

The Corporation of the City of Sault Ste. Marie  
Special Meeting of City Council  
Agenda

Tuesday, November 26, 2024

4:00 pm

Video Conference

Meetings may be viewed live on the City's Youtube channel  
<https://www.youtube.com/user/SaultSteMarieOntario>

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	Pages
<b>1. Land Acknowledgement</b>	
I acknowledge, with respect, that we are in Robinson-Huron Treaty territory, that the land on which we are gathered is the traditional territory of the Anishinaabe and known as Bawating. Bawating is the home of Garden River First Nation, Batchewana First Nation, the Historic Sault Ste. Marie Metis Council.	
<b>2. Approve Agenda as Presented</b>	
Mover Councillor L. Vezeau-Allen Seconder Councillor C. Gardi That the Agenda for the November 26, 2024 Special City Council Meeting as presented be approved.	
<b>3. Declaration of Pecuniary Interest</b>	
<b>4. Old Sault Area Hospital Site</b>	
<b>4.1 Report of the Solicitor</b>	3 - 4
The relevant By-law 2024-185 is listed under section 4.2 of the Agenda and will be read under that item.	
<b>4.2 By-law 2024-185 (Agreement) Green Infrastructure Partners Inc. - 941 Queen Street East, 941 Queen Street East Water Lot</b>	5 - 12

A report from the City Solicitor is on the Agenda.

Mover Councillor L. Vezeau-Allen

Seconder Councillor C. Gardi

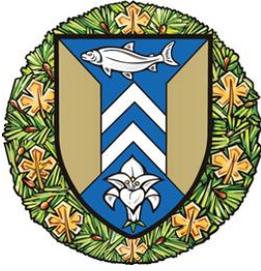
Resolved that By-law 2024-185 being a by-law to authorize the execution of the Agreement between the City and Green Infrastructure Partners Inc. be passed in open Council this 26th day of November, 2024.

**5. Adjournment**

Mover Councillor L. Vezeau-Allen

Seconder Councillor C. Gardi

That this Council shall now adjourn.



The Corporation of the  
City of Sault Ste. Marie

**COUNCIL REPORT**

November 26, 2024

TO: Mayor Matthew Shoemaker and Members of City Council  
AUTHOR: Karen Fields City Solicitor  
DEPARTMENT: Legal Department  
RE: Agreement with Green Infrastructure Partners Inc. for 941  
Queen Street East and 941 Queen Street East Water Lot

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**Purpose**

The purpose of this report is to obtain Council approval for the execution of an agreement that would allow Green Infrastructure Partners Inc. (“GIP”) to work on City property before the sale of the property to GIP.

**Background**

GIP was the successful proponent of the RFP that sought a buyer for the properties known civically as 941 Queen Street East and 941 Queen Street East Water lot, formerly known as the General Hospital site. An agreement of purchase and sale is to be concluded between GIP and the City. When the sale closes, GIP will own the property, and they were then to commence demolition as per their bid. GIP requested that if they were the successful bidder, they be allowed to move equipment onto the property, pending the close of the sale. A licence to occupy was approved by Council, which stipulated that they could move equipment onto the property, but no demolition was to take place prior to the sale closing.

A sale cannot yet be concluded as the City is still waiting for property to be certified by the Local Registry Office from the purchase transactions, which can take weeks after closing. We are also still waiting on a Plan to denote the Easements to be acquired by the City.

On the afternoon of November 20, 2024, the City was asked to provide another agreement to GIP to allow them to have workers on site to commence abatement and start clearing out the old hospital contents. As the City is still the property owner, and as it was never contemplated that any work would take place while the City still owned it, agreements need to be put in place to protect the City from liability caused by a contractor working on City property. This is not the usual scenario where we have a contract in place for work, so an agreement needed to be drafted.

**Analysis**

If the property were to sit dormant except for City crews doing maintenance and clean-up, no liability for third-party health and safety would be present. Should the City allow GIP to commence work without an agreement, it opens the City to liability. The City does not require GIP to commence this work, but at GIP's request to be on-site, this agreement was prepared. The agreement prepared for these purposes allows GIP to be the constructor of the work until the sale closes. It then would become the property owner, and the City would not be responsible for what takes place on GIP property. The agreement identifies the agreed to roles and obligations for health and safety of the parties during this limited period, and seeks to reduce any health and safety liability to the City. Fines under the OHSA for a conviction of a corporation carry a maximum fine of \$2 million per conviction.

**Financial Implications**

There is no financial impact to putting this agreement in place.

**Strategic Plan / Policy Impact / Climate Impact**

This is an operational matter not articulated in the corporate Strategic Plan.

**Recommendation**

It is therefore recommended that Council take the following action:

The relevant By-law 2024-185 is listed under section 4.2 of the Agenda.

Respectfully submitted,

Karen Fields

City Solicitor

705.759.5407

[k.fields@cityssm.on.ca](mailto:k.fields@cityssm.on.ca)

**THE CORPORATION OF THE CITY OF SAULT STE. MARIE**

**BY-LAW 2024-185**

**AGREEMENT**: A by-law to authorize the execution of the Agreement between the City and Green Infrastructure Partners Inc. The Agreement is for the former Sault Area Hospital property located at 941 Queen Street East and 941 Queen Street East Water Lot to allow Green Infrastructure Partners Inc. to work on City property before the sale of the property to Green Infrastructure Partners Inc.

**THE COUNCIL** of The Corporation of the City of Sault Ste. Marie, pursuant to section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, **ENACTS** as follows:

1. **EXECUTION OF DOCUMENT**

The Mayor and City Clerk are hereby authorized for and in the name of the Corporation to execute and affix the seal of the Corporation to the Agreement dated November 26, 2024 between the City and Green Infrastructure Partners Inc., a copy of which is attached as Schedule "A" hereto. This Agreement is for the former Sault Area Hospital property located at 941 Queen Street East and 941 Queen Street East Water Lot to allow Green Infrastructure Partners Inc. to work on City property before the sale of the property to Green Infrastructure Partners Inc.

2. **SCHEDULE "A"**

Schedule "A" forms part of this by-law.

3. **EFFECTIVE DATE**

This by-law takes effect on the day of its final passing.

**PASSED** in open Council this 26th day of November, 2024.

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**MAYOR – MATTHEW SHOEMAKER**

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**CITY CLERK – RACHEL TYCZINSKI**

**AGREEMENT RESPECTING SAFETY, AND LEGAL COMPLIANCE AND LEGAL RESPONSIBILITY AT THE PROPERTY**

**THIS AGREEMENT** made in duplicate this 26<sup>th</sup> day of November, 2024.

**BETWEEN**

**THE CORPORATION OF THE CITY OF SAULT STE. MARIE**

(hereinafter referred to as the "City")

-and-

**GREEN INFRASTRUCTURE PARTNERS INC.**

(hereinafter referred to as "GIP")

**WHEREAS** property currently owned by The Corporation of The City of Sault Ste. Marie ("City"), known as the former Sault Area Hospital property, located at the civic addresses 941 Queen Street East, and 941 Queen Street East Water lot ("the Property"), is in the process of being transferred to a new owner, who will become owner of the property, subject to the conclusion of an agreement of purchase and sale with the City for the Property;

**AND WHEREAS** Green Infrastructure Partners Inc. ("GIP", together with the City, the "Parties") and an affiliate, or other organization may be the potential new owner of the Property;

**AND WHEREAS** GIP may wish to (but is not required to) enter the Property prior to completion of the agreement of purchase and sale to perform certain work, agrees that if it enters the property for the purpose of commencing the construction of the project, it shall act as the Constructor (as that term is defined in the *Occupational Health and Safety Act* (the "OHSA")) and undertakes to fulfill all duties of the Constructor of the Project, on behalf of the City as owner, in accordance with the OHSA, and shall ensure safety and compliance at all times with the OHSA, and shall ensure compliance with other applicable requirements and permits at the Property (to the extent provided by the Owner), until the agreement of purchase and sale is complete;

**AND WHEREAS** after the agreement of purchase and sale is complete, GIP, or another affiliate or organization, shall be the owner of the Property and responsible for all applicable matters under the OHSA and other applicable requirements and permits. It is understood by the City that following the agreement of purchase and sale GIP will remain involved at the Property as Constructor, and can fulfill the specific agreement below respecting notification of new ownership of the Property by an Amended NOP under the OHSA;

**AND WHEREAS** for the time GIP will be the Constructor by undertaking a construction project at the Property for the City, GIP will submit to the City all required documentation for safety prequalification to perform construction work at the Property and will provide an appropriate site-specific safety plan prior to commencement of any work at the Property;

**AND WHEREAS** GIP acknowledges it has been selected as Constructor for the Property because it has the necessary expertise including specializing in the work of construction projects, including

demolition, drilling and necessary construction activities for the identification, abatement and removal of designated substances, including, but not limited to, asbestos and asbestos-containing materials; and

**AND WHEREAS** GIP acknowledges that its expertise is not possessed by the City and GIP has been selected as the Constructor for the work at the Property because of its expertise.

## **AGREEMENT**

The Parties, therefore, agree:

1. The Recitals are true and accurate;

### **Construction Project**

2. GIP acknowledges and agrees that all or part of its work performed at the Property involves the work of a “construction project”. The term Constructor in this Agreement has the same meaning as the term is defined under the OHSA. The terms “construction” and “project” have the same meaning in this Agreement as under the OHSA and those terms are read together as being a “construction project”;
3. Without limiting the generality of the foregoing and the OHSA definitions, the work of a “construction project” will generally, but may not exclusively include, such activities as drilling, boring, digging, excavating, dismantling, or associated work on buildings and structures;

### **Notice of Project and Constructor and Employer Roles of GIP**

4. GIP as a party performing work of a “construction project” under the OHSA agrees to act as the “Constructor” and fulfil all obligations as “Constructor” under the OHSA at the Property;
5. As “Constructor” of the Property, GIP shall comply with all applicable provisions of the OHSA and its regulations (“OHS Laws”) requiring notification, including filing a Notice of Project (“NOP”), confirming that GIP is the “Constructor” of a “construction project” at the Property, pursuant to the Regulations for Construction Projects. Until completion of the agreement of purchase and sale for the Property (the “Initial NOP”), the Initial NOP shall specifically confirm the City as the “owner” of the Property;
6. Prior to commencing work at the Property, GIP shall prominently post the Initial NOP at the Property to confirm it is “Constructor” for the Property as required under the OHSA. Upon completion of the agreement of purchase and sale of the Property to GIP, or to an affiliate or other organization, GIP shall ensure the NOP is amended immediately to confirm that GIP or its affiliate or other organization is the “owner” of the Property and GIP remains the “Constructor” (the “Amended NOP”);
7. The City and all of the City’s employees, representatives and subcontractors, shall respect and comply with:
  - (a) the rules, regulations and practices required by all applicable construction health and safety legislation, and

- (b) all safety precautions, policies and programs of GIP, including those contained in the then-current version of the GIP's Environmental Health and Safety Manual, which the City acknowledges having been provided access to.
8. After filing and posting, GIP shall promptly provide the City with copies of both the Initial NOP and the Amended NOP. The Initial NOP must be provided to the City prior to commencement of work at the Property;
  9. GIP agrees that it shall not take the position that, under OHS Laws, the City is the "Constructor" of the Property at any time and/or in any proceeding. GIP further agrees that it will not take the position that the City is, in any manner, legally responsible under OHS Laws or any other statute, or legal standard, for the work at the Property, whether such work is performed by GIP or any party engaged by or on behalf of GIP or otherwise authorized to perform work at the Property by GIP;
  10. GIP shall as "Constructor" provide a written site specific safety program, satisfactory to the City in its sole discretion, which will not be unreasonably applied, to ensure compliance with the OHS Laws at the Property. GIP shall, upon request by the City, provide a written summary or report confirming GIP and its workers' compliance with OHS Laws, and GIP's activities to ensure compliance with OHS Laws;
  11. As the "Constructor", GIP shall oversee, manage, schedule, inspect, and ensure and enforce compliance by all of its workers present on site with OHS Laws for work of the "construction project" at the Property;
  12. As "Constructor", GIP shall ensure compliance with OHS Laws by any and all other persons who may access the Property, including any employees of the City who may attend the Property from time to time. GIP shall put in place safe access protocols for entry of any employees of the City who may attend from time to time, or any other parties who may attend, to ensure that those entering do not enter without wearing appropriate personal protective equipment for the Property, being informed of safety and health risks at the Property, and being escorted while on the Property if circumstances make this appropriate for the safety of those entering;
  13. As "Constructor", GIP shall ensure the presence of ongoing supervision for all workers and persons who may access the Property to ensure compliance with OHS Laws at all times;
  14. As "Constructor", GIP shall ensure that inspections of conditions of the worksite and it's activities, equipment, and other applicable matters occur, at appropriate intervals, to ensure compliance with OHS Laws, and that compliance with OHS Laws is enforced if noncompliance is observed;
  15. GIP shall further meet any and all obligations required of it as an "employer" under the OSHA at the Property, and any other duties or roles under the OSHA as applicable to the work at the Property;

**Other Registrations, Notices, Permits to be Completed by GIP**

16. As "Constructor", GIP shall ensure registrations are made as required pursuant to the OHS Regulations for Construction Projects, and ensure all such registrations are posted and available at the Property;
17. During the time prior to completion of the agreement of purchase and sale of the Property, GIP shall ensure that any further applicable municipal or provincial permits are obtained and posted at the Property as required. GIP shall provide the City with a copy of all such registrations and permits obtained or filed prior to commencement of work at the Property, or as they are obtained, if permissible to obtain such permit after commencement of work at the Property;

### **Asbestos Containing Materials and Designated Substances – GIP Obligations**

18. GIP acknowledges and agrees that the City has provided information on all designated substances, currently known to the City, that are present at the Property. This information includes a Conestoga-Rovers and Associates asbestos survey dated February 28, 2012, and a Conestoga- Rovers and Associates asbestos assessment dated November 8, 2006.
19. GIP agrees that, on behalf of the City and before beginning work, including work of a "construction project" at the Property, it shall undertake additional testing to identify designated substances, other than asbestos containing material, to ensure all designated substances present at the "construction project" and Property are identified for GIP and the City. Further, GIP will undertake additional testing of and for additional asbestos containing material, as appropriate for the work, including any abatement or removal of materials conducted at the Property. Any such testing results which are obtained prior to completion of the agreement of purchase and sale, shall be provided to the City. Any such testing results shall be provided to workers and any subcontractors workers entering the Property to perform work as expressly required under the OHS.
20. GIP as "Constructor", and as the party responsible under this agreement for identifying any additional designated substances at the Property and with expertise in abating and removing such substances, shall ensure that all duties under OHS Laws and applicable environmental or other legislation are complied with in relation to designated substances at the Property. This shall include, but is not limited to, section 30 OHS and the provisions of OHS Regulation 278/05, specifically including the obligation to inform workers on the Property if they will be performing work involving asbestos containing material or in proximity to such material, to protect workers on the property appropriately if any are working with or in proximity to asbestos containing material, and to ensure that no demolition is carried out prior to removing asbestos containing material to the extent practicable. Further, GIP expressly agrees to fulfil the obligation under section 10(3)(b), of OHS Regulation 278/05, to perform necessary work as though materials are asbestos containing, given information from the City as owner that asbestos containing material is present;
21. The "Constructor" GIP further agrees to provide notice as required, both orally and in writing to an inspector of the Ministry of Labour Immigration, Training, Skills Development (Ministry) nearest the Property if a Type 3 operation is applicable, to provide all appropriate notices to the Ministry of other notifiable Types of removals or activities at the Property, and to protect workers at the Property at all times with the

appropriate measures and procedures outlined under OHS Regulation 278/05 and any Ministry permit;

### **Required Insurance**

22. GIP shall be required to obtain and maintain the following insurance coverages during the period of its work at the Property, pending completion of the agreement of purchase and sale, and as necessary thereafter, to protect each of GIP and the City:

- **Commercial General Liability Insurance**

Commercial General Liability, underwritten by an insurer licensed to conduct business in the Province of Ontario, for a limit of not less than \$10,000,000 per occurrence, an aggregate limit of not less than \$10,000,000, within any policy year with respect to completed operations and a deductible of not more than \$25,000. The policy shall include an extension for a standard provincial and territorial form of non-owned automobile liability policy. This policy shall include but not be limited to:

- (a) Name The Corporation of the City of Sault Ste. Marie as an additional insured
- (b) Cross-liability and severability of interest
- (c) Blanket Contractual
- (d) Products and Completed Operations
- (e) Premises and Operations Liability
- (f) Personal Injury Liability
- (g) Contingent Employers Liability
- (h) Work performed on Behalf of the Named Insured by Sub-Contractors
- (i) Firefighting Expenses
- (j) Elevator and Hoist Liability
- (k) Attached Machinery – while loading and unloading
- (l) Demolition Liability
- (m) Asbestos Abatement

The policy shall include 30 days' notice of cancellation

- **Automobile Liability Insurance**

Standard Form Automobile Liability insurance that complies with all requirements of the current legislation of the Province of Ontario, having an inclusive limit of not less than \$5,000,000 per occurrence for Third Party Liability, in respect to the use or operation of vehicles owned, operated or leased by the contractor.

- **Contractor's Pollution Liability**

A Contractor's Pollution Liability policy, underwritten by an insurer licensed to conduct business in the Province of Ontario for a limit of not less than \$5,000,000. Coverage shall include bodily injury, property damage, clean-up and remediation costs.

- **Contractor's Equipment Floater**

Coverage will be provided, and maintained on a broad form basis, for construction machinery, equipment, tools and stock that will be stored on the Property during the term of this Agreement. The coverage will also include rental expense, if applicable.

• **Primary Coverage**

The Constructor GIP's insurance shall be primary coverage, and not additional to and shall not seek contribution from any other insurance policies available to the City.

• **Certificate of Insurance**

The Constructor GIP shall provide a Certificate of Insurance evidencing coverage in force at least 10 days prior to Agreement commencement.

**Indemnity of Owner**

23. GIP as "Constructor" and as an employer under the OSHA at the Property agrees to indemnify and save the City, its elected officials, directors, employees and agents harmless from any liability, action, claim, prosecution or suit, loss, damage, payment, cost, fine, fine surcharge, recovery or expense, including assessable legal fees arising out of the performance of its obligations under this agreement, including any negligent act or omission on its behalf or by anyone for whom it is in law responsible, save and except where the liability, action, claim, loss, injury, damage, payment, cost, fine, recovery or expense, including assessable legal fees, arises out of the negligence of the City and its representatives, employees or agents.

24. More specifically, should the City incur any prosecution, suit, loss, damage, payment, cost, fine, fine surcharge, recovery or expense, including assessable legal fees pertaining to any allegation the City failed to comply with any OHS laws, whether as "owner", "constructor", or "employer" under the OSHA, for work performed at the Property after GIP commences work and prior to completion of the agreement of purchase and sale, GIP agrees to fully indemnify the City and save the City harmless from such prosecution, suit, loss, damage, payment, cost, fine, fine surcharge, recovery or expense, including assessable legal fees.

**SIGNED, SEALED AND DELIVERED**

) **GREEN INFRASTRUCTURE PARTNERS INC.**  
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 ) \_\_\_\_\_  
 ) **Print Name/Title:** John Pontarollo  
 ) Chief Operating Officer  
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 )  
 ) **THE CORPORATION OF THE CITY OF**  
 ) **SAULT STE. MARIE**  
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 ) **MAYOR MATTHEW SHOEMAKER**  
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) CITY CLERK RACHEL TYCZINSKI