

## CORPORATION OF THE TOWN OF SHELBURNE

### BY-LAW NUMBER 61-2021

**A BY-LAW TO AUTHORIZE CERTAIN NEW CAPITAL WORK(S) OF THE CORPORATION OF THE TOWN OF SHELBURNE (THE “MUNICIPALITY”); TO AUTHORIZE THE SUBMISSION OF AN APPLICATION TO ONTARIO INFRASTRUCTURE AND LANDS CORPORATION (“OILC”) FOR FINANCING OF SUCH CAPITAL WORK(S); TO AUTHORIZE TEMPORARY BORROWING FROM OILC TO MEET EXPENDITURES IN CONNECTION WITH SUCH CAPITAL WORK(S); AND TO AUTHORIZE LONG-TERM BORROWING FOR SUCH CAPITAL WORK(S) THROUGH THE ISSUE OF 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 it is now deemed to be expedient to authorize for the purposes of the Municipality the new 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) that will be requested by the Municipality in the Application as hereinafter defined;

AND WHEREAS 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 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, (collectively the “**Estimated Annual Amount Payable**”) and determined that the Estimated Annual Amount Payable does not cause the Municipality to exceed the Updated Limit, and accordingly the approval of the Local Planning Appeal Tribunal pursuant to the Regulation, is not required before any such Capital Work is authorized by the Council of the 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 an upper-tier municipality, a lower-tier municipality in a county or a single-tier municipality and it 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 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 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 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, (the "**Application**") to request financing for the Capital Work(s) by way of long-term borrowing through the issue of debentures to OILC and by way of temporary borrowing from OILC pending the issue of such debentures;

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;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF SHELBURNE ENACTS AS FOLLOWS:

1. The Council of the Municipality hereby confirms, ratifies and approves the execution by the Director of Financial Services/Treasurer of the Application and the submission by such authorized official of the Application, duly executed by such authorized official, to OILC for the financing of the Capital Work(s) in the maximum aggregate principal amount of \$5,000,000.00 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.
  - (a) The undertaking of the Capital Work or of each Capital Work, as the case may be, in the amount of the respective estimated Authorized Expenditure set out in column (3) of Schedule "A" is hereby approved and authorized;
  - (b) any one or more of the Mayor and the Director of Financial Services/Treasurer are hereby authorized to conclude contracts on behalf of the Municipality for the undertaking of the Capital Work or of each Capital Work, as the case may be, in accordance with the Municipality's usual protocol;
  - (c) where applicable, the Engineer of the Municipality will forthwith make such plans, profiles and specifications and furnish such information as in the opinion of the Engineer are necessary for the undertaking of the Capital Work or of each Capital Work, as the case may be; and

- (d) where applicable, the undertaking of the Capital Work or of each Capital Work, as the case may be, shall be carried on and executed under the superintendence and according to the direction and orders of such Engineer.
3. The Mayor and the Director of Financial Services/Treasurer are hereby authorized to negotiate and enter into, execute and deliver for and on behalf of the Municipality a financing agreement (a "**Financing Agreement**") with OILC that provides for temporary and 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.
  4. The Mayor and/or the Director of Financial Services/Treasurer are hereby authorized, pending the substantial completion of the Capital Work or of each Capital Work, as the case may be, or as otherwise agreed with OILC, to make temporary borrowings pursuant to section 405 of the Act in respect of the Capital Work or of each Capital Work, as the case may be, on the terms and conditions provided in the Financing Agreement which Financing Agreement provides that the information contained in the Record, as defined in the Financing Agreement, in respect of such temporary borrowings shall be deemed final, conclusive and binding on the Municipality, and on such other terms and conditions as such authorized officials may agree; and the Treasurer is authorized to sign such certifications as OILC may require in connection with such borrowings in respect of the Capital Work(s); provided that the amount of borrowings allocated to the Capital Work or to 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.
  5. Subject to the terms and conditions of the Financing Agreement and such other terms and conditions as OILC may otherwise require, The Mayor and the Director of Financial Services/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.
  6. 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 any outstanding temporary borrowing and/or the Debentures, as the case may be

(the “**Obligations**”) and to pay such amounts to OILC from the Consolidated Revenue Fund.

7. 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 any outstanding temporary borrowing and/or 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.
8.
  - (a) The Mayor and the Director of Financial Services/Treasurer are hereby authorized to enter into, execute and deliver the Financing Agreement, and to issue the Debentures, one or more of the Director of Legislative Services/Clerk and the Director of Financial Services/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 Obligations of the Municipality under the Financing Agreement, to request and receive any temporary borrowing and to issue the Debentures, and the Director of Financial Services/Treasurer is authorized to affix the Municipality’s municipal seal to any such documents and papers.
  - (b) The money realized in respect of any temporary borrowing for the Capital Work(s) and the Debentures, including any premium, and any earnings derived from the investment of that money, after providing for the expenses related to any such temporary borrowing and 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.
9. This By-law takes effect on the day of passing.

ENACTED AND PASSED this 4<sup>th</sup> day of October, A.D. 2021.

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WADE MILLS  
MAYOR

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JENNIFER WILLOUGHBY  
DIRECTOR OF LEGISLATIVE  
SERVICES/CLERK

**Schedule "A"**  
**to By-Law Number 61-2021**  
**(New Capital Work(s))**

| (1)                            | (2)                                    | (3)                              | (4)                |
|--------------------------------|--|----------------------------------|--------------------|
| <u>Capital Work<br/>Number</u> | <u>Description of Capital<br/>Work</u> | <u>Estimated<br/>Expenditure</u> | <u>Loan Amount</u> |
| 56-2020                        | Elevated Water Storage<br>Tower        | \$7,184,255.00                   | \$5,000,000.00     |

## Webloans Loan Application PDF

FA Number

1660

Application for

Shelburne, The Corporation of The Town of

### Projects

| ID   | SIT<br>Project ID | Project Name                 | Construction/Purchase<br>Start | Construction/Purchase<br>End | Project Cost   | OILC Loan Amount |
|------|-------------------|------------------------------|--------------------------------|------------------------------|----------------|------------------|
| 1670 | 1                 | Elevated Water Storage Tower | 11/01/2021                     | 09/30/2022                   | \$7,184,255.00 | 5,000,000.00     |

### Details of Project Elevated Water Storage Tower

Project Category

Clean Water Infrastructure

Project Name

Elevated Water Storage Tower

Construction/Purchase Start

11/01/2021

Construction/Purchase End

09/30/2022

Energy Conservation



Project Address 1

203 Main Street East

Project Address 2

City / Town

Shelburne

Province

ON

Postal Code

L9V 3K7

Description

Due to accelerated growth being experienced in the Town in recent years, an additional water storage reservoir is required to meet the Town's existing and future water storage demands. This future need was also identified in the Class Environmental Assessment (EA) study completed in February 2013. The RFP for a new 3,400 cubic meter water storage facility was awarded by Council on Monday, September 27th, 2021. Included in the motion was council's approval to borrow \$5 million dollars from IO for a term of 20 years to assist in covering the costs of the \$7.1 million dollar project. The asset life span will be set up as 50 years in the Town's Capital Asset Management software. It is expected that taking into consideration the projected growth that the Town will experience, the tower will provide sufficient water storage for an additional 25 years or a population of 15,000, whichever comes first. The location of the physical tower itself will be adjacent to the Towns Public Works Yard at 124 Luxton Way and this additional land was purchased by the town in 2018 in anticipation of this project starting in 2020/2021.

Comments and/or Special  
Requests

By-Law using Template C2 will be adopted by Council on Monday, October 4th, 2021 and will be forwarded once passed.

Project Life Span (Years)

50

Project Financial Information

Project Cost (A)

\$7,184,255.00

Other Project Funding / Financing (B):

| Description                      | Timing   | Amount         |
|----------------------------------|----------|----------------|
| Development Charges Contribution | Existing | \$1,169,746.00 |
| Water Capital Reserves           | Existing | \$1,014,509.00 |

Other Project Funding/Financing Total (B)

\$2,184,255.00

OILC Loan Amount (A-B)

\$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       |
|---------------------------|----------------|------|------------|
| 11/01/2021                | \$5,000,000.00 | 20   | Amortizing |
| Long-term Borrowing Total | \$5,000,000.00 |      |            |

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.

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.

OILC Loan Repayment Information

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

|                     |         |
|---------------------|---------|
| Taxation            | 0.00    |
| User Fees           | 40.00   |
| Service Charges     | 0.00    |
| Development Charges | 60.00   |
| 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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