

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. < >

A BY-LAW TO APPROVE THE SUBMISSION OF AN APPLICATION TO ONTARIO INFRASTRUCTURE AND LANDS CORPORATION ("OILC") FOR THE LONG-TERM FINANCING OF CERTAIN CAPITAL WORK(S) OF THE CORPORATION OF THE CITY OF NIAGARA FALLS (THE "LOWER-TIER MUNICIPALITY") THROUGH THE ISSUE OF DEBENTURES BY THE REGIONAL MUNICIPALITY OF NIAGARA (THE "UPPER TIER MUNICIPALITY"); AND TO AUTHORIZE THE ENTERING INTO OF A RATE OFFER LETTER AGREEMENT PURSUANT TO WHICH THE UPPER-TIER MUNICIPALITY WILL ISSUE DEBENTURES ON BEHALF OF THE LOWER-TIER MUNICIPALITY TO OILC

WHEREAS the *Municipal Act, 2001* (Ontario), as amended, (the "**Act**") provides that a municipal power shall be exercised by by-law unless the municipality is specifically authorized to do otherwise;

WHEREAS the Council of the Lower-tier Municipality that forms part of the Upper-tier Municipality for its purposes has requested the Upper-tier Municipality to authorize the issue of debentures for the certain capital work(s) described in column (2) of Schedule "A" (the "**Capital Work(s)**") attached hereto and forming part of this By-law (**Schedule "A"**) in the amount of the respective estimated expenditure set out in column (3) of Schedule "A", subject in each case to approval by OILC of the long-term financing for such Capital Work(s) requested by the Lower-tier Municipality in the Application as hereinafter defined;

WHEREAS before the Council of the Lower-tier Municipality approved the Capital Work(s) in accordance with section 4 of Ontario Regulation 403/02 (the "**Regulation**"), the Council of the Lower-tier Municipality had its Treasurer calculate an updated limit in respect of its then most recent annual debt and financial obligation limit received from the Ministry of Municipal Affairs and Housing (as so updated, the "**Updated Limit**"), and, on the basis of the authorized estimated expenditure for the Capital Work or each Capital Work, as the case may be, as set out in column (3) of Schedule "A" (the "**Authorized Expenditure**" for any such Capital Work), the Treasurer calculated the estimated annual amount payable in respect of the Capital Work or each Capital Work, as the case may be, and determined that the estimated annual amount payable in respect of the Capital Work or each Capital Work, as the case may be, did not cause the Lower-tier Municipality to exceed the Updated Limit, and accordingly the approval of the Local Planning Appeal Tribunal

pursuant to the Regulation, was not required before any such Capital Work was authorized by the Council of the Lower-tier Municipality;

WHEREAS subsection 401(1) of the Act provides that a municipality may incur a debt for municipal purposes, whether by borrowing money or in any other way, and may issue debentures and prescribed financial instruments and enter prescribed financial agreements for or in relation to the debt;

WHEREAS subsection 401(3) of the Act provides that a lower-tier municipality in a regional municipality does not have the power to issue debentures;

WHEREAS subsection 403(1) of the Act provides that a by-law of an upper-tier municipality authorizing the issuing of debentures for the purposes or joint purposes of one or more of its lower-tier municipalities may require those lower-tier municipalities to make payments in each year to the upper-tier municipality in the amounts and on the dates specified in the by-law;

WHEREAS the Act also provides that a municipality shall authorize long-term borrowing by the issue of debentures or through another municipality under section 403 or 404 of the Act and subsection 403(7) of the Act provides that all debentures issued under a by-law passed by an upper-tier municipality under section 403 are direct, joint and several obligations of the upper-tier municipality and its lower-tier municipalities;

WHEREAS OILC has invited Ontario municipalities desirous of obtaining long-term debt financing in order to meet capital expenditures incurred on or after the year that is five years prior to the year of an application in connection with eligible capital works to make application to OILC for such financing by completing and submitting an application in the form provided by OILC;

WHEREAS the Lower-tier Municipality requested the Upper-tier Municipality to issue debentures for the Capital Work(s) and in this connection the Upper-tier Municipality and the Lower-tier Municipality have completed and submitted or are in the process of submitting an application to OILC, as the case may be to request financing for the Capital Work(s) by way of long-term borrowing through the issue of debentures to OILC, substantially in the form of Schedule "B" hereto and forming part of this By-law (the **"Application"**);

WHEREAS OILC has accepted and has approved or will notify the Upper-tier Municipality and the Lower-tier Municipality only if it accepts and approves the Application, as the case may be; and

WHEREAS at least five (5) business days prior to the passing of the debenture by-law in connection with the issue of Debentures as defined below, OILC will provide the Upper-tier Municipality with a rate offer letter agreement substantially in the form as provided to the Municipality on or prior to the date of this By-law (the “**Rate Offer Letter Agreement**”);

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF NIAGARA ENACTS AS FOLLOWS:

1. The Council of the Upper-tier Municipality hereby confirms, ratifies and approves the execution by the Regional Treasurer of the Application and the submission by such authorized official of the Application, duly executed by such authorized official, to OILC for the long-term financing of the Capital Work(s) in the maximum principal amount of \$11,700,000.00, with such changes thereon as such authorized official may hereafter, approve such execution and delivery to be conclusive evidence of such approval.
2. The Regional Chair and the Regional Treasurer are hereby authorized to execute and deliver for and on behalf of the Upper-tier Municipality the Rate Offer Letter Agreement under the authority of this By-law in respect of the Capital Work(s) on such terms and conditions as such authorized officials may approve, such execution and delivery to be conclusive evidence of such approval.
3. Subject to the terms and conditions of the Rate Offer Letter Agreement, the Regional Chair and the Regional Treasurer are hereby authorized to long-term borrow for the Capital Work(s) and to issue debentures to OILC on the terms and conditions provided in the Rate Offer Letter Agreement (the “**Debentures**”); provided that the principal amount of the Debentures issued in respect of the Capital Work or of each Capital Work, as the case may be, does not exceed the Authorized Expenditure for such Capital Work and does not exceed the related loan amount set out in column (4) of Schedule “A” in respect of such Capital Work.
4. In accordance with the provisions of section 25 of the *Ontario Infrastructure and Lands Corporation Act, 2011*, as amended from time to time hereafter, the Upper-tier Municipality is hereby authorized to agree in writing with OILC 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 Upper-tier Municipality, amounts not exceeding the amounts that the Upper-tier Municipality fails to pay to OILC on account of any unpaid indebtedness of the Upper-tier Municipality to OILC under the Debentures (the “**Obligations**”) and to pay such amounts to OILC from the Consolidated Revenue Fund.

5. For the purposes of meeting the Obligations, the Upper-tier Municipality shall, in accordance with the Act, provide for raising in each year as part of the general upper-tier levy, the amounts of principal and interest payable in each year under the Debentures issued pursuant to the Rate Offer Letter Agreement, to the extent that the amounts have not been provided for by any other available source including other taxes or fees or charges imposed on persons or property by a by-law of any municipality.
6.
 - (a) The Regional Chair and the Regional Treasurer are hereby authorized to execute and deliver the Rate Offer Letter Agreement, and to issue the Debentures, one or more of the Regional Clerk and the Regional Treasurer are hereby authorized to generally do all things and to execute all other documents and papers in the name of the Upper-tier Municipality in order to perform the terms and conditions that apply to the Upper-tier Municipality as set out in the Rate Offer Letter Agreement and to perform the Obligations of the Upper-tier Municipality under the Debentures, and the Regional Treasurer is authorized to affix the Upper-tier Municipality's municipal seal to any such documents and papers.
 - (b) The money realized in respect of the Debentures, including any premium, and any earnings derived from the investment of that money, after providing for the expenses related to the issue of the Debentures, if any, shall be delivered to the Lower-tier Municipality on the basis that the Lower-tier Municipality will apportion and apply such money to the respective Capital Work and to no other purpose except as permitted by the Act.
7. This by-law shall come into force and take effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: <>

Schedule "A"
to By-Law Number 2020-67
(Capital Work(s))

(1)	(2)	(3)	(4)
<u>By-Law Number</u>	<u>Description of Capital Work</u>	<u>Estimated Expenditure</u>	<u>Loan Amount</u>
2019-138 / 2020-88	Cultural Hub & City Market	\$15,250,000.00	\$11,700,000.00

**Schedule “B”
to By-Law Number 2020-67**



Webloans Loan Application PDF

FA Number 1524

Application for Niagara Falls, The Corporation of The City of

Projects

ID	SIT Project ID	Project Name	Construction/Purchase Start	Construction/Purchase End	Project Cost	OILC Loan Amount
1258	1	Cultural Hub City Market	08/11/2020	12/31/2022	\$15,250,000.00	11,700,000.00

Details of Project Cultural Hub City Market

Project Category Cultural Infrastructure

Work Type Cultural Centre

Project Name Cultural Hub City Market

Construction/Purchase Start 08/11/2020

Construction/Purchase End 12/31/2022

Energy Conservation ☒

Project Address 1 5043 Sylvia Place

Project Address 2

City / Town Niagara Falls

Province ON

Postal Code L2G 1S9

Description

The proposed Culture Hub will be a place where arts, arts creation and the community can come together, providing for a more engaged, involved and vibrant community. The City is also lacking a proper indoor facility to house the Farmers Market. It is important to provide access to healthy food and farm to table opportunities alongside business opportunities for farmers and small businesses that support the Market activities.

The design and plans presented for the Niagara Falls Culture Hub/Farmers' Market propose highly adaptable and durable interior and exterior spaces that reinforce Main & Ferry as a vibrant, all-season cultural precinct in the heart of Niagara Falls.

Comments and/or Special Requests

Project Life Span (Years)

50

Project Financial Information

Project Cost (A)

\$15,250,000.00

Other Project Funding / Financing (B):

Description	Timing	Amount
Special Purpose Reserve Funds	Existing	\$400,000.00
Transfer from Operating	Existing	\$150,000.00
CCSF - Min of Cdn Heritage Grant	Expected	\$3,000,000.00

Other Project Funding/Financing Total (B)

\$3,550,000.00

OILC Loan Amount (A-B)

\$11,700,000.00

Only include long-term borrowing in this section. If you anticipate that you will require short-term financing during the construction phase of the project, the information will be gathered as part of the Financing Agreement.

Required Date	Amount	Term	Type
11/30/2020	\$0.00	20	Amortizing
Long-term Borrowing Total	\$0.00		

Debt and Re-payments Summary

Has there been any new/undisclosed debt acquired since last FIR was submitted?

☐ Yes ☒ No

Please describe any re-financing plans for any existing "interest only" debt, if applicable.

N/A

Non Re-payments of Loans or Debenture

In the last 10 years, has the borrower ever failed to make a loan payment or debenture repayment on time to any lender, including the Provincial Government?

If yes, please provide details.

No

OILC Loan Repayment Information

Please indicate the source(s) of revenue you plan to use to repay the OILC Loan

Taxation	100.00
User Fees	0.00
Service Charges	0.00
Development Charges	0.00
Connection Fees	0.00
Repayment Subsidies	0.00
Other	

Total

100.00%

Documentation and Acknowledgements

Please ensure all required documents are submitted with the signed application. OILC requires originals as noted below to be mailed or couriered. Also, please retain a copy of all documents submitted to OILC for your records.

To obtain templates for documents see listed below.

- Loan Application Signature Page signed and dated by the appropriate individual (original to be submitted)
- Certificate and sealed copy of OILC template By-law authorizing project borrowing and applying for a loan (original with seal)
- Certificate of Treasurer Regarding Litigation using the OILC template (original, signed & sealed)
- Updated Certified Annual Repayment Limit Calculation (original)

☒ I acknowledge and agree that all of the above referenced documents must be submitted in the form required by OILC and understand that the application will not be processed until such documents have been fully completed and received by Infrastructure Ontario.

Please note: OILC retains the right to request and review any additional information or documents at its discretion.

Confidential Information

OILC is an institution to which the Freedom of Information and Protection of Privacy Act (Ontario) applies. Information and supporting documents submitted by the Borrower to process the loan application will be kept secure and confidential, subject to any applicable laws or rules of a court or tribunal having jurisdiction.

Infrastructure Ontario

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