

**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 4854-16**

A BY-LAW TO AUTHORIZE A SUBORDINATION AGREEMENT BETWEEN THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE AND ONTARIO INFRASTRUCTURE AND LANDS CORPORATION AND NIAGARA-ON-THE-LAKE HYDRO INC.

BE IT ENACTED AS A BY-LAW OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE as follows:

1. THAT the Subordination Agreement dated the 1st day of February, 2016 between The Corporation of the Town of Niagara-on-the-Lake and Ontario Infrastructure and Lands Corporation and Niagara-on-the-Lake Hydro Inc., be and the same is hereby approved; and
2. THAT the Lord Mayor and Clerk be authorized to affix their hands and the Corporate Seal; and
3. THAT this by-law shall come into force and take effect immediately upon the passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 1st DAY OF FEBRUARY 2016

LORD MAYOR PAT DARTE

TOWN CLERK HOLLY DOWD

SUBORDINATION AGREEMENT

This Agreement made as of the ____ day of November, 2015 between **THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE** (the "Creditor"), **ONTARIO INFRASTRUCTURE AND LANDS CORPORATION** ("Infrastructure Ontario") and [INSERT] (the "Debtor").

RECITALS

WHEREAS the Debtor is and may hereafter become indebted to the Creditor and in connection therewith has granted to the Creditor a general security agreement dated **December 16, 2009** in favour of the Creditor (which general security agreement and any other security in favour of the Creditor now or hereafter created and as it exists from time to time is hereinafter collectively called the "**Creditor Security**");

AND WHEREAS the Debtor is or may become indebted to Infrastructure Ontario and in connection therewith has granted or will grant to Infrastructure Ontario security in favour of Infrastructure Ontario, including without limitation a general security agreement in respect of which a financing statement has been or will be registered under the *Personal Property Security Act* (which general security agreement and any other security in favour of Infrastructure Ontario now or hereafter created and as it exists from time to time is hereinafter collectively called the "**Infrastructure Ontario Security**");

AND WHEREAS the parties hereto have agreed upon certain priorities as hereinafter described;

AND WHEREAS the Debtor has agreed that it will maintain and deal with its assets in accordance with the provisions hereof;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual terms and conditions herein contained, and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by the parties hereto), the parties hereto agree as follows:

1. The Creditor hereby consents to the Infrastructure Ontario Security and postpones and subordinates the Creditor Security in all respects to and in favour of the Infrastructure Ontario Security, and acknowledges that the Infrastructure Ontario Security ranks and will continue to rank in priority to the Creditor Security in respect of all of the property and assets of the Debtor covered by the Infrastructure Ontario Security.
2. The priorities herein expressed will have effect regardless of (i) the respective dates or order of perfection or attachment of the Infrastructure Ontario Security or the Creditor Security, (ii) the order of crystallization of any floating charge contained in the Creditor Security, (iii) the order of registration of any security documents by Infrastructure Ontario or the Creditor, or (iv) any actual knowledge by Infrastructure Ontario, when any Infrastructure Ontario Security is executed and delivered or registered, of any existing Creditor Security or registration thereof.

3. The Debtor hereby confirms to and agrees with Infrastructure Ontario and the Creditor that so long as the Debtor remains indebted to Infrastructure Ontario and the Creditor, it will stand possessed of its assets so charged for Infrastructure Ontario and the Creditor in accordance with their respective interests and priorities as herein set forth.
4. Nothing contained in this Agreement shall in any way prejudice or diminish or otherwise affect the respective rights of Infrastructure Ontario and the Creditor against the Debtor or prejudice, diminish or otherwise affect in any manner whatsoever the respective rights of Infrastructure Ontario and the Creditor against third parties, nor shall any third party be entitled to, or to claim the benefit of, this Agreement or of any subordination or priority provided for herein, and nothing herein shall be construed as conferring any rights upon any person not a party to this Agreement.
5. Each of Infrastructure Ontario, the Creditor and the Debtor will do, perform, execute and deliver all acts, deeds and documents as may be necessary from time to time to give full force and effect to the intent of this Agreement; provided, however, that no consent of the Debtor shall be necessary to any amendment of the terms hereof by Infrastructure Ontario and the Creditor unless the interests of the Debtor are directly affected thereby.
6. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns, provided that neither Infrastructure Ontario nor the Creditor will assign or transfer any or all of the security held or to be held by it or any of its rights thereunder relating to the undertaking and assets of the Debtor unless and until the proposed assignee or transferee shall have delivered to the other parties hereto a written agreement to be bound by the provisions hereof to the same extent as the assignor.
7. This Agreement shall be governed and construed in accordance with the laws of the Province of Ontario.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

**CREDITOR:
THE CORPORATION OF THE
TOWN OF NIAGARA-ON-THE-
LAKE**

By: _____
Name:
Title:

By: _____
Name:
Title:

I/We have the authority to bind the
Corporation

**ONTARIO INFRASTRUCTURE AND
LANDS CORPORATION**

By: _____
Name: Krishnan Iyer
Title: Executive Vice President
and Chief Financial Officer

By: _____
Name: Steve Rohacek
Title: Senior Vice-President,
Municipal Business Development
and Lending

We have the authority to bind the
Corporation

**DEBTOR:
NIAGARA-ON-THE-LAKE HYDRO
INC.**

By: _____
Name:
Title:

By: _____
Name:
Title:

I/We have the authority to bind the
Corporation