



The Municipal Corporation of the Town of Fort Erie

BY-LAW NO. 74-2003

BEING A BY-LAW TO AUTHORIZE DEBENTURE FINANCING FOR VARIOUS CAPITAL PROJECTS FOR 2003

WHEREAS Section 401(1) of the *Municipal Act, 2001* S.O. 2001, c.25 provides that subject to this or any other Act, 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 Section 401(2)(a) of the said *Act* provides that the municipal purposes referred to in subsection (1) include in the case of an upper-tier municipality, the purposes or joint purposes of one or more of its lower-tier municipalities, and

WHEREAS Section 401(3) of the said *Act* provides that a lower-tier municipality in a regional municipality does not have the power to issue debentures, and

WHEREAS the Province of Ontario has established the *Ontario Municipal Economic Infrastructure Financing Authority* (OMEIFA), to provide debt financing to Ontario municipalities for financing water, sewer, roads and other infrastructure improvements at substantially reduced interest rates, and

WHEREAS the Town of Fort Erie is eligible to meet its long-term borrowing requirements through application to the Region of Niagara for debentures and prescribed financial instruments such as those available through OMEIFA, and

WHEREAS Section 401(4) of the said *Act* provides that the Lieutenant Governor in Council may make regulations prescribing debt and financial obligation limits for municipalities, including,

- (a) defining the types of debt, financial obligation or liability to which the limit applies and prescribing the matters to be taken into account in calculating the limit;
- (b) prescribing the amount to which the debts, financial obligations and liabilities under clause (a) shall be limited;
- (c) requiring a municipality to apply for the approval of the Ontario Municipal Board for each specific work or class of work, the amount of debt, financial obligation or liability for which, when added to the total amount of any outstanding debt, financial obligation or liability under clause (a), causes the limit under clause (b) to be exceeded;
- (d) prescribing rules, procedures and fees for the determination of the debt, financial obligation and liability limit of a municipality;
- (e) establishing conditions that must be met by any municipality before undertaking a debt, financial obligation or liability;

- (f) prescribing and defining financial instruments and agreements, other than debentures, that municipalities may issue or enter for or in relation to debt;
- (g) deeming prescribed financial instruments and agreements to be debentures for the purposes of specified provisions of this Part;
- (h) prescribing rules and procedures applying to prescribed financial instruments and agreements.

WHEREAS Ontario Regulation 403/02 as amended provides that the annual debt and financial obligation limit for municipalities shall be determined under this Regulation, and

WHEREAS Ontario Regulation 403/02(4)(1) as amended provides before authorizing any specific work or class of work or any increase in expenditure for a previously authorized specific work or class of work that would require a long-term debt or financial obligation described in section 2, the council of the municipality shall have its treasurer calculate an updated limit using the most recent debt and financial obligation limit determined by the Ministry, and

WHEREAS Section 405(1)(b) of the said *Act* provides 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 during the 2003 Budget deliberations various capital projects were approved, part of which shall be financed through debenture financing in the amount of Two Million Seven Hundred and Forty Three Thousand Five Hundred Dollars (\$2,743,500.00), as set out in Schedule "A" annexed hereto, and

WHEREAS Section 408(9) of the said *Act* provides that despite any Act, if a municipality intends to incur debt for two or more purposes, or if it has passed separate debenture by-laws authorizing borrowing for two or more purposes but it has not sold any of the debentures, the municipality may by by-law provide for the issue of one series of debentures for the debt, and

WHEREAS the Council of the Town of Fort Erie has previously authorized debenture borrowing through By-law Nos. 102-2002, 95-2001, 115-99 and 172-98, for various improvements to the Town's watermains,

WHEREAS in order to save borrowing costs, the Town of Fort Erie deferred debenture borrowing costs until projects were tendered, or alternative sources of revenue found, and

WHEREAS on April 22, 2003, Council approved recommendations in Report PW-25-2003, to reduce debenture funding requirements for the 2002 Point Abino Water Distribution Recirculation System project by \$370,000, with a corresponding increase for the 2003 Erie Road Watermain Replacement Project, and

WHEREAS the Crystal Beach watermain rehabilitation projects for have been completed, below budget, and the debenturing requirements have been reduced,

WHEREAS Schedule "A" to annexed hereto provides for a reconciliation of the debenture funding approved through various budgets and debenture bylaws since 1998, and the actual funding requirements for this consolidated debenture bylaw, and

WHEREAS the Treasurer of the Corporation of the Town of Fort Erie has certified this long term debt financing arrangement is within the Town's overall annual repayment limit and is within the 2003 debt and financial obligation limits as determined by the Treasurer, and

WHEREAS it is deemed desirable to authorize the Treasurer of the Corporation of the Town of Fort Erie to file an application for long-term borrowing with the Regional Municipality of Niagara for the issuance of debentures, and prescribed financial instruments, in an amount not to exceed Three Million, Seven Hundred and Sixty-Three Thousand, Five Hundred Dollars (\$3,763,500) for a term of ten years for various 2003 capital projects;

NOW THEREFORE the Municipal Council of The Corporation of the Town of Fort Erie hereby enacts as follows:

1. **THAT** the debenture requirements authorized under By-law Nos. 172-98, 115-99, 95-2001 and 102-2000 be and they are hereby amended as provided in Schedule "A" attached hereto.
2. **THAT** the Treasurer of the Corporation of the Town of Fort Erie be and she is hereby authorized to file an application with the Regional Municipality of Niagara for approval of the issuance of debentures on behalf of the Town of Fort Erie in the amount of Three Million, Seven Hundred and Sixty-Three Thousand, Five Hundred Dollars (\$3,763,500) for a term of ten years for various capital projects as set out in Schedule "A" annexed hereto.
3. **THAT** the Treasurer is hereby authorized to file appropriate application and documentation with OMEIFA, in conjunction with the application to the Region of Niagara, for long-term borrowing for projects listed under Schedule "A" for which the Town of Fort Erie qualifies under the OMEIFA program.
4. **THAT** the Treasurer of the Corporation of the Town of Fort Erie shall certify to the Regional Municipality of Niagara that this financial undertaking is within the annual debt and financial obligation limits of the Corporation of the Town of Fort Erie for the year 2003.
5. **THAT** the Clerk of the Corporation of the Town of Fort Erie shall declare to the Regional Municipality of Niagara that the Corporation of the Town of Fort Erie is exercising its powers within 2003 debt and financial obligation limits as determined by the Ministry of Municipal Affairs pursuant to Ontario Regulation 403/02, as amended.
6. **THAT** the Mayor and Clerk be and they are hereby authorized and directed to execute any documentation necessary to complete the intent of this by-law.

7. **THAT** the Clerk of the Town of Fort Erie is hereby authorized to effect any minor modifications or corrections to the by-law and schedule of a descriptive, numerical or grammatical nature as may be deemed necessary after passage of this by-law.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 28th DAY OF MAY, 2003.



MAYOR



CLERK

I, the Clerk, Carolyn J. Kett, of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true certified copy of By-law No. 74-2003 of the said Town. Given under my hand and the seal of the said Corporation this day of _____, 2003.

THE CORPORATION OF THE TOWN OF FORT ERIE
 SCHEDULE A TO BYLAW 74-2003
 REGIONAL DEBENTURE ISSUE FOR 2003
 FORT ERIE WATER/SEWER PROJECTS TO BE FUNDED THROUGH DEBENTURES ISSUED IN 2003

ACCOUNT NUMBER	PROJECT DESCRIPTION	TYPE	BUDGET YEAR	BUDGET BYLAW	DEBENTURE BYLAW	YEAR OF DEBENTURE ISSUE	BUDGET AMOUNT	PREVIOUSLY ISSUED	ADJUSTMENT TO BUDGET AMOUNT FOR DEBENTURE	2003 DEBENTURE REQUIREMENT	
	5 Ton Dump Truck	For utilities operations	2003	16-2003	74-2003	2003	\$ 140,000			\$ 140,000	
	Erie Road	Watermain	2003	16-2003	74-2003	2003	\$ 1,081,000		\$ 370,000	\$ 1,431,000	
	Robinson St	Watermain	2003	16-2003	74-2003	2003	\$ 125,000			\$ 125,000	
	Forsythe St	Watermain	2003	16-2003	74-2003	2003	\$ 108,000			\$ 108,000	
	Phipps St	Watermain	2003	16-2003	74-2003	2003	\$ 59,500			\$ 59,500	
	Roxborough	Watermain	2003	16-2003	74-2003	2003	\$ 253,000			\$ 253,000	
	Coral Ave	Watermain	2003	16-2003	74-2003	2003	\$ 77,000			\$ 77,000	
	Pt Abino	Watermain	2003	16-2003	74-2003	2003	\$ 60,000			\$ 60,000	
	Garrison Rd	Watermain	2003	16-2003	74-2003	2003	\$ 453,000			\$ 453,000	
	Crystal Beach	Sewer main	2003	16-2003	74-2003	2003	\$ 407,000	\$ -	\$ -	\$ 407,000	
							<u>\$ 2,743,500</u>	<u>\$ -</u>	<u>\$ 370,000</u>	<u>\$ 3,113,500</u>	
	Emerick Ave	Watermain	2002	80-2002	102-2002	2002	\$ 112,000	\$ 112,000		\$ -	
	Helena St	Watermain	2002	80-2002	102-2002	2002	\$ 656,000	\$ 545,000	\$ (111,000)	\$ -	
	Pt Abino Water System	Watermain	2002	80-2002	102-2002	2002	\$ 30,000	\$ 30,000		\$ -	
	Pt Abino Water Recirculation	Watermain	2002	80-2002	102-2002	2003	\$ 421,000	\$ -	\$ (370,000)	\$ 51,000	
	Elm St Watermain	Watermain	2002	80-2002	102-2002	2003	\$ 31,000	\$ -	\$ -	\$ 31,000	
							<u>\$ 1,250,000</u>	<u>\$ 687,000</u>	<u>\$ (481,000)</u>	<u>\$ 82,000</u>	
	Edgemere Rd	Watermain & Road	2001	93-2001	95-2001	2003	\$ 475,000			\$ 475,000	
	Kraft Rd	Watermain	2001	93-2001	95-2001	2001	\$ 249,000	\$ 249,000		\$ -	
	Prospect Pt	Watermain	2001	93-2001	95-2001	2002	\$ 200,000	\$ 165,000		\$ 35,000	
	Helena St	Watermain	2001	93-2001	95-2001	not required	\$ 50,000	\$ -	\$ (50,000)	\$ -	
	Washington Rd	Watermain	2001	93-2001	95-2001	2002	\$ 398,000	\$ 340,000	\$ -	\$ 58,000	
							<u>\$ 1,372,000</u>	<u>\$ 754,000</u>	<u>\$ (50,000)</u>	<u>\$ 588,000</u>	
	Crystal Beach West	Watermain	1999	84-99	115-99	2003	\$ 2,100,000	\$ -	\$ (1,775,000)	\$ 325,000	
	<i>(Bylaw approved \$2.5 million debenture due to change in project scope following budget approval, alternative revenues reduced borrowing requirements)</i>										
	Crystal Beach Central	Watermain	1998	63-98	172-98	1998	\$ 1,150,000	\$ 2,150,000	\$ 1,000,000	\$ -	
	<i>(Bylaw approved \$2.15 million debenture due to change in project scope following budget approval)</i>										
							<u>\$ 6,515,500</u>	<u>\$ 3,591,000</u>	<u>\$ (936,000)</u>	<u>\$ 3,763,500</u>	

Debenture Proceeds Received

2002	\$ 1,192,000
2001	\$ 249,000
2000	\$ -
1999	\$ -
1998	\$ 2,150,000
	<u>\$ 3,591,000</u>