

The Corporation of the City of Kawartha Lakes

BY-LAW NUMBER XXXXX

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 KAWARTHA LAKES (THE "MUNICIPALITY"); AND TO AUTHORIZE THE ENTERING INTO OF A RATE OFFER LETTER AGREEMENT PURSUANT TO WHICH THE MUNICIPALITY WILL ISSUE DEBENTURES 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 Municipality has passed the by-law(s) enumerated in column (1) of Schedule "A" attached hereto and forming part of this By-law ("**Schedule "A"**") authorizing the capital work(s) described in column (2) of Schedule "A" ("**Capital Work(s)**") 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 Municipality in the Application as hereinafter defined;

AND WHEREAS before the Council of the Municipality approved the Capital Work(s) in accordance with section 4 of Ontario Regulation 403/02 (the "**Regulation**"), the Council of the 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 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 Municipality;

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 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 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;

AND WHEREAS the Municipality has completed and submitted or is 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**");

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

AND WHEREAS at least 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 Municipality with a rate offer letter agreement substantially in the form of Schedule "C" hereto and forming part of this By-law (the "**Rate Offer Letter Agreement**");

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF KAWARTHA LAKES ENACTS AS FOLLOWS:

1. The Council of the Municipality hereby confirms, ratifies and approves the execution by the 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 \$15,500,897.04, with such changes thereon as such authorized official may hereafter, approve such execution and delivery to be conclusive evidence of such approval.
2. The Mayor and the Treasurer are hereby authorized to execute and deliver for and on behalf of the 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 Mayor and the 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 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 Municipality, amounts not exceeding the amounts that the Municipality fails to pay to OILC on account of any unpaid indebtedness of the 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 Municipality shall provide for raising in each year as part of the general 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 Mayor and the Treasurer are hereby authorized to execute and deliver the Rate Offer Letter Agreement, and to issue the Debentures, one or more of the Clerk and the Treasurer are hereby authorized to generally do all things and to execute all other documents and papers in the name of the Municipality in order to perform the terms and conditions that apply to the Municipality as set out in the Rate Offer Letter Agreement and to perform the Obligations of the Municipality under the Debentures, and the Treasurer is authorized to affix the 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 apportioned and applied 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.

ENACTED AND PASSED this _____ day of _____, A.D.
20____.

Andy Letham, Mayor

Cathy Ritchie, City Clerk

Schedule "A"
to By-Law Number XXXXX
(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>
		\$	\$

See Attached for Ongoing Capital Works



Schedule A -
Borrowing By-Law.x

**Schedule “B”
to By-Law Number XXXXX**

Please insert the OILC Application into Schedule “B”.



LoanApplication397
.pdf

**Schedule “C”
to By-Law Number XXXXX**

Infrastructure Ontario

1 Dundas St. West, 20th floor
Toronto, Ontario M5G 2L5
Tel.: 416 -212-3451
Fax: 416-263-5900



«LoanOfferDate»

VIA EMAIL

«FAClientLastName»

Dear «TreasurerContactName»,

**RATE OFFER LETTER AGREEMENT
(WITH THE OILC DEBENTURE TERM SHEET)**

The undersigned hereby offers to purchase a debenture from [MUNICIPALITY FULL LEGAL NAME OR UPPER-TIER MUNICIPALITY FULL LEGAL NAME] (the “**Municipality**”) as described in the attached an OILC Debenture Term Sheet outlining the term, interest rate and amount of the aforementioned debenture as well as a Repayment Schedule (the “**Debenture**”). As indicated in the attached documents, the Debenture will carry an interest rate of «LoanRate» % p.a. (compounded semi-annually), principal amount of \$«LoanPrincipal», term of «LoanTermYearsMonths» and with a closing date of «LoanAdvanceDate».

This offer to purchase is made subject to the following terms and conditions.

1. Your acceptance of these terms and conditions must be received by us by _____ on «LoanOfferDate».
2. Once the terms and conditions are accepted, OILC will email your debenture documents within 1-2 days and the debenture by-law (to be provided) should be passed by council on «LoanCouncilMeetingDt». If the terms and conditions are not accepted in accordance with this Rate Offer Letter Agreement, this Rate Offer Letter Agreement will be null and void.
3. All original signed and sealed debenture documents (including an external legal opinion) must be received by OILC on or before «LoanAdvanceDate» and will be held in escrow until the closing day.

4. OILC will review the original debenture documents and, provided that all documentation is in order, OILC will purchase the debenture on «LoanAdvanceDate». Your external legal counsel must contact Bernadette Chung, Director, Legal Services, at bernadette.chung@infrastructureontario.ca by 10 a.m. on the closing day to release the debenture documents from escrow. OILC must also receive any final documentation outstanding prior to 10 a.m. on the closing day. Should any required documentation fail to be delivered, this Rate Offer Letter Agreement will be null and void.
5. The Municipality hereby acknowledges that OILC is an institution to which the *Freedom of Information and Protection of Privacy Act* (Ontario) (“FIPPA”) applies and in the event of an access request under FIPPA for records in the control of OILC that may be in the possession of the Municipality and that relate to this Rate Offer Letter Agreement, the Municipality will co-operate in identifying, copying and returning such records to OILC. OILC agrees that if it collects or receives Personal Information (as such term is defined in FIPPA) in connection with this Rate Offer Letter Agreement it will only do so, and it will only use, disclose or destroy such information, in accordance with the provisions of FIPPA relating to Personal Information in the custody or control of OILC to which FIPPA applies.
6. The Municipality hereby acknowledges that the issue of the Debenture is subject to the Ontario government's Management Board of Cabinet's Open Data Directive, dated April, 2016, as amended from time to time.
7. The purchase price for the Debenture, shall be tendered to the Municipality by electronic transfer of funds to an account of the Municipality maintained with a deposit-taking institution, such account to be designated by the execution and delivery of a notice in writing to OILC in the form of the attached Schedule “A” to this Rate Offer Letter Agreement and the Municipality undertakes to notify OILC immediately in writing of any changes in its designated account for the purposes of such transfer (the “Account”).
8. Payments of principal and interest due on the Debenture shall be made by pre-authorized debit from the Account and the Municipality shall provide to OILC such other authorizations, voided cheques and other documentation as the deposit-taking institution and the rules of the Canadian Payments Association may require for such pre-authorized debits, and the Municipality undertakes to notify OILC immediately in writing of any changes in the Account for the purposes of pre-authorized debits.
9. OILC and the Municipality shall work together to ensure that OILC's financing of the Capital Work(s) receives recognition and prominence through agreed upon communication activities. An example of such activity could include signage at each Capital Work site signifying Government of Ontario project financing.

10. OILC reserves the right to undertake its own communication activities in relation to OILC's financing of the Capital Work(s) at any time in its sole discretion and at its expense.
11. [OILC reserves the right to audit compliance with this Rate Offer Letter Agreement at any time. The cost of any such audit shall be at OILC's or the Municipality's expense at OILC's sole discretion. The Municipality is required to keep any supporting documents required for any such audit for a minimum of seven (7) years after payment of the Obligations of the Municipality under the Debenture are paid to OILC in full.]
12. No amendment, restatement, supplement, replacement, other modification or termination of any provision of the Rate Offer Letter Agreement is binding unless it is in writing and signed by each party.
13. Any failure of OILC to object to or take action with respect to a breach of this Rate Offer Letter Agreement shall not constitute a waiver of OILC's right to take action at a later date with respect to such breach. No course of conduct by OILC will give rise to any reasonable expectation which is in any way inconsistent with the terms and conditions of this Rate Offer Letter Agreement and OILC's rights hereunder.
14. This Rate Offer Letter Agreement is governed by, and shall be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in the Province of Ontario.
15. The obligations of the Municipality contained in paragraphs 5, 6, 8, 9 [and 11] hereof shall continue until the Obligations of the Municipality under the Debenture are paid to OILC in full, notwithstanding the termination of this Rate Offer Letter Agreement.

If the foregoing is acceptable to the Municipality, please sign and seal this Rate Offer Letter Agreement and the attached OILC Debenture Term Sheet, and fax them to the attention of Rose Yao, Senior Loan Officer at (416) 263-5900 or e-mail them to Rose Yao at Rose.Yao@infrastructureontario.ca and mail the originals.

ONTARIO INFRASTRUCTURE AND LANDS CORPORATION

Komathie Padayachee
Chief Accounting Officer
Ontario Infrastructure and Lands Corporation (OILC)

ACCEPTANCE:

[MUNICIPALITY FULL LEGAL NAME OR UPPER-TIER MUNICIPALITY FULL LEGAL NAME]

per:

Signatory Name, Signatory Title

per:

Treasurer Name, Treasurer Title

We have the authority to bind the corporation

OILC DEBENTURE TERM SHEET

«FAClientLastName»

Principal amount of the debenture

\$«LoanPrincipal»

Term

«LoanTermYearsMonths»

Type

«LoanType»

Interest Rate

«LoanRate»%

Closing Date

«LoanAdvanceDate»

We confirm that these are the Terms for the Debenture to be issued by
«FAClientLastName» to OILC.

«MayorContactTitle»

«TreasurerContactTitle»

Date

**PLEASE EMAIL TO ROSE.YAO@INFRASTRUCTUREONTARIO.CA BY 3PM, IN
ORDER TO CONFIRM YOUR ACCEPTANCE OF THIS OFFER.**

**SCHEDULE "A" TO RATE OFFER LETTER AGREEMENT
PRE-AUTHORIZED DEBIT ("PAD") AND ACCOUNT FOR DEPOSIT**

**[MUNICIPALITY FULL LEGAL NAME OR UPPER-TIER MUNICIPALITY FULL
LEGAL NAME]**

(1) Account Holder Information

Full Legal Name: _____

Exact account name: _____

Address: _____ City: _____

Province: _____ Postal Code: _____ Phone #: _____

(2) Financial Institution Information (Note: Please attach VOID cheque)

(i) Inflow of Deposits

Name of Financial Institution: _____

Address: _____ City: _____

Province: _____ Postal Code: _____ Phone #: _____

Transit #: _____ Institution #: _____ Account #: _____

(ii) Outflow of Pre-Authorized Debit

☐ Same as above

☐ If different from above fill out banking information below

Name of Financial Institution: _____

Address: _____ City: _____

Province: _____ Postal Code: _____ Phone #: _____

Transit #: _____ Institution #: _____ Account #: _____

Sample of the numbering at the bottom of a cheque

001234	01234 - 001		111-222-3
↓ Cheque #	↗ Transit #	↘ Institution #	↓ Account #

Attach VOID Cheque Here:

Sample:

001

YOUR NAME
123 ANY STREET
YOUR TOWN, PROVINCE M4P 1V5

DATE

Y	Y	Y	Y	M	M	D	D
Y	Y	Y	Y	M	M	D	D

PAY TO THE ORDER OF _____ \$ _____

_____ / 100 DOLLARS

YOUR FINANCIAL INSTITUTION
456 MAIN STREET
YOUR TOWN, PROVINCE L1L 1L1

MEMO

Transit/Branch #	Financial Institution #	Bank Account #

⑈00⑈ ⑆ 12345 ⑆ 678 ⑆ 1234567⑈

1. Purpose of Debits

☒ Business PAD

2. Pre Notification of Amounts

Fixed Amounts: The Company will provide written notice of the amount to be debited and the date of the debit at least ten (10) calendar days before the date of the first debit and every time there is a change in the amount or payment date.

Variable Amounts: The Company will provide written notice of each amount to be debited and the date of the debit at least ten (10) calendar days before the date of each debit.

The Customer and Company hereby agree to waive the above pre notification requirements.

Authorized Signature of Customer:

[INSERT NAME]

Name:

Title:

Authorized Signature of Customer:

[INSERT NAME]

Name:

Title:

Authorized Signature of Company:

**ONTARIO INFRASTRUCTURE AND LANDS
CORPORATION**

Name:

Title:

3. Rights of Dispute

The Customer has certain recourse rights if any debit does not comply with this Authorization. For example, the Customer has the right to receive reimbursement for any debit that is not authorized or is not consistent with this Authorization. To obtain more information on the Customer's recourse rights, the Customer may contact its financial institution or visit www.cdnpay.ca.

The Customer may dispute a debit under the following conditions: (i) the debit was not drawn in accordance with this Authorization; or (ii) amounts were drawn after this Authorization was revoked or cancelled in accordance with paragraph 4 below.

In order to be reimbursed, the Customer must complete a declaration form / reimbursement claim, in the form provided by the Bank, at the above indicated branch of the Bank up to and including ten (10) business days after the date on which the debit in dispute was posted to the Customer's account.

The Customer acknowledges that disputes after the above noted time limitations are matters to be resolved solely between the Company and Customer.

4. Terms of Authorization to Debit the Above Account

The Customer authorizes the Company to debit the above account(s) for all payments of principal, interest and other amounts payable to the Company from time to time in respect of the Customer's indebtedness to the Company in accordance with the terms of the rate offer agreement between the Company and the Customer dated as **[INSERT DATE]** (the "**Rate Offer Agreement**").

The Customer authorizes the Company to debit the above account(s) for amounts payable to the Company if the Customer fails to provide written notice to the Company

of any change to the terms of a Debenture at least five (5) Business Days prior to the date the Company is scheduled to set the interest rate for a Debenture, as defined in the Rate Offer Agreement.

The Bank is not required to verify that any debits drawn by the Company are in accordance with this Authorization or any agreement made between the Customer and the Company.

This Authorization is to remain in effect and may not be revoked or cancelled until the Company has received written notification from the Customer of its change or cancellation in accordance with this Authorization. This Authorization may only be revoked or cancelled by the Customer upon thirty (30) days' written notice to the Company and provided that the Customer designates alternative account(s) and delivers new pre-authorized debit agreement(s) in respect of the new account(s) for purposes of effecting debits of the Customer's obligations under the Rate Offer Agreement. The Customer may obtain a sample cancellation form, or more information on the right to cancel a PAD Agreement by visiting www.cdnpay.ca.

This Authorization applies only to a method of payment and cancellation of this Authorization does not mean that the Customer's contractual obligations to the Company are ended, and nor does this Authorization otherwise modify or detract from any of the Customer's obligations to the Company.

The Customer will notify the Company promptly in writing if there is any change in the above account information. The Customer may contact the Company in accordance with notification provisions set forth in the Rate Offer Agreement.

The Customer consents to the disclosure of any personal information that may be contained in this Authorization to the Bank at which the Company maintains its account to be credited with the debits as far as any such disclosure of personal information is related to and necessary for the proper application of the Rules of the Canadian Payments Association.

Any delivery of this Authorization to the Company constitutes delivery by the Customer to the Bank. It is warranted by the Customer that all persons whose signatures are required to sign on the above account have signed this Authorization. The Customer acknowledges receipt of a signed copy of this Authorization.

Signature(s) or Authorized Signature(s) of Account Holder(s) (Date)

Signature(s) or Authorized Signature(s) of Account Holder(s) (Date)