

By-law Number 33-2018

of The Regional Municipality of Durham

Being a by-law to delegate authority to the outgoing Council to pass by-law(s) to authorize the issue of debentures for capital works of The Corporation of The City of Pickering, The Corporation of The Town of Ajax, The Corporation of The Town of Whitby and The Corporation of The Municipality of Clarington.

Whereas section 5 of the *Municipal Act, 2001*, S.O. 2001, c. 25, 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 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 subsections 275 (1) and 275 (5) of the Act provide that the council of an upper-tier municipality shall not take any action described in subsection 275 (3) of the Act after the first day during the election for a new council on which it can be determined that one of the following applies to the new council that will take office following the election:

1. If the new council will have the same number of members as the outgoing council, the new council will include less than three-quarters of the members of the outgoing council.
2. If the new council will have more members than the outgoing council, the new council will include less than three-quarters of the members of the outgoing council or, if the new council will include at least three-quarters of the members of the outgoing council, three-quarters of the members of the outgoing council will not constitute, at a minimum, a majority of the members of the new council.
3. If the new council will have fewer members than the outgoing council, less than three-quarters of the members of the new council will have been members of the outgoing council or, if at least three-quarters of the members of the new council will have been members of the outgoing council, three-quarters of the members of the new council will not constitute, at a minimum, a majority of the members of the outgoing council;

And Whereas subsection 275 (3) of the Act provides that the actions referred to in subsection 275 (1) of the Act are,

1. the appointment or removal from office of any officer of the municipality;
2. the hiring or dismissal of any employee of the municipality;
3. the disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal; and
4. making any expenditures or incurring any other liability which exceeds \$50,000.

And Whereas subsection 275 (4) of the Act provides that clauses 275 (3) (c) and 275 (3) (d) do not apply if the disposition or liability was included in the most recent budget adopted by the council before the nomination day in the election;

And Whereas subsection 275 (6) of the Act provides that nothing in section 275 prevents any person or body exercising any authority of a municipality that is delegated to the person or body prior to the nomination day for the election of the new council;

And Whereas the Council of The Regional Municipality of Durham (the "Council") has authorized the issuance of debentures for various capital works of The Corporation of The City of Pickering, The Corporation of The Town of Ajax, The Corporation of The Town of Whitby and The Corporation of The Municipality of Clarington (individually a "Capital Work", collectively the "Capital Works") and desires to issue debentures for the Capital Works in the aggregate maximum principal amount of \$27,074,000 as set out in Schedule "A" attached hereto and forming part of this By-law ("Schedule "A"");

And Whereas there is concern that a determination may be made under subsection 275 (1) of the Act based on which the Council shall not take any action described in subsection 275 (3) of the Act after the first day during the election for a new Council unless the Council has delegated authority in accordance with subsection 275 (6) of the Act, it is now deemed expedient, before such day, for the outgoing Council to authorize long-term borrowing through one or more issues of debentures for any one or more of the Capital Works in the maximum principal amount of \$27,074,000, as set out in Schedule "A", provided that the principal amount of debentures to be issued in respect of any Capital Work does not exceed the amount approved to be financed through the issue of debentures for such Capital Work, provided that the term of years of the debentures issued for any such Capital Work does not exceed the lesser of the useful life of the Capital Work and the term of 20 years, and provided that the debentures will be issued with an annual interest rate that does not exceed 5% per annum.

Now therefore, the Council of The Regional Municipality of Durham hereby enacts as follows:

1. That in the event that a determination is made under subsection 275 (1) of the Act based on which the Council is prohibited from taking any action described in subsection 275 (3) of the Act, at any time after July 27, 2018 being the first day during the election for a new Council and before the new Council takes office following the election (the "Period"), the outgoing Council is hereby authorized to pass a by-law or by-laws, as the case may be, to authorize long-term borrowing through one or more issues of debentures in respect of any one or more of the Capital Works and the outgoing Council is hereby authorized during the Period to pass any by-laws to authorize one or more issues of debentures in respect thereof in the maximum principal amount of \$27,074,000 (the "Debentures"), provided that the term of years of the Debentures to be issued for any such Capital Work does not exceed the lesser of the useful life of the Capital Work and 20 years, and provided that the Debentures will be issued with an annual interest rate that does not exceed 5% per annum. For purposes of fulfilling the obligations of The Regional Municipality of Durham in respect of the Debentures, The Regional Municipality of Durham 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, 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.
2. That in the event that a determination is made under subsection 275 (1) of the Act based on which the Council is prohibited from taking any action described in subsection 275 (3) of the Act, at any time during the Period, any one or more of the Regional Chair and CEO and the Treasurer are hereby authorized to cause the

Debentures to be issued, the Clerk and the Treasurer are hereby individually or jointly authorized to generally do all things and to execute all other documents and papers in the name of The Regional Municipality of Durham in order to carry out the issuance of the Debentures, and the Treasurer is authorized to affix The Regional Municipality of Durham's municipal seal to any such documents and papers.

3. That for greater certainty, the Council hereby delegates to the outgoing Council authority to pass any by-laws during the Period deemed to be necessary or appropriate in connection with the issuance of Debentures in respect of any one or more of the Capital Works in accordance with this By-law and the Act.
4. That this By-law comes into force and takes effect on the date of its final passing.

This By-law Read and Passed on the 13th day of June, 2018.

G. L. O'Connor, Regional Chair and CEO

R. Walton, Regional Clerk

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of The Regional Municipality of Durham

Schedule "A"

	<u>Amount</u> (Not to Exceed)	<u>Term</u> (Not to Exceed)
<u>City of Pickering</u>		
Don Beer Arena – Ice Rink 2 Renovations (Refinancing Debentures)	\$263,000	5 Years
Pickering Recreation Complex Doubles Squash Court and Aerobics Studio (Refinancing Debentures)	833,000	5 Years
Sheppard Avenue, Reinforced Soil System (Refinancing Debentures)	367,000	5 Years
Supply and Delivery of One New Latest Model Year Articulating Front Loader	200,000	5 Years
Supply and Delivery of One Fire Pumper Tanker	750,000	10 Years
Westney Road – Road Reconstruction	300,000	10 Years
Abbott Crescent Stormwater Management Pond - Reconstruction	342,000	15 Years
Conservation Barn Reconstruction at the Pickering Museum Village	850,000	20 Years
Altona Bridge Replacement	<u>488,000</u>	20 Years
Sub Total – City of Pickering	<u>\$4,393,000</u>	
<u>Town of Ajax</u>		
Fire Headquarters (Refinancing Debenture)	\$1,671,000	5 Years
Audley Recreation Centre – Phase 2	<u>12,000,000</u>	15 Years
Sub Total – Town of Ajax	<u>\$13,671,000</u>	
<u>Town of Whitby</u>		
Soccer Dome	<u>\$4,000,000</u>	20 Years
<u>Municipality of Clarington</u>		
Major Parking Lot Rehabilitation	\$2,000,000	15 Years
LED Streetlight Conversion Project	<u>3,010,000</u>	15 Years
Sub Total – Municipality of Clarington	<u>\$5,010,000</u>	
TOTAL DEBENTURE REQUIREMENTS	<u>\$27,074,000</u>	