

## THE REGIONAL MUNICIPALITY OF YORK

### BYLAW NO. 2021-26

To authorize the submission of an application to Ontario Infrastructure and Lands Corporation ("**OILC**") for financing certain capital works of The Corporation of the Town of Georgina; and to authorize long-term borrowing for such capital works through the issue of debentures by The Regional Municipality of York 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 Town of Georgina (the "**Lower-tier Municipality**"), a lower-tier municipality that forms part of The Regional Municipality of York (the "**Upper-tier Municipality**") for its purposes has requested the Upper-tier Municipality to authorize the issue of debentures for the certain capital works described in column (2) of Schedule "A" (individually a "**Capital Work**", collectively the "**Capital Works**") 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 Works 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 Works 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 Lower-tier Limit**") and, on the basis of the authorized estimated expenditure for each Capital Work 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 each Capital Work and determined that the estimated annual amount payable in respect of each Capital Work 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 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 long-term debt financing in order to meet capital expenditures incurred on or after the year that is five (5) 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 Works 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 Works 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 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 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 Upper-tier 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 York hereby enacts as follows:

1. The Council of the Upper-tier Municipality hereby confirms, ratifies and approves the execution by the Commissioner of Finance and 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 Works 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 Commissioner of Finance and 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 Works 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 Commissioner of Finance and Regional Treasurer are hereby authorized to long-term borrow for the Capital Works 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 each Capital Work 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 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. (1) The Regional Chair and the Commissioner of Finance and 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 Commissioner of Finance and 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 Commissioner of Finance and Regional Treasurer or the Regional Clerk, as the case may be, is authorized to affix the Upper-tier Municipality’s municipal seal to any such documents and papers.  
  
(2) 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.

ENACTED AND PASSED on April 22, 2021.

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Regional Clerk

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Regional Chair

THE REGIONAL MUNICIPALITY OF YORK  
SCHEDULE "A" TO BYLAW NO. 2021-26

(1)	(2)	(3)	(4)
Capital Work Number / By-law Number	Capital Work Description	Estimated Expenditure \$	Loan Amount \$
<b><u>Capital Works of The Corporation of the Town of Georgina</u></b>			
1. 1511 / 2018-0009 (TA-1) 2019-0116 (TA-1) 2020-0083 (TA-1) 2021-0013 (DE-2)	Capital costs in connection with the Pepperlaw Fire Hall project	5,800,000.00	5,800,000.00
2. 1513 / 2019-0116 (TA-1) 2021-0013 (DE-2)	Capital costs in connection with the Link Phase 2 and 3 project	2,809,000.00	2,450,000.00
3. 1512 / 2019-0116 (TA-1) 2020-0083 (TA-1) 2021-0013 (DE-2)	Capital costs in connection with the Wexford pumping station upgrade (Connell booster station) project	2,322,000.00	2,322,000.00
<b>TOTAL</b>			<b>10,572,000.00</b>

**THE REGIONAL MUNICIPALITY OF YORK  
SCHEDULE "B" TO BYLAW NO. 2021-26**