpose of this bylaw is to establish a clean energy improvement program in accordance with Part 10, Division 6.1 of the Act, to borrow money to fund the Program, to set the terms and conditions of that Program, and to authorize the levying of a tax on the tax roll for properties taking part in the Program.

DEFINITIONS

2

In this bylaw:

- (a) “**Act**” means the *Municipal Government Act*, RSA 2000, c M-26;
- (b) “**Administration Fee**” means an administration fee as defined in Section 1(a) of the Regulations, which shall be 5% of the capital costs of the Clean Energy Improvements in a Clean Energy Improvement Agreement;
- (c) “**City**” means The City of Edmonton;
- (d) “**Clean Energy Improvement**” means a clean energy improvement as defined in Section 390.1 of the Act;
- (e) “**Clean Energy Improvement Agreement**” means an agreement entered into between the City and an Owner in accordance with Section 390.4 of the Act;
- (f) “**Clean Energy Improvement Tax**” means a tax intended to repay the cost of a Clean Energy Improvement in accordance with Division 6.1 of the Act;
- (g) “**City Manager**” means the City’s chief administrative officer and any authorized delegate;
- (h) “**Designated Industrial Property**” means designated industrial property as defined in Section 284(1)(f.01) of the Act;
- (i) “**Owner**” means the owner of Property in the City that is applying to take part in the Program;
- (j) “**Property**” means the property on which an Owner is applying to affix a Clean Energy Improvement;
- (k) “**Mayor**” means the City’s chief elected official as defined in Section (1)(1)(d) of the Act;
- (l) “**Program**” means a clean energy improvement program established and operating under the terms of Division 6.1 of the Act;

- (m) **“Program Administrator”** means Alberta Municipal Services Corporation as appointed in accordance with the Regulations; and
- (n) **“Regulations”** means the *Clean Energy Improvements Regulation*, Alta Reg 212/2018.

RULES FOR INTERPRETATION 3 The marginal notes and headings in this bylaw are for ease of reference only.

PART II - CREATION OF THE PROGRAM

IMPLEMENTATION 4 The City, through the City Manager, shall implement a Program on the terms and conditions outlined in this Bylaw.

- PROGRAM ADMINISTRATOR** 5
- (1) The City shall enter into an agreement, pursuant to Section 6 of the Regulations, to have the Program Administrator act as the program administrator of the Program for the City.
 - (2) The City Manager shall have the authority to approve and enter into the agreement with the Program Administrator.
 - (3) When exercising duties under the Program, the Program Administrator does not act as an agent of the City.

- AUTHORITY TO ENTER INTO CLEAN ENERGY IMPROVEMENT AGREEMENT** 6
- (1) The City Manager shall have the authority to approve and enter into a Clean Energy Improvement Agreement with an Owner.
 - (2) The City Manager may delegate this authority.

PART III - REQUIREMENTS TO QUALIFY

- ELIGIBLE PROPERTY** 7 (1) Any property located in the City and classified, pursuant to Section 297 of the Act, as:
- (a) residential;
 - (b) non-residential; or
 - (c) farmland;

may be eligible to take part in the Program.

- (2) Notwithstanding subsection (1), manufactured homes, mobile homes and Designated Industrial Property are not eligible for a Clean Energy Improvement.
- ELIGIBLE CLEAN ENERGY IMPROVEMENTS** 8 (1) Any Clean Energy Improvement that has been listed by the Program Administrator, in accordance with the Regulations, may be eligible to be financed through a Clean Energy Improvement Tax.
- (2) Notwithstanding subsection (1) a Clean Energy Improvement will only qualify for tax financing if there is an intention to permanently affix the Clean Energy Improvement to the Property.
- APPLICATION TO THE PROGRAM ADMINISTRATOR** 9 (1) An Owner may apply to the Program Administrator to seek tax financing to install a Clean Energy Improvement to a Property.
- (2) The Program Administrator may recommend to the City that a Property should be eligible for tax financing based on the criteria in the Act, the Regulations, and this Bylaw.

PART IV - CLEAN ENERGY IMPROVEMENT AGREEMENTS

- REQUEST TO ENTER INTO AGREEMENT** 10 (1) Once the Program Administrator has recommended that a Property is eligible to participate in the Program, the Owner may request that the City Manager approve and enter into a Clean Energy Improvement Agreement.
- (2) A recommendation by the Program Administrator does not require the City Manager to enter into a Clean Energy Improvement Agreement.
- PROHIBITED AGREEMENTS** 11 (1) The City Manager shall not enter into a Clean Energy Improvement Agreement with an Owner if the value of the capital costs of undertaking all Clean Energy Improvements on the Property is:
- (a) less than \$3,000;
 - (b) greater than \$50,000 for properties classed as residential;
 - (c) greater than \$1,000,000 for properties classed as non-residential; or

- (d) greater than \$300,000 for properties classed as farmland.
 - (2) For the purposes of this section, if a Property has more than one classification for the purposes of taxation pursuant to Section 297 of the Act, the class of the Property shall be determined by whichever class of the Property forms the majority of the Property.
 - (3) Notwithstanding subsections (1) and (2), for the purposes of this section, a multi-residential Property that has more than 4 units shall be considered to be a non-residential classification.
- 12 (1) The City shall not enter into a Clean Energy Improvement Agreement when:
- (a) the Owner is in tax arrears on the Property;
 - (b) there is an existing Clean Energy Improvement Agreement in place for that Property and the costs for that agreement have not been placed on the tax roll;
 - (c) the costs under a proposed Clean Energy Improvement Agreement shall cause the City to exceed the amount of borrowing authorized under this bylaw;
 - (d) an Owner is in bankruptcy or receivership;
 - (e) the Property is going through foreclosure;
 - (f) there are development compliance issues or safety code issues associated with the Property;
 - (g) the Program Administrator has not approved an Owner's application for a Clean Energy Improvement in accordance with this bylaw and the Regulations;
 - (h) The Owner has failed to obtain consents from any mortgagor to allow the Owner to participate in the Program;
 - (i) There is a dispute with the Owner about whether the Owner is abiding by the terms of any other grant of financial assistance that the Owner has received from any level of government.; or

- (j) the Owner of the Property does not otherwise meet any of the requirements under this Bylaw, the Act, or the Regulation.
- (2) The City Manager may exercise discretion to refuse to have the City enter into a Clean Energy Improvement Agreement when:
- (a) an entity related to the Owner is in bankruptcy, or receivership;
 - (b) the Owner owns any interest in another property that is going through foreclosure;
 - (c) an entity related to the Owner owns any interest in a property going through foreclosure;
 - (d) there appears to be limited equity in the Property;
 - (e) the Property is the subject of some form of litigation;
 - (f) the Owner is involved in litigation with the City;
 - (g) the Program would be better serviced by approving a different Clean Energy Improvement Agreement on a different property; or
 - (h) in their sole discretion, pursuant to Section 10(3) of the Regulations, feels that there is any other reason to refuse to enter into a Clean Energy Improvement Agreement.

**CONTENTS OF A
CLEAN ENERGY
IMPROVEMENT
AGREEMENT**

- 13 (1) A Clean Energy Improvement Agreement shall set out:
- (a) the annual and total amount of the Clean Energy Improvement Tax to be paid by the Owner;
 - (b) the term of the Clean Energy Improvement Tax for each Clean Energy Improvement, which shall be based on the probable lifetime of each Clean Energy Improvement as determined by the Program Administrator, to a maximum of 25 years;
 - (c) the conditions required for the Clean Energy Improvement Tax to become payable;

- (d) that the Clean Energy Improvement Tax will be collectible when imposed by the City;
 - (e) the interest rate set for the Clean Energy Improvement Tax, which interest rate shall be the actual rate of any borrowing by the City, and in no event shall exceed 9%;
 - (f) the Administration Fee;
 - (g) the estimated date of completion of the Clean Energy Improvement;
 - (h) the estimated cost of the Clean Energy Improvement;
 - (i) the manner in which a cost overrun or underrun is to be dealt with if the actual costs of the Clean Energy Improvement differs from the estimated cost;
 - (j) that the costs of the Clean Energy Improvement may be revised if the City refinances the debt;
 - (k) that the Owner is required to append the Clean Energy Improvement Agreement to any contract of sale for the Property; and
 - (l) any additional requirements of the Act, Regulations, this Bylaw or Program.
- (2) The failure to append a Clean Energy Improvement Agreement to a contract of sale by the Owner does not invalidate the Clean Energy Improvement Agreement and shall not affect the imposition of a Clean Energy Improvement Tax.

PART V - CLEAN ENERGY IMPROVEMENT TAX

- IMPOSITION OF THE TAX** 14 (1) The City Manager is hereby authorized to impose a Clean Energy Improvement Tax in respect of each Clean Energy Improvement made to a Property to the tax roll of the Property to raise revenue to pay the outstanding costs related to the Clean Energy Improvements as outlined in the Clean Energy Improvement Agreement.

- (2) The following costs shall be included in the calculation of the Clean Energy Improvement Tax:
 - (a) the outstanding capital cost of undertaking the Clean Energy Improvements;
 - (b) the cost of professional services needed for the Clean Energy Improvements;
 - (c) the Administration Fee;
 - (d) the cost of financing the Clean Energy Improvements; and
 - (e) any other incidental costs to the undertaking of the Clean Energy Improvement and to the raising of revenue to pay for it.
 - (3) The Clean Energy Improvement Agreement shall include a breakdown of the costs outlined in subsection (2).
- 15
- (1) Once the City has authorized full payment to a contractor for a Clean Energy Improvement, the Clean Energy Improvement Tax shall be imposed for the tax relating to that payment on the tax roll of the Property when annual tax notices are next sent to the Property pursuant to Section 333 of the Act.
 - (2) The Clean Energy Improvement Tax shall be displayed as a separate item on any tax notices.
 - (3) The Clean Energy Improvement Tax shall be charged yearly in accordance with the Clean Energy Improvement Agreement.

PART VI - BORROWING

AUTHORIZED BORROWING

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- That for the purpose of the Program, up to the maximum sum of \$8,434,400.00 may be borrowed by way of debenture on the credit and security of the City at large or such other security as requested by the lender, of which amount the sum of \$8,434,400.00 plus interest is to be collected by way of Clean Energy Improvement Tax.

- 17 The debentures to be issued under this Bylaw shall not exceed the sum of \$8,434,400.00, and may be in any denomination not exceeding the amount authorized by this Bylaw and shall be dated having regard to the date of the borrowing.
- 18 The debentures shall be payable in lawful money of Canada and shall bear interest during the currency of the debentures, at a rate not exceeding nine per cent (9%) per annum or such a lower rate as can be obtained from the lender, payable semi-annually.
- 19 The debentures shall be issued for a term not exceeding 25 years, which term shall be based on the probable lifetime of the Clean Energy Improvement as determined by the Program Administrator.
- 20 During the currency of the debentures, there shall be raised annually for payment of the Owners' cost and interest thereon, by Clean Energy Improvement Tax, the respective sums calculated in the Owners Clean Energy Improvement Agreements.
- 21 The Mayor and the City Manager shall authorize such bank or financial institution to make payments to the holder of the debentures, on such date and in such amounts as specified in the repayment schedule forming part of each debenture.
- 22 The debentures shall be signed by the Mayor and the City Manager of the City of Edmonton and the City Manager shall affix thereto the corporate seal of the City of Edmonton to the debentures.
- 23 The net amount realized by the issue and sale of debentures authorized under this Bylaw shall be applied only for the purposes for which the indebtedness was created.

**TERM OF
BORROWING**

**USE OF
BORROWING**

PART VII - COMING INTO FORCE

**COMING INTO
FORCE**

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This Bylaw shall come into force on the date it is signed and passed.

Read a first time

Read a second time

Read a third time

SIGNED AND PASSED

THE CITY OF EDMONTON

MAYOR

CITY CLERK