

## THE REGIONAL MUNICIPALITY OF NIAGARA

## BY-LAW NUMBER &lt; &gt;

A BY-LAW TO AUTHORIZE THE SUBMISSION OF AN APPLICATION TO ONTARIO INFRASTRUCTURE AND LANDS CORPORATION ("OILC") FOR FINANCING CERTAIN CAPITAL WORK(S) OF THE CORPORATION OF THE CITY OF PORT COLBORNE; AND TO AUTHORIZE LONG-TERM BORROWING FOR SUCH CAPITAL WORK(S) THROUGH THE ISSUE OF DEBENTURES BY THE REGIONAL MUNICIPALITY OF NIAGARA (THE "UPPER 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;

AND WHEREAS the Council of The Corporation of the City of Port Colborne (the "**Lower-tier Municipality**"), a lower-tier municipality that forms part of The Regional Municipality of Niagara (the "**Upper-tier Municipality**") for its purposes has requested the Upper-tier Municipality to authorize the issue of debenture 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 financing for such Capital Work(s) requested by the Lower-tier Municipality in the Application as hereinafter defined;

AND 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 most recent annual debt and financial obligation limit received from the Ministry of Municipal Affairs and Housing (as so updated, the "**Updated Lower-tier Limit**"), and, on the basis of the authorized estimated expenditure for the Capital Work or for 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, (collectively the "**Estimated Annual Amount Payable**"), and determined that the Estimated Annual Amount payable did not cause the Lower-tier Municipality to exceed the Updated Lower-tier 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;

AND WHEREAS subsection 405(1) of the Act provides, amongst other things, that a municipality may authorize temporary borrowing to meet expenditures made in connection with a work to be financed in whole or in part by the issue of debentures if, the municipality is a lower-tier municipality in a regional municipality and it has approved the work and the upper-tier municipality has approved the issue of debentures for the work;

AND 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;

AND 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;

AND 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;

AND 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;

AND WHEREAS OILC has invited Ontario municipalities desirous of obtaining temporary and 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 work(s) to make application to OILC for such financing by completing and submitting an application in the form provided by OILC;

AND 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 completed and submitted or is in the process of submitting an application to OILC, as the case may be (the **“Application”**) to request financing for the Capital Work(s) by way of long-term borrowing pursuant to section 403 of the Act through

the issue of debentures to OILC by the Upper-tier Municipality and by way of temporary borrowing by the Lower-tier Municipality from OILC pending the issue of such debentures;

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

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

1. The Council of the Upper-tier Municipality hereby approves the issue of debentures for the Capital Work(s) in the maximum aggregate principal amount of \$5,000,000.00 and 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 by the Upper-tier Municipality, duly executed by such authorized official, to OILC for the financing of the Capital Work(s) through the issue of debentures in such maximum aggregate principal amount substantially in the form of Schedule “B” hereto and forming part of this By-law, 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 negotiate and enter into, execute and deliver for and on behalf of the Upper-tier Municipality a financing agreement (a “**Financing Agreement**”) with OILC that provides for long-term borrowing from OILC 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 Financing Agreement and such other terms and conditions as OILC may otherwise require, 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 Financing Agreement and on such other terms and conditions as such authorized officials may agree (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 Upper-tier 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 any 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 any Debenture outstanding pursuant to the Financing 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 enter into, execute and deliver the Financing 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 Obligations of the Upper-tier Municipality under the Financing Agreement and to issue 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 their issue, 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 takes effect on the day of passing.

THE REGIONAL MUNICIPALITY OF NIAGARA

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James Bradley, Regional Chair

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Ann-Marie Norio, Regional Clerk

Passed: < >

## Schedule "A"

(1)	(2)	(3)	(4)
<u>Capital Work Number</u>	<u>Description of Capital Work</u>	<u>Estimated Expenditure</u>	<u>Loan Amount</u>
1	Nickel Area Storm Sewers	\$5,000,000.00	\$5,000,000.00

## Schedule "B"



## Webloans Loan Application PDF

FA Number 1484

Application for Port Colborne, The Corporation of The City of

## Projects

ID	SIT Project ID	Project Name	Construction/Purchase Start	Construction/Purchase End	Project Cost	OILC Loan Amount
1151	1	Nickel Area Storm Sewer Costs Overrun	05/01/2017	06/30/2020	\$5,000,000.00	5,000,000.00

## Details of Project Nickel Area Storm Sewer Costs Overrun

Project Category Municipal Other Infrastructure

Work Type Others

Other Description Engineering and Operations

Project Name Nickel Area Storm Sewer Costs Overrun

Construction/Purchase Start 05/01/2017

Construction/Purchase End 06/30/2020

Energy Conservation ☐

Project Address 1 Nickel St Area

Project Address 2

City / Town Port Colborne

Province ON

Postal Code L3K 3C8

**Description**

Cost overruns for new storm sewer system for the entire Nickel Area. The results of the Nickel Area CSO program indicated a problem with the separation of storm and waste-water flows. The 1930 era vitrified clay storm sewer system has deteriorated to the point that redirection of sump pump connections cannot be accommodated in the existing storm sewers. Much of the cost overrun pertained to soil management for soil that had to be disposed from site.

**Comments and/or Special Requests**

This would be in addition to the \$5,500,000 debenture that has already been issued. A construction loan is required until such time as debenture needs to be issued.

## Schedule "B"

Project Life Span (Years)	<input type="text" value="50"/>		
<b>Project Financial Information</b>			
Project Cost (A)	<input type="text" value="\$5,000,000.00"/>		
<u>Other Project Funding / Financing (B):</u>			
Other Project Funding/Financing Total (B)	<input type="text" value="\$0.00"/>		
OILC Loan Amount (A-B)	<input type="text" value="\$5,000,000.00"/>		
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
<input type="text" value="06/30/2020"/>	<input type="text" value="\$5,000,000.00"/>	<input type="text" value="30"/>	<input type="text" value="Amortizing"/>
Long-term Borrowing Total	<input type="text" value="\$5,000,000.00"/>		
<b>Debt and Re-payments Summary</b>			
Has there been any new/undisclosed debt acquired since last FIR was submitted?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Please describe any re-financing plans for any existing "interest only" debt, if applicable.		<input type="text"/>	
<b>Non Re-payments of Loans or Debenture</b>			
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.		<input type="text"/>	
<b>OILC Loan Repayment Information</b>			
Please indicate the source(s) of revenue you plan to use to repay the OILC Loan			
Taxation	<input type="text" value="0.00"/>		
User Fees	<input type="text" value="0.00"/>		
Service Charges	<input type="text" value="100.00"/>		
Development Charges	<input type="text" value="0.00"/>		
Connection Fees	<input type="text" value="0.00"/>		
Repayment Subsidies	<input type="text" value="0.00"/>		
Other	<input type="text"/>		



## Schedule "B"

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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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