

THE CORPORATION OF THE CITY OF BROCKVILLE
By-Law No. 083-2009

*Being A By-Law To Authorize the Mayor and City Manager to Execute an Agreement
Between the Corporation of the City of Brockville and
Her Majesty the Queen in Right of Ontario as Represented by the Minister of Energy
and Infrastructure and the Minister of Agriculture, Food and Rural Affairs for the
Jessie St./George St. Sewer Separation projects*

WHEREAS the Ministry of Energy and Infrastructure and the Ministry of Agriculture, Food and Rural Affairs is providing funding towards the Jessie St./George St. Sewer Separation project through the Infrastructure Stimulus Fund; and

WHEREAS the Ministry of Energy and Infrastructure and the Ministry of Agriculture, Food and Rural Affairs are requiring the Municipality to sign an agreement with regard to its support of the funding; and

WHEREAS Section 9 the Municipal Act, 2001, as amended, grants municipalities the capacity, rights, powers and privileges of a natural person for the purpose of exercising the authority under the Act; and

WHEREAS signing agreements is considered to be a natural person capacity, right, power, or privilege;

NOW THEREFORE, the Council of the Corporation of the City of Brockville ENACTS AS FOLLOWS:

1. THAT the Mayor and City Manager are hereby authorized and directed to sign the Agreement between the City of Brockville and Her Majesty the Queen in Right of Ontario as represented by the Minister of Energy and Infrastructure and the Minister of Agriculture, Food and Rural Affairs for the Jessie St./George St. Sewer Separation project.
2. THAT the Agreement is attached as Schedule A to this By-Law.
3. THAT the authority and direction to execute the above-noted Agreement extends to the Mayor and City Manager to execute any administrative amendments to the Agreement.
4. THAT this By-Law shall come into force and take effect on the date of passing.

Given under the seal of the
Corporation of the City of Brockville
and passed on this 22nd day of September, 2009



Mayor



City Clerk

INFRASTRUCTURE STIMULUS FUND

CONTRIBUTION AGREEMENT

Ministry of Energy and Infrastructure and Ministry of Agriculture, Food and Rural Affairs

THIS AGREEMENT made in quadruplicate as of the _____ day of _____, 2009.

B E T W E E N: **HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO,**
as represented by the Minister of Energy and Infrastructure

and the

Minister of Agriculture, Food and Rural Affairs (referred to herein jointly as
"Ontario" and as "OMAFRA" in the latter case)

A N D: **THE CORPORATION OF THE CITY OF BROCKVILLE**

(referred to herein as the "Recipient")

WHEREAS the Government of Canada has established a \$4 billion Infrastructure Stimulus Fund (ISF) under Canada's Economic Plan to mitigate against the impacts of the global economic recession by increasing the total amount of construction activity to projects that can start and be substantially completed in fiscal years 2009-2010 and 2010-2011;

AND WHEREAS the Government of Ontario also recognizes the impacts of the global economic recession on the Province of Ontario and is actively mitigating against those impacts by increasing the total amount of construction activity to projects that can start and be substantially completed in fiscal years 2009-2010 and 2010-2011;

AND WHEREAS the purpose of the Infrastructure Stimulus Fund Contribution Agreement ("Agreement") is directed at capital projects that involve moveable or non-moveable assets, constructed, rehabilitated, or improved, in whole or in part;

AND WHEREAS this Agreement defines the terms and conditions of a financial contribution from the Government of Canada and the Government of Ontario to assist with projects under ISF which is being administered by the Government of Ontario;

NOW THEREFORE in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties covenant and agree as follows:

This Agreement, including:

- Schedule "A" - General Terms and Conditions
- Schedule "B" - Description of the Project(s)
- Schedule "C" - Eligible and Ineligible Costs
- Schedule "D" - Project Financial Assistance
- Schedule "E" - Government of Canada Requirements
- Schedule "F" - Additional Provisions
- Schedule "G" - Communications Requirements

ISF Contribution Agreement

- Schedule "H" - Expenditure and Job Creation Report
Schedule "I" - Claims and Progress Statement
Schedule "J" - Final Report
Schedule "K" - Solemn Declaration of Substantial Completion
Schedule "L" - Aboriginal Consultation Protocol

constitutes the entire Agreement between the parties with respect to the subject matter contained in this Agreement and supersedes all prior oral or written representations and agreements.

IN WITNESS WHEREOF, the Government of Ontario and the Recipient have respectively executed and delivered this Agreement on the date set out above.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

as represented by the Minister of Energy and Infrastructure
by:

Name: The Honourable George Smitherman **Date:**
Title: Deputy Premier and Minister of Energy and Infrastructure

and by the Minister of Agriculture, Food and Rural Affairs
by:

Name: The Honourable Leona Dombrowsky
Title: Minister of Agriculture, Food and Rural Affairs

RECIPIENT'S NAME: THE CORPORATION OF THE CITY OF BROCKVILLE
by: _____

Name: David Henderson
Title: Mayor

Sept. 22, 2009
Date

**Affix
Corporate
Seal**

Name: Bob Casselman
Title: City Manager

SEP 22/09
Date

I/we have authority to bind the Recipient

SCHEDULE "A"
GENERAL TERMS AND CONDITIONS

SECTION 1
DEFINITIONS AND INTERPRETATION

1.1 Definitions. When used in this Agreement (including the cover and execution pages and all of the Schedules), the following terms shall have the meanings ascribed to them below unless the subject matter or context is inconsistent therewith:

"Aboriginal Group(s)" includes the Indian, Inuit and the Métis peoples of Canada or any other group that has legally been recognized as holding Aboriginal or treaty rights under section 35 of the *Constitution Act, 1982*.

"Adjust the Financial Assistance" means adjust or terminate the Financial Assistance on the Project or the amount of financial assistance for any other of the Recipient's Project(s) under the ISF, or any other provincial program(s) or initiative(s) (either current or future), and/or require repayment for some or all of the Financial Assistance for the Project in an amount to be determined by OMAFRA and within the period specified by OMAFRA.

"Agreement" means this Infrastructure Stimulus Fund Contribution Agreement, including the cover and execution pages and all of the Schedules, and all amendments made hereto in accordance with the provisions hereof.

"Allowable Financial Assistance" has the meaning given to it in Section 8.1 of Schedule "A".

"Asset" means any moveable or non-moveable asset, constructed, rehabilitated, or improved, in whole or in part, with Financial Assistance contributed by the Government of Canada and the Government of Ontario under this Agreement.

"Business Day" means any day on which Government of Ontario offices generally are open for business in the Province of Ontario.

"Claim and Progress Statement" has the meaning given to it in Section 6.3 of Schedule "A".

"Claims Submission" has the meaning given to it in Section 6.3 of Schedule "A".

"Class of Asset" means a

- a) Local Government Asset;
- b) Not-For-Profit Private Sector Asset;
- c) For-Profit Private Sector Asset; or
- d) Provincial Asset.

"Communication Requirements" means the communication requirements set out in Schedule "G", or as directed by OMAFRA from time to time.

"Consultant" means any consultant, engineer, contractor, project manager, architect or other service provider, as the case may be, retained by the Recipient to undertake any part of the work related to the Project.

"Contract" means a contract between a Recipient and a third party at arm's length whereby the

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latter agrees to provide a product or service to the Project in return for financial consideration that may be claimed as an Eligible Cost.

"Crown Agency" means a Crown agency as defined in the *Crown Agency Act*, R.S.O. 1990, c. C.48, as amended.

"Eligible Costs" means the costs so described under Part C.1 of Schedule "C" and Schedule "G".

"End of Financial Assistance Date" means March 31, 2011.

"Environmental Contaminant" means any hazardous or toxic substance or material including, without limitation, products of waste, contaminants, pollutants, dangerous substances, noxious substances, toxic substances, hazardous wastes and flammable, explosive or improperly handled friable materials.

"Environmental Laws" means all applicable federal, provincial or municipal laws, regulations, by-laws, orders, rules, policies or guidelines respecting the protection of the natural environment, public or occupational health or safety, and the manufacture, importation, handling, transportation, storage, disposal and treatment of Environmental Contaminants. and include, without limitation, the *Environmental Protection Act*, R.S.O. 1990, c. E. 19, as amended, the *Environmental Assessment Act*, R.S.O. 1990, c. E. 18, as amended, the *Ontario Water Resources Act*, R.S.O. 1990, c. O. 40, as amended the *Canadian Environmental Protection Act 1999*, S.C. 1999, c. 33, as amended, the *Canadian Environmental Assessment Act*, S.C. 1992, c. 37, as amended, the *Fisheries Act*, R.S.C. 1985, c. F-14, as amended and the *Navigable Waters Protection Act*, R.S.C. 1985, c. N-22, as amended.

"Event of Default" has the meaning given to it in Section 15.1 of Schedule "A".

"Expenditure and Job Creation Report" has the meaning given to it in Section 6.2 of Schedule "A" and Schedule "H".

"Expiration Date" means March 31, 2012.

"Federal Licensed Marks" has the meaning given to it in Section 5 of Schedule "E".

"Federal Maximum Financial Assistance" has the meaning set out in Schedule "D".

"Final Report" has the meaning given to it in Section 6.4 of Schedule "A".

"Final Report Date" means April 15, 2011.

"Financial Assistance" means the funds paid to the Recipient pursuant to this Agreement.

"Fiscal Year" means the period beginning on April 1 of a year and ending on March 31 of the following year.

"For-Profit Private Sector Asset" means an Asset that is owned, or will be owned, by a for-profit private sector entity.

Government of Canada" means Her Majesty the Queen in right of Canada.

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"Government of Ontario" means Her Majesty the Queen in right of Ontario.

"Infrastructure" means publicly or privately owned capital assets in Ontario for public use or benefit.

"Indemnified Parties" means Her Majesty the Queen in right of Ontario, Her Ministers, directors, officers, agents, appointees and employees and Her Majesty the Queen in right of Canada, Her Ministers, directors, officers, agents, appointees and employees.

"Ineligible Costs" means the costs so described under Part C.2 of Schedule "C".

"Licensed Marks" has the meaning given to it in Section 13 of Schedule "A".

"Local Government Asset" means an asset that is owned, or will be owned, by a local or regional government established under the laws of Ontario.

"Local Services Board" means a Local Services Board established under the *Northern Services Boards Act*, R.S.O. 1990, c. L. 28, as amended.

"Maximum Financial Assistance" has the meaning set out in Section 4.6 and Schedule "D".

"Not-For-Profit Private Sector Asset" means an Asset that is owned, or will be owned, by a not-for-profit private sector entity.

"Ontario Maximum Financial Assistance" has the meaning set out in Schedule "D".

"Project" means the project or projects as described in Schedule "B".

"Project Completion Date" means March 31, 2011.

"Project Construction Start Date" has the meaning given to it in Schedule "B".

"Project Status Report" has the meaning given to it in Section 6.1 of Schedule "A".

"Provincial Asset" means an Asset that is owned, or will be owned, by the Government of Ontario or by a public sector body that is established by or under Ontario statute or by or under regulation.

"Recipient" has the meaning given to it on the first page of this Agreement.

"Solemn Declaration of Substantial Completion" is referred to in Section 6.5 and Schedule "K".

"Substantially Completed" has the same meaning as and shall be determined in accordance with "substantially performed" in subsection 2(1) of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended, and **"substantial completion"** shall have a corresponding meaning.

"Term" has the same meaning set out in Section 2.1.

"Total Eligible Costs" has the meaning set out in Schedule "D".

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- 1.2 Herein, etc.** The words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular schedule, article, section, paragraph or other subdivision of this Agreement.
- 1.3 Currency.** Any reference to currency is to Canadian currency and any amount advanced, paid or calculated is to be advanced, paid or calculated in Canadian currency.
- 1.4 Statutes.** Any reference to a statute is to such statute and to the regulations made pursuant to such statute as such statute and regulations may at any time be amended or modified and in effect and to any statute or regulations that may be passed that have the effect of supplementing or superseding such statute or regulations.
- 1.5 Gender, singular, etc.** Words importing the masculine gender include the feminine or neutral gender and words in the singular include the plural, and vice versa.
- 1.6 OMAFRA Approvals.** Any reference to, or requirement for, OMAFRA's approval in this Agreement or in any schedule hereto shall be deemed to require the prior and express written approval of OMAFRA.

SECTION 2 TERM OF AGREEMENT

- 2.1 Term.** Subject to any extension or termination of this Agreement or the survival of any of the provisions of this Agreement pursuant to the provisions contained herein, this Agreement shall be in effect from the date set out on the first page of this Agreement, up to and including the Expiration Date (the "Term").
- 2.2 End of Financial Assistance Date.** Notwithstanding anything in this Agreement and regardless of the Project's state of completion, the Government of Ontario shall not be obligated to provide Financial Assistance under this Agreement for any costs incurred after the End of Financial Assistance Date. The Recipient will be responsible for any financial obligations after that date related to the Project or this Agreement.
- 2.3 Project Completion Date.** The Recipient shall complete the Project by the Project Completion Date. The Government of Ontario shall not be obligated to provide Financial Assistance under this Agreement for any costs incurred after the Project Completion Date. The Recipient will be responsible for any risks and obligations to complete the Project if the Recipient fails to complete the Project by the Project Completion Date. The Recipient will also be responsible for completing the Project as soon as possible after the Project Completion Date.

SECTION 3 ELIGIBLE COSTS

- 3.1 Eligible Costs.** For a cost to be eligible for Financial Assistance pursuant to this Agreement (an "Eligible Cost"), the cost must be included in Schedule "C", Part C.1, except where otherwise expressly approved in writing by OMAFRA. For greater certainty, where Schedule "B" identifies a portion of the works that are specifically excluded from the description of the Project under this Agreement, the costs associated with that portion of the works are not eligible for Financial Assistance.
- 3.2 Discretion of OMAFRA.** Subject to Section 3.1, the eligibility of any costs not listed in

Part C.1 of Schedule "C" will be determined in accordance with the policies and guidelines (if any) established by OMAFRA to administer the ISF. The final determination of the eligibility of any costs claimed is at the sole and absolute discretion of OMAFRA.

- 3.3 Retention of Receipts.** The Recipient shall retain all accounts, documents and records of payments related to Eligible Costs including, without limitation, invoices and receipts, for audit purposes and such supporting documentation must be available to OMAFRA when requested and shall be retained until six (6) years after the Substantial Completion of the Project, any extension thereof or for such period as OMAFRA in its sole discretion may, in writing, direct.
- 3.4 Ineligible Costs.** Notwithstanding anything else contained herein, the costs that are not eligible for Financial Assistance pursuant to this Agreement are set out in Part C.2 of Schedule "C" ("Ineligible Costs").
- 3.5 Deemed Ineligible.** The Recipient acknowledges that the Government of Ontario's Fiscal Year ends on March 31 in each year, and that should a cost not be submitted by the Recipient for payment of Financial Assistance before March 31 of the year following the Fiscal Year in which it was incurred, such cost may be deemed, at OMAFRA's sole and absolute discretion, ineligible for Financial Assistance.

SECTION 4 FINANCIAL ASSISTANCE

- 4.1 Use of Financial Assistance.** The Financial Assistance is intended for and shall be used only for Eligible Costs incurred by the Recipient.
- 4.2 Basis of Payout of Financial Assistance.** The Financial Assistance will be provided by OMAFRA to the Recipient on the basis set out in Schedule "D".
- 4.3 Reporting.** The Recipient is required to submit Project Status Reports and Expenditure and Job Creation Reports to OMAFRA pursuant to Section 6.1 and Section 6.2 of Schedule "A" prior to OMAFRA releasing any Financial Assistance.
- 4.4 Financial Assistance Advanced.** Based on submitted Expenditure and Job Creation Report projections demonstrating that Eligible Costs will be incurred in 2009-10, OMAFRA may provide to the Recipient up to 25% of Eligible Costs expected to be incurred in 2009-10 prior to OMAFRA receiving evidence that the associated Eligible Costs have already been incurred by the Recipient (the "advance payment(s)"). The Recipient is required to submit invoices demonstrating full use of the advanced payments in subsequent Claim and Progress Statements to OMAFRA. Further Eligible Costs incurred in 2009-10 will only be reimbursed following the Recipient's submission of invoices to OMAFRA and showing the full use of the advanced payment. If the Recipient is unable to provide invoices by March 31, 2010 demonstrating full-use of the advanced payment, the Government of Ontario retains the right to demand repayment of any unused Financial Assistance.

Based on submitted Expenditure and Job Creation Report projections demonstrating that Eligible Costs will be incurred in 2010-11, OMAFRA may provide to the Recipient up to 25% of Eligible Costs expected to be incurred in 2010-11 prior to OMAFRA receiving evidence that the associated Eligible Costs have already been incurred by the Recipient

(the "further advance payment(s)"). The Recipient is required to submit invoices demonstrating full use of the further advanced payments in subsequent Claim and Progress Statements to OMAFRA. All other Eligible Costs incurred will only be reimbursed following the Recipient's submission of invoices to OMAFRA and showing the full use of the further advanced payment. If the Recipient is unable to provide invoices by March 31, 2011 demonstrating full-use of the further advanced payment, the Government of Ontario retains the right to demand repayment of any unused Financial Assistance.

- 4.5 *Deposit of Financial Assistance In Canadian Financial Institution and Interest on Financial Assistance Advanced.*** All Financial Assistance provided, including any advanced or further advance payments as well as all interest earned thereon, shall be deemed to remain the property of the Government of Ontario and must be held by the Recipient for the Government of Ontario in an interest bearing account in the name of the Recipient at a Canadian financial institution, pending payment of Eligible Costs. The amount of interest earned (if any) shall be reported to OMAFRA. If the Recipient earns any interest on the advanced Financial Assistance:
- a) OMAFRA may deduct an amount equal to the interest from any other instalments of Financial Assistance; or
 - b) The Recipient shall pay an amount equal to the interest to OMAFRA if directed by OMAFRA.
- 4.6 *Maximum Financial Assistance.*** The total amount of Financial Assistance provided to the Recipient shall in any event be no greater than the Maximum Financial Assistance figure set out in Schedule "D".
- 4.7 *Excess Financial Assistance.*** The Recipient shall immediately notify OMAFRA should the Project require less than the Total Eligible Costs to be Substantially Completed, or where additional funding is secured from other government sources such that the total funds available to the Recipient for the Project (including the Financial Assistance) exceed the Maximum Financial Assistance. OMAFRA may, in its sole and absolute discretion, Adjust the Financial Assistance on the Project.
- 4.8 *Interdependent Projects.*** Where implementation of a Project is dependent on completion of a project by others and the interdependent project is not completed by others in whole or in part, OMAFRA may, in its sole discretion and absolute, Adjust the Financial Assistance for the Project.
- 4.9 *Recipient Not Carrying out Project.*** The Recipient shall immediately notify OMAFRA if it does not intend to carry out any Project in whole or in part as specified in Schedule "B" hereto, in which case OMAFRA may, in its sole and absolute discretion, Adjust the Financial Assistance for the Project.
- 4.10 *New Information.*** In the event of new information, errors, omissions or other circumstances affecting the determination of the amount of Financial Assistance under this Agreement, OMAFRA may, in its sole and absolute discretion, Adjust the Financial Assistance for the Project.
- 4.11 *Alternatives to Project.*** If the Recipient becomes aware of any means of completing either the Project's objective or the Project itself that are more cost effective, the Recipient shall immediately notify OMAFRA, in which case OMAFRA may, in its sole and absolute discretion, Adjust the Financial Assistance. Likewise, if OMAFRA

becomes aware of any alternative means of completing either the Project's objective or the Project itself that are more cost effective, the Recipient will be notified and OMAFRA may, in its sole and absolute discretion, Adjust the Financial Assistance.

- 4.12 *Transfer of Financial Assistance between Projects.*** The Recipient shall not transfer Financial Assistance assigned to one Project to another Project listed in Schedule B hereto without the express written consent of OMAFRA.
- 4.13 *Goods and Services Tax.*** The Financial Assistance is based on the net amount of Goods and Services Tax to be paid by the Recipient pursuant to the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended, net of any applicable rebates. If and when the Harmonized Sales Tax is phased in within the Province of Ontario, the Financial Assistance will be based on the net amount of the Harmonized Sales Tax to be paid by the Recipient, net of any applicable rebates.
- 4.14 *Withholding Payment.*** OMAFRA may, in its sole and absolute discretion, withhold payment of Financial Assistance where the Recipient is in default in obtaining any necessary permits, approvals or licenses applicable to the Project or is in default of compliance with any provisions of this Agreement or any and all applicable federal, provincial or municipal laws, and all rules, regulations, by-laws, notices, orders, approvals, directives, protocols, policies and guidelines.
- 4.15 *Financial Assistance upon Expiry.*** Without limiting any rights OMAFRA has under this Agreement, at law or in equity, OMAFRA shall have the right to be repaid by the Recipient, in whole or in part, for Financial Assistance advanced and unspent by the Recipient for a Project that has not been completed by the Project Completion Date.
- 4.16 *Limitation on Payment of Financial Assistance.*** Notwithstanding section 4.4 of this Agreement, OMAFRA may choose not to advance any Financial Assistance to the Recipient until the Recipient provides the insurance certificate or other documents provided for in section 9 of Schedule "A".
- 4.17 *Insufficient Funds Provided by the Legislature of Canada.*** If, in the opinion of the Government of Ontario, the Legislative Assembly of Ontario or the Government of Canada does not provide sufficient funds to continue the Financial Assistance for any Fiscal Year during which this Agreement is in effect, the Government of Ontario may terminate this Agreement in accordance with the terms specified in Section 15.5 of Schedule "A".

SECTION 5

PROJECT AWARD, CONSULTATIONS WITH ABORIGINAL GROUP(S), MANAGEMENT AND COMPLETION

- 5.1 *Recipient Fully Responsible.*** The Recipient shall be fully responsible for the undertaking, implementation and completion of the Project and shall retain any and all Consultants reasonably required to undertake a project of the size, scope and complexity of the Project. Where implementation of the Project is dependent on completion of a project by others, the Recipient shall be fully responsible for obtaining any assurances that it may require from others in relation to the implementation of the Project by the Recipient.
- 5.2 *Government of Ontario Not Responsible for Implementation.*** The Government of

Ontario shall not be responsible in any way whatsoever for the undertaking, implementation and completion of the Project or any interdependent project of others unless the Project relates to a Provincial Asset.

- 5.3 Government of Ontario Not Responsible for Costs, etc.** The Government of Ontario shall not be responsible for any costs associated with the operation, maintenance and repair of the Project nor for any claims, proceedings or judgments arising from the tender and bidding process, unless the Project relates to a Provincial Asset.
- 5.4 Consultations with Aboriginal Group(s).** The Recipient agrees to be bound by the terms of the Aboriginal Consultation Protocol set out in Schedule "L".
- 5.5 Behaviour of Recipient.** The Recipient shall at all times carry out the Project in an economical and businesslike manner, in accordance with this Agreement subject to any reasonable changes that OMAFRA may agree to or require from time to time in writing.
- 5.6 Competitive Process.** The Recipient shall acquire and manage its equipment, services and supplies, including any construction component, required for the Project through a transparent, competitive process that ensures the best value for the Financial Assistance expended. Where the Recipient is a municipal entity, the Recipient shall follow its procurement policies as required by the *Municipal Act, 2001*, 2001, S.O. c. 25, as amended or, for the City of Toronto, the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Schd. A, as amended. Where the Recipient is a not-for-profit private sector entity, a for-profit private sector entity or a Local Services Board, the Recipient shall ensure that for equipment, services and supplies, the estimated cost of which exceeds \$25,000.00, the Recipient shall obtain at least three written quotes unless OMAFRA gives prior written approval. The requirement for a competitive process for municipal Recipients, not-for-profit private sector Recipients, for-profit private sector Recipients or Local Services Board Recipients may be waived with prior written approval by OMAFRA if:
- a) the equipment, services and supplies the Recipient is purchasing is specialized and is not readily available; or
 - b) the Recipient has recently researched the market for a similar purchase and knows prevailing market costs for the equipment, services or supplies purchased.
- 5.7 Trade Agreements.** If the Recipient is subject to any provincial or federal trade agreements to which the Government of Ontario is a party, the Recipient shall comply with the applicable requirements of such trade agreements. In particular, and without limitation, if the Recipient is subject to Annex 502.4 of the Agreement on Internal Trade, the Recipient shall comply with all of the applicable requirements of that Annex. In the event of any conflict between the requirements of Sections 5.6 of Schedule "A" and the requirements of this Section 5.7, the requirements referenced in this Section 5.7 shall apply.
- 5.8 Final Claim.** The Recipient shall submit its final claims for all costs incurred by the End of Financial Assistance Date with the required documentation, including the Final Report as per Section 6.4 of Schedule "A", for approval, cost reviews, audits (including any value for money audits that OMAFRA may decide to undertake in its sole and absolute discretion) within 90 days following the Substantial Completion of the Project and no later than the Final Report Date, which date is earlier, or such later date as is specified in

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writing by OMAFRA. Upon completion of the cost reviews, audits and settlement, OMAFRA shall not be obligated to consider any further claims in relation to the Project. The Recipient shall also submit, upon request by OMAFRA, any documentation required for approval, cost reviews and audits.

5.9 Commencement of Project. The Recipient shall begin the Project within sixty (60) days of the Project construction start date, as per Schedule B, or such other period as OMAFRA may allow, failing which this Agreement may be terminated pursuant to Section 15.

5.10 Contracts. The Recipient shall ensure that all Contracts:

- a) are consistent and do not conflict with this Agreement;
- b) incorporate the relevant provisions of this Agreement to the fullest extent possible;
- c) be consistent with all policies and procedures the Government of Canada and/or the Government of Ontario may provide to the Recipient in relation the ISF;
- d) are awarded and managed:
 - (i) in a way that is transparent, competitive and consistent with value for money principles; and
 - (ii) in accordance with any policies and procedures the Government of Ontario may provide to the Recipient;
- e) require that the parties thereto comply with any and all applicable federal, provincial or municipal laws, and all rules, regulations, by-laws, notices, orders, approvals, directives, policies, protocols and guidelines; and
- f) authorize the Governments of Canada and Ontario of to collect, use and disclose information and data gathered by parties, perform audits and monitor the Project as they see fit.

SECTION 6 REPORTING REQUIREMENTS

6.1 Project Status Report. The Recipient shall submit monthly Project Status Reports in the format prescribed by OMAFRA including such information as estimated percentage of project completion, tender call dates, tender award dates, forecast and actual construction start and end dates, and all other information respecting the progress of the Project that may be requested by OMAFRA or of which the Recipient becomes aware that may affect the Project's timely completion.

In addition, and without limitation by the communications requirements set out else wherein this Agreement, the Recipient shall also submit copies of all communications and public information materials related to the Project with the Project Status Reports.

6.2 Expenditure and Job Creation Report. The Recipient shall, at a minimum, submit to OMAFRA a quarterly Expenditure and Job Creation Report, as set out in Schedule "H" hereto and which may be amended by OMAFRA from time to time, for each Project

listed in Schedule "B", to OMAFRA on or before May 15, August 15, November 15 and February 15 for each Fiscal Year.

- 6.3 Claims Submission.** All Recipient Claim Submissions shall include, but are not limited to, the following report:

Claim and Progress Statement. The Recipient shall provide OMAFRA with a duly executed report in the form set out in Schedule "I" ("Claim and Progress Statement") that shall contain information to allow OMAFRA to assess the progress of the Project and OMAFRA may amend the Claims and Progress Statement from time to time, as well as the eligibility of that portion of the Project for which disbursement is being requested and the individual Project tasks and milestones.

- 6.4 Final Report.** Within 90 days of the Project becoming Substantially Completed and no later than the Final Report Date, or such later date as is specified in writing by OMAFRA, the Recipient shall submit a final report (the "Final Report" as set out in Schedule "J") for the Project to OMAFRA in a manner satisfactory to OMAFRA and the Recipient shall follow such administrative procedures as are specified from time to time by OMAFRA.

Upon acceptance of the Final Report and the processing of final claims, OMAFRA shall not be obligated to consider any further claims in relation to the Project.

- 6.5 Solemn Declaration of Substantial Completion.** Within ninety (90) days of the Project becoming Substantially Completed and no later than the Final Report Date, or such later date as is specified in writing by OMAFRA, the Recipient shall submit a fully executed Solemn Declaration of Substantial Completion, as set out by Schedule "K", for all Projects for which Eligible Costs have been claimed.

SECTION 7 RECORDS AND AUDIT

- 7.1 Separate Records.** The Recipient shall maintain separate records and documentation for each Project listed in Schedule "B" and shall keep all records and documentation for six (6) years after the submission of the final claims referred to in Section 5.9 of Schedule "A".
- 7.2 Provide Records to OMAFRA.** The Recipient shall provide to OMAFRA, upon request and at the Recipient's expense (including but not limited to photocopying, electronic media, transportation and postage, associated staff time, information retrieval and other office expenses), all records and documentation (including invoice summaries and certified statement of final costs) of the Recipient and its auditors, Consultants relating to the Project or any other project(s) of the Recipient under the ISF, or any other Government of Ontario program(s), for the purposes of cost reviews, audits (including any value for money audits that OMAFRA may decide to undertake in its sole and absolute discretion) settlement, as may be required by OMAFRA, of the Project or any other project(s) of the Recipient under the ISF, or any other Government of Ontario program(s). Such material shall be provided in a form and manner satisfactory to OMAFRA.
- 7.3 External Auditor.** OMAFRA may require the assistance of an external auditor to carry out a review of the material referred to in Sections 7.1 and 7.2 of Schedule "A". If so, the

Recipient shall, upon request, retain an external auditor acceptable to OMAFRA at the Recipient's sole expense. The Recipient shall ensure that any auditor who conducts a financial or program review pursuant to this section of the Agreement or otherwise, provides a copy of the report to OMAFRA for its consideration at the same time that the report is given to the Recipient.

- 7.4 Auditor General of Canada.** The Auditor General of Canada, may, at the Auditor General of Canada's cost, conduct an audit with respect to the use of Financial Assistance under this Agreement. For the purposes of facilitating such inquiry, the Recipient shall release to OMAFRA upon request and in a timely manner, for the purpose of releasing to the Auditor General of Canada: all records held by the Recipient, or by agents or contractors of the Recipient, relating to this Agreement and/or the Financial Assistance; and such further information and explanations as the Auditor General, or anyone acting on behalf of the Auditor General may request relating to any part of this Agreement of the use of Financial Assistance.
- 7.5 Auditor General of Ontario.** The Auditor General of Ontario, may, at the Auditor General of Ontario's cost, conduct an audit with respect to the use of Financial Assistance under this Agreement. For the purposes of facilitating such inquiry, the Recipient shall release to OMAFRA upon request and in a timely manner, for the purpose of releasing to the Auditor General of Ontario: all records held by the Recipient, or by agents or Contractors of the Recipient, relating to this Agreement and/or the Financial Assistance; and such further information and explanations as the Auditor General, or anyone acting on behalf of the Auditor General may request relating to the Financial Assistance.
- 7.6 Information.** The Recipient shall supply to OMAFRA, upon request, such information in respect of the Project and its results including, without limitation, all Contracts and agreements related to the Project and all plans and specifications related to the Project, as OMAFRA may require. The Government of Canada and the Government of Ontario, their respective agents and employees, including the Auditor General's Office, shall be allowed access to the Recipient's premises and staff and to the Project site at all reasonable times to (i) inspect the progress and monitor the Project; (ii) perform cost reviews and audits on the Project; and (iii) complete any other auditing or monitoring that may be reasonably required in relation to the Project.
- 7.7 Information Condition Precedent for Payment.** If, in the opinion of OMAFRA, any of the information requirements of this Section 7 are not met, OMAFRA may, in its sole and absolute discretion, require the information as a condition precedent to any payment in relation to the Project(s) of the Recipient under the ISF, or any other provincial program(s) (either current or future). In addition, OMAFRA may, in its sole and absolute discretion, Adjust the Financial Assistance for the Project.

SECTION 8 OVERPAYMENT AND FAILURE TO SUBSTANTIALLY COMPLETE CONTRACT WITHIN TIMELINES

- 8.1 Allowable Financial Assistance.** Financial Assistance paid to the Recipient prior to the submission of a Final Report in accordance with Section 5.9 of Schedule "A" shall not be construed as a final determination of the amount of Financial Assistance applicable to the Project. Upon conducting a final cost review or audit of the Project, OMAFRA will determine the final amount of Financial Assistance on the Project (the "Allowable

Financial Assistance"). For certainty, the allowable Financial Assistance shall not exceed the Maximum Financial Assistance. The Recipient agrees to repay to OMAFRA, upon receipt of a written demand and within the period specified by OMAFRA, that portion of the Financial Assistance that exceeds the Allowable Financial Assistance applicable to the Project (an "overpayment"), as determined by OMAFRA, as well as any Financial Assistance used for a purpose other than that stated in the terms of this Agreement, as determined by OMAFRA.

- 8.2 Deduction of Overpayment.** OMAFRA may deduct any overpayments of Financial Assistance for the Project from financial assistance payable on any other Project(s) of the Recipient under the ISF or any other Government of Ontario program(s) and/or Government of Canada program(s) that are delivered by the Government Ontario on behalf of the Government of Canada (either current or future). Any overpayment made on any other Project(s) of the Recipient under the ISF or any other Government of Ontario program(s) (either current or future) may in turn be deducted from Financial Assistance payable on the Project.
- 8.3 Interest on Overpayment.** OMAFRA reserves the right to demand interest on any overpayment owing by the Recipient under the terms of this Agreement at the then current interest rate charged by the Government of Ontario on accounts receivable. The Recipient shall pay the amount of interest owing upon receipt of a written demand and within the period specified by OMAFRA.
- 8.4 Recovery of Financial Assistance.** Where Eligible Costs committed to a Project have not been incurred, OMAFRA may withdraw any unspent Financial Assistance for the Project if it has not started construction on its scheduled start date or if a Project has started construction but for which progress is not to the satisfaction of Ontario.

SECTION 9 INSURANCE AND BONDING

- 9.1 Insurance.** The Recipient represents and warrants that it has, and shall maintain in full force and effect for the term of the Agreement, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury and property damage, to an inclusive limit of not less than five million dollars (\$5,000,000.00) per occurrence. The commercial general liability insurance policy shall include the following:
- (i) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
 - (ii) a cross liability clause;
 - (iii) contractual liability coverage; and
 - (vii) a 30 day written notice of cancellation, termination or material change.
- 9.2 Proof of Insurance.** The Recipient shall provide OMAFRA with certificates of insurance, or other proof as may be requested by OMAFRA, that confirms the insurance

coverage as provided for in Section 9.1 of Schedule "A". Upon the request of OMAFRA, the Recipient shall make available to OMAFRA a copy of each insurance policy.

9.3 Bonding. The Recipient shall put in effect and maintain in full force and effect or cause to be put into effect and maintained in full force and effect during the term of this Agreement.

- ☒ a) a performance bond in the amount of 100% of the Contract price for any construction Contract related to the Project and which is for an amount greater than \$150,000.00 covering the performance of that construction Contract and the correction of any deficiencies; and
- ☒ b) a labour and material payment bond in the amount of 50% of the Contract price for any construction Contract related to the Project and which is for an amount greater than \$150,000.00 covering the payment for labour, material or both.

9.4 Alternatives, reduction or waiver. Notwithstanding the requirements set out in Section 9.3, in the event that the Recipient provides a written business case to obtain approval to put into effect and maintain an alternative form of security or to reduce or eliminate the bonds for construction Contracts of \$350,000.00 or less, OMAFRA, in its sole discretion, may accept an alternative form of security, reduce or waive the bonding requirements in whole or in part.

SECTION 10 INDEMNITY

10.1 Indemnified Parties Not Liable. In no event shall the Indemnified Parties be liable for:

- a) any bodily injury, death or property damage to the Recipient, its employees, agents, or Consultants or for any claim, demand or action by any third party against the Recipient, its employees, agents, or Consultants, arising out of or in any way related to the Canada-Ontario Infrastructure Stimulus Fund Agreement or this Agreement or the Project; or
- b) any incidental, indirect, special or consequential damages, or any loss of use, revenue or profit to the Recipient, its employees, agents, or Consultants arising out of or in any way related to the Canada-Ontario Infrastructure Stimulus Fund Agreement or this Agreement or the Project.

10.2 Recipient to Indemnify. Where the Recipient is a municipality, a not-for-profit private sector entity, a for-profit private sector entity or a Local Services Board, the Recipient agrees to indemnify and hold harmless the Indemnified Parties from and against all suits, judgments, claims, demands, expenses, actions, causes of action and losses (including, without limitation, reasonable legal expenses and any claim for lien made pursuant to the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended and for any and all liability for damages to property and injury to persons (including death) which the Indemnified Parties may incur, otherwise than by reason of their own negligence or wilful misconduct, as a result of or arising out of or in relation to: (a) the performance of this Agreement or any breach of the terms of this Agreement by the Recipient, its officers, servants, employees, agents and Consultants, or by a third party, and any of its officers, employees, servants or agents; (b) the ongoing operation, maintenance and repair of the infrastructure resulting from the Project; or (c) any omission or other wilful or negligent

act of the Recipient, a third party, their respective employees, officers, servants or agents.

- 10.3 Further Indemnity.** The Recipient further agrees to indemnify and hold harmless the Indemnified Parties, for any incidental, indirect, special or consequential damages, or any loss of use, revenue or profit, which the Indemnified Parties may incur, otherwise than by reason of their own negligence or wilful misconduct, as a result of or arising out of or in relation to: (a) the performance of this Agreement or any breach of the terms of this Agreement by the Recipient, its officers, servants, employees, agents and Consultants, or by a third party, and any of its officers, employees, servants or agents; (b) the ongoing operation, maintenance and repair of the infrastructure resulting from the Project; or (c) any omission or other wilful or negligent act of the Recipient, a third party, their respective employees, officers, servants or agents.

SECTION 11 TRANSFER AND OPERATION OF INFRASTRUCTURE

- 11.1 Transfer of Ownership.** Unless otherwise agreed to by the Governments of Canada and Ontario, the Recipient will retain title to, and ownership of, the Asset resulting from the Project(s) for at least five (5) years after the completion of the Project(s).
- 11.2 Repayment.** In the event that at any time within five (5) years from the date of completion of the Project(s), the Recipient sells, leases, encumbers or otherwise disposes of, directly or indirectly, any Asset constructed, rehabilitated or improved, in whole or in part, with the Financial Assistance, other than to Canada, Ontario, a Local Government, or a Crown corporation of Ontario that is the latter's agent for the purpose of implementing this Agreement, the Recipient hereby undertakes to repay the Governments of Canada and Ontario, on demand, a proportionate amount of the Financial Assistance, as follows:

Where Project asset is sold, leased, encumbered or disposed of:	Repayment of contribution (in current dollars)
Within 2 Years after Project completion	100%
Between 2 and 5 Years after Project completion	55%
5 Years after Project completion	0%

- 11.3 Notice.** At any time during the five (5) years following the date of completion of the Project, the Recipient agrees to notify OMAFRA in writing of any transaction triggering the above-mentioned repayment in section 11.2 of Schedule "A", at least one hundred eighty (180) days in advance.
- 11.4 Deduction from Financial Assistance.** OMAFRA may, in its sole and absolute discretion, deduct the amount of Financial Assistance to be repaid by the Recipient under Section 11.2 of Schedule "A" from Financial Assistance payable by the Government of Ontario to the Recipient on any other project(s) of the Recipient under the ISF or any other Government of Ontario program(s) (either current or future) and provide that money to the Governments of Canada and/or Ontario.
- 11.5 Revenue from Assets.** The Recipient must identify to OMAFRA when an Asset in any given Fiscal Year generates revenues that exceed its costs, including operating costs, alternative financing partnerships or public-private partnerships costs and provisions for future life cycle costs and where the intent of revenue generation was not identified in

the application. Within the first five (5) complete Fiscal Years following the Substantial Completion of a Project, OMAFRA may, in its sole and absolute discretion, deem the amount of revenue from that Project that is proportional to the Government of Canada's and the Government of Ontario's Financial Assistance to the total cost of the Asset to be an overpayment of Financial Assistance (the "deemed overpayment"). The Recipient shall pay OMAFRA, upon request, the deemed overpayment,.

- 11.6 Asset Operation.** The Asset established with the Financial Assistance under this Agreement shall be used, maintained and operated for a period of at least one half of the expected useful life of the Asset after Substantial Completion of the Project as set out in Schedule "F". Any contravention of this provision shall give OMAFRA the right to recover a portion or all of the Financial Assistance to those Project(s) provided under this Agreement.

SECTION 12 CONFLICT OF INTEREST AND CONFIDENTIALITY

- 12.1 No Conflict of Interest.** The Recipient and its Consultants and any of their respective advisors, partners, directors, officers, employees, agents, sub-contractors, and volunteers shall not engage in any activity or provide any services where such activity or the provision of such services creates a conflict of interest (actually or potentially, as determined in the sole and absolute opinion of OMAFRA) with the provision of services under this Agreement. The Recipient acknowledges and agrees that it shall be a conflict of interest for it to use confidential information of the Government of Ontario that is relevant to the Project or otherwise where OMAFRA has not expressly authorized such use in writing. For greater certainty, and without limiting the generality of the foregoing, a conflict of interest includes a situation where anyone associated with the Recipient is able to benefit financially from the Project or where such a person owns or has an interest in an organization that is carrying out work related to the Project.
- 12.2 Disclose Potential Conflict of Interest.** The Recipient shall disclose to OMAFRA without delay any actual or potential situation that may be reasonably interpreted as either a conflict of interest or a potential conflict of interest.
- 12.3 Freedom of Information and Protection of Privacy Act.** The Recipient acknowledges that the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended binds the Ontario Government.

SECTION 13 RECOGNITION

- 13.1 Licensed Marks.** The Recipient acknowledges that the Governments of Canada and Ontario are, will be or may be the owner of certain distinguishing marks comprised of designs, trademarks and official marks which have come or will come to be associated with the ISF (all such current and future marks, being the "Licensed Marks").
- 13.2 Acknowledgement in Advertising and Publicity.** The Recipient agrees to acknowledge the Financial Assistance of the Governments of Canada and Ontario to the Project in all advertising and publicity relating to the Project and in any construction signs and in any temporary or permanent tributes to Project donors by adhering to the Communications Requirements as per Schedule "G".

13.3 Use of Licensed Marks. In consideration of receiving the Financial Assistance, the Recipient agrees to use the Licensed Marks as follows:

- a) the Recipient agrees to strictly use the Licensed Marks only as prescribed by the Communications Requirements and not to use any other mark or trademark in combination with any of the Licensed Marks without the prior written approval of the Governments of Canada and Ontario, or their delegates responsible for administering the ISF. The Recipient agrees that it will not alter, modify, dilute or otherwise misuse the Licensed Marks;
- b) the Recipient agrees to submit to the Governments of Canada and Ontario, or their delegates responsible for administering the ISF, copies of any advertisements or promotional materials containing the Licensed Marks for approval prior to any use thereof and to remove therefrom either any reference to the Licensed Marks or any element that may from time to time and upon reasonable notice be required;
- c) the Recipient agrees that it will not state or imply, directly or indirectly, that the Recipient or the Recipient's activities, other than those permitted by this Agreement, are supported, endorsed, or sponsored by the Governments of Canada and Ontario, or their delegates responsible for administering the ISF and shall, upon notification, express disclaimers to that effect; and
- d) the Recipient agrees to promptly inform the Governments of Canada Ontario, or their delegates responsible for administering the ISF of any suspected infringement of any Licensed Marks by a third party.

13.4 Cease Using Licensed Marks. Whether or not the Recipient is in breach of this Agreement, forthwith upon any receipt by the Recipient of a written direction from the Governments of Canada and Ontario, or their delegates responsible for administering the ISF, the Recipient shall cease using the Licensed Marks, and without limiting the generality of the foregoing, will remove all signage and remove from circulation any use or reference to the Licensed Marks.

**SECTION 14
COVENANTS, REPRESENTATIONS AND WARRANTIES**

14.1 General. The Recipient covenants, represents and warrants to the Government of Ontario that:

- a) it is conducting and shall conduct its business in compliance with all applicable federal, provincial and municipal laws, and all rules, regulations, by-laws, notices, orders, approvals, directives, protocols, policies and guidelines;
- b) it is conducting and shall carry on its business in compliance with all Government of Canada requirements as outlined in Schedule "E";
- c) it has authority and any necessary approval to enter into this Agreement and to carry out its terms;
- d) it has or will apply for all permits, approvals, and licenses which are required in

ISF Contribution Agreement

order to carry out the Project;

- e) it validly exists as a legal entity with full power to perform and observe all of the terms and conditions of this Agreement;
- f) where applicable, it has passed by-laws required to undertake the Project;
- g) it is now and will continue to be compliant with all Environmental Laws;
- h) it owns or has a long-term lease (inclusive of any renewals) for the lands on which the Infrastructure is or will be located that expires no earlier than five (5) years following Project completion;
- i) provided that the Recipient is not a municipality or a Crown Agency,
 - A. it is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
 - B. is either a corporation, a partnership or a sole proprietorship validly in existence; and
 - C. is registered and qualified to do business wherever necessary to carry out the Project;
- j) it has the experience, financial health and ability to carry out this Project;
- k) if the Recipient is a municipality, local board or a Crown agency, it has the legislative authority to carry out the Project;
- l) all information provided during the ISF application process remains true, correct and complete in every respect except as set out to the contrary herein; and
- m) notify OMAFRA of all other sources of funding for each Project contained in Schedule "B" of this Agreement that may reduce the level of Financial Assistance the Recipient would be eligible to receive under this Agreement.

14.2 Governance. The Recipient represents, warrants and covenants that, it has, and shall maintain for the period during which this Agreement is in effect, by-laws or other legally necessary instruments to:

- a) establish the expected code of conduct and ethical responsibilities at all levels of the Recipient's organization;
- b) establish procedures to ensure the ongoing effective functioning of the Recipient;
- c) establish decision-making mechanisms;
- d) provide for the prudent and effective management of the Financial Assistance;
- e) establish procedures to enable the successful completion of the Project;
- f) establish procedures to enable the timely identification of risks to the completion

of the Project and strategies to address the identified risks;

- g) establish procedures to enable the preparation and delivery of all reports required under this Agreement; and
- h) responsible for other matters as the Recipient considers necessary to ensure that the Recipient carries out its obligations under the Agreement.

14.3 Representations and Warranties True Condition Precedent for Payment. Upon request, the Recipient shall provide OMAFRA with proof of the matters referred to in this Section. It is a condition precedent to any payment under this Agreement that the representations and warranties under this Section are true at the time of payment and that the Recipient is not in default of compliance with any terms of this Agreement. Where this is not the case, OMAFRA may, in its sole discretion, Adjust the Financial Assistance for the Project.

SECTION 15 DEFAULT, ENFORCEMENT AND TERMINATION

15.1 Event of Default. Each and every one of the following events is an "Event of Default":

- a) if in the opinion of OMAFRA, the Recipient fails to conform or comply with any term or covenant contained in this Agreement to be performed or complied with by the Recipient;
- b) if in the opinion of the OMAFRA any representation or warranty made by the Recipient in this Agreement or any certificate delivered to OMAFRA pursuant hereto shall be materially untrue in any respect;
- c) if an order shall be made or an effective resolution passed for the winding up, or liquidation or dissolution of the Recipient or the Recipient is otherwise dissolved or ceases to carry on its operation;
- d) if the Recipient uses any of the Financial Assistance for a purpose not authorized by this Agreement without the prior written consent of OMAFRA;
- e) if the Recipient admits in writing its inability to pay its debts generally as they become due, voluntarily suspends transactions of its usual business, becomes insolvent, bankrupt, makes an assignment for the benefit of its creditors, or a receiver or manager, court appointed or otherwise, is appointed for its assets or if the Recipient takes the benefit of any statute from time to time in force relating to bankrupts or insolvent debtors;
- f) if in the opinion of OMAFRA a material adverse change occurs such that the viability of the Recipient as a going concern is threatened in the opinion of the OMAFRA, acting reasonably;
- g) if in the opinion of the OMAFRA, the Recipient ceases to operate;
- h) if the Recipient fails to begin the Project within sixty (60) days of the Project construction start date, as per Schedule B, or such period as OMAFRA may allow,, or, in the opinion of OMAFRA, the Recipient has failed to proceed

diligently with the Project or abandons the Project in whole or in part, or the Recipient is otherwise in default in carrying out any of the terms, conditions or obligations of this Agreement, except where such failure is due to causes which, in the opinion of OMAFRA are beyond the control of the Recipient;

- i) if the Recipient has submitted false or misleading information to OMAFRA; or
- j) the Recipient and/or any of its Consultants and/or any of their respective advisors, partners, directors, officers, employees, agents, sub-contractors and volunteers has breached the requirements of Section 12 of Schedule "A".

15.2 Waiver. OMAFRA may, in its sole and absolute discretion, at any time, waive any Event of Default which may have occurred provided that no such waiver extends to, or be taken in any manner whatsoever to affect, any subsequent Event of Default or the right to remedies resulting therefrom, and that no such waiver shall be, or shall be deemed to constitute, a waiver of such Event of Default unless such waiver is in writing from OMAFRA.

15.3 Remedies on Default. Notwithstanding any other rights which the Government of Ontario may have under this Agreement, if an Event of Default has occurred, the Government of Ontario shall have the following remedies provided only that in the case of an Event of Default which, in the opinion of OMAFRA in its sole and absolute discretion, is curable, OMAFRA has first given written notice of the Event of Default to the Recipient and the Recipient has failed to correct the Event of Default within 30 Business Days or such period of time as OMAFRA may consent to in writing:

- a) OMAFRA shall have no further obligation to provide any Financial Assistance for the Project;
- b) the Government of Ontario may, at its option, terminate this Agreement immediately or may, in its sole and absolute discretion, Adjust the Financial Assistance. The total amount of Financial Assistance paid to the Recipient to the date of termination shall be immediately due and payable by the Recipient and bear interest at the then-current interest rate charged by the Government of Ontario on accounts receivable; and
- c) the Government of Ontario may avail itself of any of its legal remedies that it may deem appropriate.

15.4 Additional Remedies. In addition to the remedies described in Section 15.3, the Government of Ontario may commence such legal action or proceedings as it, in its sole and absolute discretion, may deem expedient, without any additional notice under this Agreement. The rights and remedies of the Government of Ontario hereunder are cumulative and in addition to, and not in substitution for, all other rights or remedies otherwise available to the Government of Ontario.

15.5 Termination Without Cause. Notwithstanding anything else contained herein, the Government of Ontario reserves the right to terminate this Agreement without cause upon such conditions as the Government of Ontario may require, with a minimum of thirty (30) Business Days written notice to the Recipient. If the Government of Ontario terminates this Agreement prior to its Expiration Date, the Government of Ontario, subject to all of the Government of Ontario's rights under this Agreement, including,

without limitation, its right to Adjust the Financial Assistance prior to its expiration, shall only be responsible for the payment of Financial Assistance on the portion of the Project completed and Eligible Costs already incurred and paid at the time of such termination, provided that the Recipient provides a report to OMAFRA that meets the requirements of a Claims and Progress Statement and OMAFRA has sufficient funds appropriated by the Legislative Assembly of Ontario. Such report must be received by OMAFRA within ninety (90) Business Days of notice of termination being given to the Recipient pursuant to this Section.

SECTION 16 NOTICE

- 16.1 Notice.** Any demand, notice or communication to be made or given hereunder shall be in writing and may be made or given by personal delivery or mailed by first class registered mail, postage prepaid or by transmittal by facsimile, telecopy, email or other electronic means of communication addressed to the respective parties as follows at the addresses set out in Schedule "F" or to such other person, address, facsimile number, telecopy number or email address as either party may from time to time notify the other in accordance with this Section. Any demand, notice or communication made or given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery thereof. Any demand, notice or communication made or given by facsimile, email or other electronic means of communication, if made or given at a time when it would be received by the Recipient during its normal business hours on a Business Day, shall be deemed to be received at the time it is sent; otherwise, such electronic communication shall be deemed to be received on the first Business Day following the transmittal thereof. Any demand, notice or communication mailed by registered mail shall be deemed to have been received three (3) Business Days following the day on which it was mailed.
- 16.2 Representatives.** The individuals identified pursuant to Schedule "F" will, in the first instance, act as the Government of Ontario's or the Recipient's, as the case may be, representative for the purpose of implementing this Agreement.

SECTION 17 MISCELLANEOUS

- 17.1 Terms Binding.** The Recipient shall take all reasonable measures to ensure that its officers, directors, partners, employees, agents, sub-contractors and Consultants shall be bound to observe all of the terms and conditions of this Agreement, including, but not limited to all covenants, representations and warranties set out herein. The Recipient shall include in all of its Contract(s) terms and conditions similar to and not less favourable to the Government of Ontario than the terms and conditions of this Agreement to the extent that they are applicable to the work subcontracted, including but not limited to the requirements of Section 7 of Schedule "A".
- 17.2 Time Is of the Essence.** In the performance and observance of the terms and conditions of this Agreement, time is of the essence and no extension or variation of this Agreement shall operate as a waiver of this provision.
- 17.3 Successors and Assigns.** This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.

Recipient acknowledges and agrees that it is not by the terms of this Agreement or otherwise, granted any right or authority to assume or create any obligation or responsibility, express or implied, on behalf of or in the name of the Governments of Canada and/or Ontario, to act as an agent of the Governments of Canada and/or Ontario, or to bind the Governments of Canada and/or Ontario in any manner whatsoever other than as specifically provided in this Agreement.

- 17.14 Consultants.** The Government of Ontario acknowledges that, in connection with carrying out the Project, the Recipient may engage one or more Consultants. The Government of Ontario acknowledges and agrees that the Recipient shall have the sole authority and responsibility for such employees, agents or Consultants, including their hiring and termination. The Recipient acknowledges and agrees that the Recipient shall be responsible for all acts and actions of the Recipient's employees, agents and Consultants and that all such acts and actions shall be treated as actions of the Recipient for the purposes of this Agreement.
- 17.15 Lobbyists and Agent Fees.** The Recipient warrants that any person hired, for payment, or to speak or correspond with any employee or other person representing the Recipient, concerning any matter relating to the contribution under this Agreement or any benefit hereunder and who is required pursuant to the *Lobbying Act*, as amended, is registered pursuant to the *Lobbying Act*. The Recipient also warrants that it has not and nor will it make a payment or other compensation to any legal entity that is contingent upon or is calculated upon the contribution hereunder or negotiating the whole or any part of the terms of this Agreement.
- 17.16 Cooperation for non-Ontario Government Recipients.** The Recipient and the Government of Ontario agree to cooperate with one another and will be frank, candid and timely when dealing with one another and will endeavour to facilitate the implementation of this Agreement.
- 17.17 Data.** The Recipient agrees that the Government of Ontario may, in its sole discretion, gather and compile information and data required under this Agreement and disclose such information and data to the Government of Canada.
- 17.18 Priority.** Where there is a conflict between one or more of the Schedules of this Agreement, the following order of priority shall apply: Schedule "A", Schedule "C", Schedule "B" and all other Schedules.
- 17.19 Entire Agreement.** The Agreement constitutes the entire Agreement between Government of Ontario and the Recipient with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and/or agreements.

- END OF GENERAL TERMS AND CONDITIONS -

- 17.4 Severability.** The validity or enforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions hereof and such invalid or unenforceable provisions shall be deemed to be severable.
- 17.5 No Waiver.** The failure by the Government of Ontario to insist in one or more instances on performance by the Recipient of any of the terms or conditions of this Agreement shall not be construed as a waiver of the Government of Ontario's right to require further performance of any such terms or conditions, and the obligations of the Recipient with respect to such performance shall continue in full force and effect.
- 17.6 Division of Agreement.** The division of this Agreement into Schedules, articles, sections, clauses, paragraphs and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- 17.7 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws applicable in Ontario.
- 17.8 Survival.** The following Schedules, sections and provisions of this Agreement shall survive the expiration or early termination hereof: Section 4 (Financial Assistance), Section 6 (Reporting Requirements), Section 7 (Records and Audit), Section 8 (Overpayment and Failure to Substantially Complete Contract Within Timelines), Section 10 (Indemnity), Section 11 (Transfer and Operation of Infrastructure), Section 12 (Conflict of Interest and Confidentiality), Section 13 Recognition), Section 14 (Covenants, Representations and Warranties), Section 15 (Default, Enforcement and Termination), and Section 17.11 (Interest) of Schedule "A"; Schedule "E"; Schedule "F" (useful life of Project Infrastructure); and Schedule "G" (the Recipient's obligation to maintain a permanent plaque in cases where it is necessary to install a permanent plaque).
- 17.9 No Assignment.** The Recipient shall not assign any aspect of this Agreement. The Government of Ontario may assign this Agreement on written notice to the Recipient.
- 17.10 No Amendment.** This Agreement shall not be varied or amended except by a document in writing, dated and signed on behalf of the Government of Ontario and the Recipient.
- 17.11 Interest.** OMAFRA reserves the right to demand interest on any repayment of Financial Assistance owing by the Recipient under the terms of this Agreement at the then-current interest rate charged by the Government of Ontario on accounts receivable. The Recipient shall pay the amount of interest owing upon receipt of a written demand and within the period specified by OMAFRA.
- 17.12 Government of Ontario and Recipient Independent.** Nothing in this Agreement shall be deemed to constitute the Recipient an employee, servant, agent, partner of or in joint venture with the Government of Ontario for any purpose whatsoever.
- 17.13 Recipient Cannot Represent Government of Canada or Government of Ontario.** The provision of Financial Assistance to the Recipient pursuant to this Agreement is for the sole purpose of, and is limited to, carrying out the Project. The Recipient warrants and agrees that under no circumstances shall it enter into any Contract or commitment in the name of or on behalf of the Governments of Canada and/or Ontario. The

SCHEDULE "C"
ELIGIBLE AND INELIGIBLE COSTS

ELIGIBLE COSTS

- C.1.** Subject to Section C.2, Eligible Costs will be all direct costs that are in OMAFRA's opinion properly and reasonably incurred and paid by the Recipient under a Contract for goods or services necessary for the implementation of the Project. Eligible Costs will include only the following:
- a) the capital costs of constructing, rehabilitating or improving, in whole or in part, a tangible capital asset, as defined and determined by OMAFRA;
 - b) the costs of joint communication activities (press releases, press conferences, translation, etc.) and road signage recognition as described in Schedule "G";
 - c) all planning (including plans and specifications) and assessment costs such as the costs of environmental planning, surveying, engineering, architectural supervision, testing and management consulting services;
 - d) the costs of engineering and environmental reviews, including environmental assessments and follow-up programs as defined in the *Canadian Environmental Assessment Act* and the costs of remedial activities, mitigation measures and follow-up identified in any environmental assessment;
 - e) the costs of Project-related signage, lighting, Project markings and utility adjustments;
 - f) costs of consulting with Aboriginal Group(s), including the translation of documents into languages spoken by the interested Aboriginal Group(s);
 - g) the costs of developing and implementing innovative techniques for carrying out the Project, as determined by OMAFRA;
 - h) Recipient audit and evaluation costs as specified in this Agreement, with the exception of costs related to the retaining of an external auditor; and
 - i) other costs that, in the sole opinion of OMAFRA, are considered to be direct and necessary for the successful implementation of the Project and have been approved in writing prior to being incurred.

C.2. INELIGIBLE COSTS

The following costs are ineligible for Financial Assistance:

- a) costs incurred prior to June 5, 2009;
- b) costs incurred after the Project Completion Date;

SCHEDULE "B"
DESCRIPTION OF THE PROJECT(S)

FILE NUMBER	PROJECT TITLE	PROJECT DESCRIPTION	PROJECT CONSTRUCTION START DATE	ABORIGINAL CONSULTATION SCHEDULE L
1211	Jessie St./George St. Sewer Separation	The project involves the separation of storm and sanitary sewers along Jessie Street and George Street by constructing new sanitary and storm sewers. The project also includes the replacement of watermain and the reconstruction of the roadways and sidewalks.	06/01/2010	L1

- c) land acquisition, leasing land, buildings, equipment and other facilities, real estate fees and related costs;
- d) financing charges, legal fees, and loan interest payments (including those related to easements (e.g. surveys));
- e) the value of any goods and services which are received through donations or in kind;
- f) employee wages and benefits, overhead costs as well as other direct or indirect operating, maintenance and administrative costs incurred by the Recipient for the Project, and more specifically costs relating to services delivered directly by permanent employees of the Recipient;
- g) meal, hospitality or incidental expenses of Consultants; and
- h) provincial sales tax, the GST and, if and when implemented the Harmonized Sales Tax for which the Recipient is eligible for a rebate, and any other costs eligible for rebates.

SCHEDULE "D"
PROJECT FINANCIAL ASSISTANCE

PROJECT NUMBER*	TOTAL ELIGIBLE COSTS	ONTARIO MAXIMUM FINANCIAL ASSISTANCE	FEDERAL MAXIMUM FINANCIAL ASSISTANCE	MAXIMUM FINANCIAL ASSISTANCE
1211	\$1,500,000	\$500,000	\$500,000	\$1,000,000

OMAFRA will hold back 10% of the Maximum Financial Assistance, the release of which shall be contingent on acceptance of the Recipient's Final Report detailing the progress and status of the Project and substantiating that the Project has been Substantially Completed. Such report must contain the information required in the Final Report as set out in Section 6.3 of Schedule "A" of this Agreement. OMAFRA is not obligated to pay interest on the holdback or any other payments under this Agreement.

SCHEDULE "E"
GOVERNMENT OF CANADA REQUIREMENTS

OMAFRA and the Recipient agree to the following Government of Canada Requirements:

1. The Recipient acknowledges and agrees that the amount of Financial Assistance being provided by OMAFRA is dependent on the Government of Ontario receiving funds for the Project from the Government of Canada. Should the Government of Ontario not receive the funds it expects to receive in relation to the Project from the Government of Canada, OMAFRA may, in its sole and absolute discretion, Adjust the Financial Assistance being provided to the Recipient pursuant to this Agreement (including, without limitation, requiring repayment of Financial Assistance already paid to the Recipient).
2. The Recipient shall indemnify and hold harmless the Government of Canada, its officers, servants, employees or agents, from and against all claims and demands, loss, damages, costs, expenses, actions, suits or other proceedings by whomsoever made, sustained, brought, prosecuted, threatened to be brought or prosecuted in any manner, based upon, occasioned by any injury to persons, damage to or loss or destruction of property, economic loss or infringement of rights caused by or arising directly or indirectly from:
 - a) the Project being funded by this Agreement;
 - b) the performance of this Agreement or the breach of any term or condition of this Agreement by the Recipient, its officers, employees and agents, or by a third party, its officers, employees or agents;
 - c) any omission or other willful or negligent act of the Recipient, its employees, officers or agents;

Except to the extent to which such claims and demands, losses costs, damages, actions, suits or other proceedings relate to the act or negligence of an officer, employee or agent of Canada in the performance of his or her duties.

3. The Recipient further agrees to indemnify and hold the Government of Canada, its directors, officers, employees and agents, for any incidental, indirect, special or consequential damages, or any loss of use, revenue or profit, which the Government of Canada, its directors, officers, employees and agents may incur, otherwise than by reason of their own negligence or wilful misconduct, as a result of or arising out of or in relation to any breach by the Recipient of the terms of this Agreement, or the Recipient's own negligence or wilful misconduct.
4. The Recipient acknowledges that the provisions of the *Access to Information Act* (Canada) and the *Privacy Act* (Canada) and regulations thereunder bind the Government of Canada.
5. The Recipient acknowledges that the Government of Canada is or will be the owner of certain distinguishing marks comprised of designs, trademarks and official marks in relation to ISF (the "Federal Licensed Marks") and the Recipient is subject to the requirements of Section 13 (Communication and Recognition) of this Agreement, with appropriate changes,

ISF Contribution Agreement

in relation to the Federal Licensed Marks.

6. No member of the House of Commons or of the Senate of Canada shall be admitted to any share or part of any Contract, agreement or commission made pursuant to this Agreement or to any benefit arising therefrom.
7. Notwithstanding any provisions of this Agreement, all obligations of the Government of Canada incurred by virtue of this Agreement shall be subject to the *Financial Administration Act* (Canada).
8. Pursuant to the requirements of the *Canadian Environmental Assessment Act*, the Recipient will follow the general environmental mitigation measures outlined in the document entitled "Screening under the Canadian Environmental Assessment Act" and any Project-specific environmental mitigation measures as communicated to the Recipient by the Government of Canada.
9. The Recipient acknowledges and agrees that the Government of Canada may, in its sole discretion, exercise OMAFRA's right to monitor the Project, perform audits and/or gather data pursuant to the terms and conditions of this Agreement.
10. The Recipient warrants that:
 - a) it has not, nor has any person on its behalf, paid or provided or agree to pay or provide, to any person, directly or indirectly, a commission, contingency fee or any other consideration (whether monetary or otherwise) that is dependant upon the execution of the Agreement or the person arranging a meeting with any Public Office Holder as defined in the *Lobbying Act*;
 - b) it will not, during the term of this Agreement, pay or provide or agree to pay or provide to any person, directly or indirectly, a commission, contingency fee or any other consideration (whether monetary or otherwise) that is dependant upon the person arranging a meeting with any Public Office Holder;
 - c) any person who, for consideration, directly or indirectly, communicated with or arranged a meeting with any Public Office Holder, in respect of any aspect of this Agreement, prior to the execution of the Agreement, was in compliance with all requirements of the *Lobbying Act*;
 - d) any person who, for consideration, directly or indirectly, during the term of this Agreement and in respect of any aspect of this Agreement, communicates with or arranges a meeting with any Public Office Holder will be in compliance with all requirements of the *Lobbying Act*; and
 - e) at all relevant time the Recipient has been, is and will remain in compliance with the *Lobbying Act*.

SCHEDULE "G" **COMMUNICATIONS REQUIREMENTS**

Unless specified otherwise in Schedule "F", for the purposes of this Schedule "G" the Recipient shall follow these communications requirements.

Purpose of Schedule

This Schedule describes the Recipient's responsibilities and financial obligations involved in the joint communications activities and products for the Project to recognize the contributions of the Government of Canada, the Government of Ontario and the Recipient.

General Principles

The Recipient agrees to work with ISF officials and other partners to undertake communication activities for the Project in an open, effective and proactive manner, ensuring equal recognition of all parties making a significant financial contribution to the Project.

All parties making a significant financial contribution to the Project will receive equal recognition and prominence when logos, symbols, flags and other types of identification are incorporated into events, signs and plaques unless OMAFRA specifies otherwise.

All events, signs and plaques will follow these Communications Requirements and any other requirements that may be specified by OMAFRA from time to time.

Both official languages will be used for public information, signs and plaques in accordance with the *Official Languages Act*.

The Recipient may produce information kits, brochures, public reports and Web pages providing information on the Project and Agreement for private-sector interest groups, contractors and members of the public. The Recipient will consult with the Governments of Canada and Ontario in preparing the content and look of all such material. All communications referencing the Governments of Canada and Ontario must be approved.

Events

The Recipient agrees that all Project-related milestone events, such as groundbreaking and ribbon-cutting ceremonies, will be organized in cooperation with the Governments of Canada and Ontario and any other parties making a significant financial contribution to the Project.

The Recipient will coordinate a mutually agreeable venue, date and time for the event in light of the availability of all participants. Unless agreed to in advance, no event should take place without at least fifteen (15) working days' notice to all Parties.

The Recipient may invite other elected officials and members of council. The Recipient should also invite local interested parties, such as contractors, architects, labour groups, and community leaders as early as possible, and in consultation with the Governments of Canada and Ontario, prior to the event.

SCHEDULE "F"
ADDITIONAL PROVISIONS

The Government of Ontario and the Recipient agree to the following additional provisions:

1. Further to Section 16 of Schedule "A", notice can be given at the following addresses:

(a) If to OMAFRA:

Ministry of Agriculture, Food and Rural Affairs
1 Stone Road West, 4th Floor
Guelph, Ontario
N1G 4Y2

Phone: 1-888-466-2372
Fax: (519) 826-4336
E-Mail: bcf.cc@ontario.ca

Attention: Dino Radocchia, Manager

(b) If to the Recipient:

City of Brockville
1 King Street West
P. O. Box 5000
Brockville, ON
K6V 3P5

Attention: Bob Casselman, City Manager

2. Other provisions:

3. Other Reporting Requirements:

4. Useful Life of Project Infrastructure: [i.e., no. of years]

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All written communications (invitations, public service announcements, posters, etc.) must indicate that the Project received Financial Assistance from the Governments of Canada and Ontario under the ISF. The Governments of Canada and Ontario will assist the Recipient in developing an agenda, news release, etc. All parties will approve and receive final copies.

Federal, provincial and municipal flags should also be on display at all ISF events.

The Table of Precedence for Canada, as established by Canadian Heritage (<http://www.pch.gc.ca/pgm/ceem-cced/prtcl/precedence-eng.cfm>), or some other mutually acceptable protocol should be respected.

Signs and Plaques

The Recipient agrees to produce and install temporary and permanent Project signage to communicate the nature of the Project and the involvement of the Governments of Canada and Ontario and the Recipient, as outlined in the ISF Style Guide.

Generally, the Recipient must ensure that the design, wording and specifications for signage are in accordance with federal and provincial visual identity guidelines, available on the ISF website at www.BCFontario.ca.

Temporary signs must be removed within 90 days of project completion.

Eligible Costs

The Recipient will pay the costs of preparing and delivering communications activities and products, including the organization of special events and the production of signage. These costs are deemed to be Eligible Costs under the Agreement as specified below.

For the purposes of events, Eligible Costs include the following:

- Printing and mailing invitations
- Light refreshments, such as coffee, tea, juice, donuts, muffins, snacks
- Draping for plaque unveiling
- Project material for display and/or media kit
- Temporary signage
- Rentals such as:
 - flagpoles
 - stage
 - chairs
 - podium
 - PA system

The cost of certain items such as alcoholic beverages, china, tents, waiters, guest mileage or transportation, wine glasses, lamps, tea wagons, plants, photographers and gifts are not Eligible Costs.

For the purposes of signage, Eligible Costs include the following:

ISF Contribution Agreement

- Maximum costs of \$2,250 for a small sign and \$4,250 for a large sign
- Maximum costs of \$2,500 for a permanent plaque

SCHEDULE "H"

EXPENDITURE AND JOB CREATION REPORT




Infrastructure Stimulus Fund (ISF)
Le Fonds de stimulation de l'infrastructure (FSI)

EXPENDITURE AND JOB CREATION REPORT

Recipient Name: _____

File Number: _____

Expenditure Forecast Table

Quarter	(April - June) Q1	(July - Sept.) Q2	(Oct. - Dec.) Q3	(Jan. - March) Q4
2009/10				
2010/11				

Jobs Created / Sustained Table

	Average Number of Temporary Jobs
Previous Quarter (show date ranges)	
Current Quarter (show date ranges)	

The goal is that at the end of the fiscal year a calculation could be made of the total number of jobs (person-years of employment) from each project.

Prepared By: _____

Phone Number: _____

Email: _____

Date: _____

NOTES:

- 1) Expenditures are only considered eligible after the announcement of the approval of the project.
- 2) Please complete the expenditure table based on actual and projected expenditures. Costs are to be identified in the quarter that have been or will be incurred (rather than when they are to be paid).
- 3) Please only include Net Eligible Expenditures -- total eligible costs net GST.
- 4) Expenditure forecasts should not exceed total eligible costs as identified in Schedule D of the Contribution Agreement.
- 5) If the project cannot be completed within the timeframes of the program, please contact the Canada Ontario Infrastructure Secretariat.
- 6) Previously reported information is provided for you. Should the information have changed, please provide the revised expenditures along with an explanation of the change.
- 7) This information is required on a quarterly basis on or before the following dates: May 15, August 15, November 15 and February 15.
- 8) Temporary Jobs refers to all non-municipal employees who are working on this project (e.g. construction workers, engineers, etc).
- 9) Average number of Temporary Jobs refers to the number of workers involved in the project over the time period. Example: If 5 construction workers were there for the entire quarter (13 weeks), and 20 additional construction workers were there for 6 weeks, the average number of workers for this quarter would be 15.

SCHEDULE "I"

Claim and Progress Statement



Infrastructure Stimulus Fund (ISF) Claim and Progress Statement
Le Fonds de stimulation de l'infrastructure (FSI): Demande et compte rendu des progrès

[illegible]

SCHEDULE "J" FINAL REPORT



**Infrastructure Stimulus Fund (ISF)
Le Fonds de stimulation de l'infrastructure (FSI)**

FINAL REPORT/RAPPORT FINALE

Part 1 - Project Information / Partie 1 - Informations sur le projet

Recipient/Bénéficiaire
File Number/Numéro de dossier
Project Name/Nom du projet
Eligible Project Cost/Cost admissible du projet
\$
Total Project Cost/Cost total du projet
\$

Authorized Official / Responsable autorisé(e)

Name/Nom	Date/Date
Title/Titre	
<p>I certify that the named project has been completed in accordance with the Infrastructure Stimulus Fund Contribution Agreement and that, where applicable, all identified environmental mitigation measures have been satisfactorily addressed and that supporting invoices and records are available for audit, if required.</p> <p>J'atteste par la présente que le projet nommé a été terminé conformément à l'accord du Fonds de stimulation de l'infrastructure municipal et que, le cas échéant, toutes les mesures d'atténuation environnementales identifiées ont été adressées de façon acceptable et que les factures et documents d'appui sont disponibles à des fins de vérification.</p>	
Signature/Signature :	

Part 2 - Final Report Information / Partie 2 - Information du rapport final

Breakdown of Project Costs (Categories as per Schedule 2 of Application) / Répartition des coûts du projet (Catégories selon Schéma 2 de la demande)

A. Engineering/Design Costs / Ingénierie	\$	GROSS PROJECT TOTAL / PROJET BRUT TOTAL	\$	
B. Environmental Assessment Costs / Coût de l'évaluation environnementale	\$	Less G.S.T. / Rebate / Moins remboursement de la T.P.S.	\$	
C. Project Management / Gestion de projet	\$	NET PROJECT TOTAL / PROJET NET TOTAL	\$	
D. Construction	\$	Project Start Date / Date du début du projet		
E. Miscellaneous / Divers	\$	Project Completion Date / Date de la fin du projet		
	P.S.T. / T.V.P.			
	G.S.T. / T.P.S.			
continue at top of right side - part 2 / suite de la partie 2, en haut à droite				

*NOTE: If the actual costs are 20% less or greater than the estimated costs for any of the above categories, please attach an explanation of the variance for each.

*REMARQUE: Si le coût actual est de 20 % supérieur ou inférieur au coût estimé pour une des catégories ci-dessus, veuillez inclure une explication de l'écart pour chacun des coûts.

SCHEDULE "K"
SOLEMN DECLARATION OF SUBSTANTIAL COMPLETION



Infrastructure Stimulus Fund (ISF)
Le Fonds de stimulation de l'infrastructure (FSI)

SOLEMN DECLARATION OF SUBSTANTIAL COMPLETION

In the matter of the Agreement entered into between, Her Majesty the Queen in right of Ontario, as represented by the Minister of Energy and Infrastructure and the Minister of Agriculture, Food and Rural Affairs, on _____, 2009.

I, _____ a Registered _____ (Engineer or Architect) in the Province of Ontario, do solemnly declare as follows:

1. That I am the _____ (title, department, organization), and as such have knowledge of the matters set forth in this affidavit;
2. That the work identified as Project _____ in the above-mentioned Agreement _____ (has / has not) been substantially completed as described in Schedule A, dated _____ on the _____ day of _____ 20____.
3. That the value (dollar amount) of substantially completed work on the Project, by March 31, 2011 is _____ (dollars).
4. That the work:
 - a. was carried out by _____ (the prime contractor), between _____ (start date) and _____ (completion date);
 - b. was supervised and inspected by qualified staff;
 - c. conforms with the plans, specifications and other documentation for the work; and
 - d. conforms with applicable environmental legislation, and appropriate mitigation measures have been implemented.

Declared at _____ (city), in the Province of Ontario this _____ day of _____, 20____.

(Signature)

Name:

Title:

Witness Name:

Title:

SCHEDULE "L"
ABORIGINAL CONSULTATION PROTOCOL

PART L.1

1.0 Responsibilities of the Recipient

1.1 The Recipient shall immediately notify Ontario:

- (i) of contact by any Aboriginal Groups regarding the Project; or
- (ii) if any Aboriginal archaeological resources are discovered in the course of the Project,

and in either case, Ontario may direct the Recipient to take such actions, including without limitation suspension of the Project, as Ontario may require. The Recipient shall comply with Ontario's direction.

1.2 The Recipient shall provide in any contracts with third parties for the Recipient's right and ability to respond to direction from Ontario as Ontario may provide in accordance with section 1.1.

PART L.2.

1.0 Purpose

The purpose of this Aboriginal Consultation Protocol is to set out the responsibilities of Ontario and the Recipient in relation to consultation with Aboriginal Groups on the Project, and to delegate procedural aspects of consultation from Ontario to the Recipient.

1.1 Definitions

For the purposes of this Schedule L.:

"S. 35 Duty" means any duty Ontario may have to consult and, where appropriate, accommodate Aboriginal Groups in relation to the Project flowing from Section 35 of the *Constitution Act, 1982*.

2.0 Responsibilities of Ontario

2.1 Ontario is responsible for:

- (i) determining the Aboriginal Groups to be consulted in relation to the Project, if any, and advising the Recipient of same;
- (ii) the preliminary and ongoing assessment of the depth of consultation required with the Aboriginal Groups;

- (iii) at its discretion, delegating procedural aspects of consultation to the Recipient pursuant to this Agreement;
- (iv) directing the Recipient to take such actions, including without limitation suspension of the Project, as Ontario may require;
- (v) satisfying itself, where it is necessary to do so, that the consultation process in relation to the Project has been adequate and the Recipient is in compliance with this Agreement; and
- (vi) satisfying itself, where any Aboriginal or treaty rights and asserted rights of Aboriginal Groups require accommodation, that Aboriginal Groups are appropriately accommodated in relation to the Project .

3.0 Responsibilities of the Recipient

3.1 The Recipient hereby acknowledges that, for the purposes of any S. 35 Duty borne by Ontario, the Recipient is Ontario's delegate and in this capacity is responsible for carrying out the procedural aspects of consultation delegated to it by Ontario pursuant to this Agreement.

3.2 The Recipient is responsible for:

- (i) giving notice to the Aboriginal Groups regarding the Project, if such notice has not already been given by the Recipient or Ontario;
- (ii) informing the Aboriginal Groups about the Project and providing to the Aboriginal Groups a full description of the Project unless such description has been previously provided to them;
- (iii) following up with the Aboriginal Groups in an appropriate manner to ensure that Aboriginal Groups are aware of the opportunity to express comments and concerns about the Project, including any concerns regarding adverse impacts on hunting, trapping, fishing, plant harvesting or on burial grounds or archaeological sites of cultural significance to the Aboriginal Community;
- (iv) informing the Aboriginal Groups of the regulatory and approval processes that apply to the Project of which the Recipient is aware after reasonable inquiry;
- (v) maintaining the Aboriginal Groups on the Recipient's mailing lists of interested parties for environmental assessment and other purposes and providing to the Aboriginal Groups all notices and communications that the Recipient provides to interested parties and any notice of completion;
- (vi) making all reasonable efforts to build a positive relationship with the Aboriginal Groups in relation to the Project;
- (vii) providing the Aboriginal Groups with reasonable opportunities to meet with appropriate representatives of the Recipient and meeting with the Aboriginal Groups

meetings with, the representatives of any Aboriginal Community in relation to the Project;

- (iv) immediately notify Ontario of any contact by any Aboriginal Groups regarding the Project and provide copies to Ontario of any documentation received from Aboriginal Groups;
- (v) advise Ontario in a timely manner of any potential adverse impact of the Project on Aboriginal or treaty rights or asserted rights of which it becomes aware;
- (vi) immediately notify Ontario if any Aboriginal archaeological resources are discovered in the course of the Project;
- (vii) provide Ontario with summary reports or briefings on all of its activities in relation to consultation with Aboriginal Groups, as may be requested by Ontario; and
- (viii) if applicable, advise Ontario if the Recipient and an Aboriginal Community propose to enter into an agreement directed at mitigating or compensating for any impacts of the Project on Aboriginal or treaty rights or asserted rights.

3.5 The Recipient shall, upon request lend assistance to Ontario by filing records and other appropriate evidence of the activities undertaken both by Ontario and by the Recipient in consulting with Aboriginal Groups in relation to the Project, attending any regulatory or other hearings, and making both written and oral submissions, as appropriate, regarding the fulfillment of Aboriginal consultation responsibilities by Ontario and by the Recipient, to the relevant regulatory or judicial decision-makers.

4.0 No Implicit Acknowledgement

4.1 Nothing in this Agreement shall be construed as an admission, acknowledgment, agreement or concession by Ontario or the Recipient, that a S. 35 Duty applies in relation to the Project, nor that any responsibility set out herein is, under the Constitution of Canada, necessarily a mandatory aspect or requirement of any S. 35 Duty, nor that a particular aspect of consultation referred to in Section 3.1 hereof is an aspect of the S. 35 Duty that could not have lawfully been delegated to the Recipient had the Parties so agreed.

5.0 General

5.1 This Agreement shall be construed consistently with but does not substitute for any requirements or procedures in relation to Aboriginal consultation or the S. 35 Duty that may be imposed by a ministry, board, agency or other regulatory decision-maker acting pursuant to laws and regulations. Such decision-makers may have additional obligations or requirements. Nonetheless, the intent of Ontario is to promote coordination among provincial ministries, boards and agencies with roles in consulting with Aboriginal Groups so that the responsibilities outlined in this Agreement may be fulfilled efficiently and in a manner that avoids, to the extent possible, duplication of effort by Aboriginal Groups, the Recipient, Ontario, and provincial ministries, boards, agencies and other regulatory decision-makers.

ISF Contribution Agreement

to discuss the Project;

- (viii) if appropriate, providing reasonable financial assistance to Aboriginal Groups to permit effective participation in consultation processes for the Project;
- (x) considering comments provided by the Aboriginal Groups regarding the potential impacts of the Project on Aboriginal or treaty rights or asserted rights, including adverse impacts on hunting, trapping, fishing, plant harvesting or on burial grounds or archaeological sites of cultural significance to an Aboriginal Community, or on other interests, or any other concerns or issues regarding the Project;
- (xi) answering any questions to the extent of the Recipient's ability and receiving comments from the Aboriginal Groups, notifying Ontario of the nature of the questions or comments received and maintaining a chart showing the issues raised by the Aboriginal Groups and any responses the Recipient has provided;
- (xii) where an Aboriginal Community asks questions regarding the Project directly of Ontario, providing Ontario with the information reasonably necessary to answer the inquiry, upon Ontario's request;
- (xiii) subject to section 3.2 (xiv), where appropriate, discussing with the Aboriginal Groups potential accommodation, including mitigation of potential impacts on Aboriginal or treaty rights, asserted rights or associated interests regarding the Project and reporting to Ontario any comments or questions from the Aboriginal Groups that relate to potential accommodation or mitigation of potential impacts;
- (xiv) consulting with Ontario during all discussions with Aboriginal Groups regarding accommodation measures, if applicable, and presenting to Ontario for the purposes of section 2.1 (v) hereof, the results of such discussions prior to implementing any applicable accommodation measures; and
- (xv) complying with Ontario's direction to take any actions, including without limitation suspension of the Project, as Ontario may require.

3.3 The Recipient hereby acknowledges that, notwithstanding Section 3.1 above, Ontario, any provincial ministry having an approval role in relation to the Project, or any responsible regulatory body, official, or provincial decision-maker, may participate in the matters and processes enumerated therein as they deem necessary.

3.4 The Recipient will carry out the following functions in relation to record keeping, information sharing and reporting to Ontario:

- (i) provide to Ontario, upon request, complete and accurate copies of all documents provided to the Aboriginal Groups in relation to the Project;
- (ii) keep reasonable business records of all its activities in relation to consultation and provide Ontario with complete and accurate copies of such records upon request;
- (iii) provide Ontario with timely notice of any Recipient mailings to, or Recipient

6.0 Notice and Contact

6.1 All notices to Ontario pertaining to this Schedule shall be in writing and shall be given by facsimile or other means of electronic transmission or by hand or courier delivery. Any notice to Ontario shall be addressed as follows:

Ministry of Agriculture, Food and Rural Affairs
1 Stone Road West, 4th Floor
Guelph, Ontario
N1G 4Y2

Phone: 1-888-466-2372
Fax: (519) 826-4336
Email: bcf.cc@ontario.ca

Attention: Dino Radocchia, Manager



**Infrastructure Stimulus Fund (ISF)
Le Fonds de stimulation de l'infrastructure (FSI)**

EXPENDITURE AND JOB CREATION REPORT

Recipient Name: _____

File Number: _____

Expenditure Forecast Table

Quarter	(April - June) Q1	(July - Sept.) Q2	(Oct. - Dec.) Q3	(Jan. - March) Q4
2009/10				
2010/11				

Jobs Created / Sustained Table

	Average Number of Temporary Jobs
Previous Quarter (show date ranges)	
Current Quarter (show date ranges)	

The goal is that at the end of the fiscal year a calculation could be made of the total number of jobs (person-years of employment) from each project.

Prepared By: _____

Phone Number: _____

Email: _____

Date: _____

NOTES:

- 1) Expenditures are only considered eligible after the announcement of the approval of the project.
- 2) Please complete the expenditure table based on actual and projected expenditures. Costs are to be identified in the quarter that have been or will be incurred (rather than when they are to be paid).
- 3) Please only include **Net Eligible Expenditures** – total eligible costs net GST.
- 4) Expenditure forecasts should not exceed total eligible costs as identified in Schedule D of the Contribution Agreement.
- 5) If the project cannot be completed within the timeframes of the program, please contact the Canada Ontario Infrastructure Secretariat.
- 6) Previously reported information is provided for you. Should the information have changed, please provide the revised expenditures along with an explanation of the change.
- 7) This information is required on a quarterly basis on or before the following dates: May 15, August 15, November 15 and February 15.
- 8) Temporary Jobs refers to all non-municipal employees who are working on this project (e.g. Construction workers, engineers, etc).
- 9) Average number of Temporary Jobs refers to the number of workers involved in the project over the time period. Example: if 5 construction workers were there for the entire quarter (13 weeks), and 20 additional construction workers were there for 6 weeks, the average number of workers for this quarter would be 15.

Le Fonds de stimulation de l'infrastructure (FSI)

COMPTE RENDU DES DÉPENSES ET DES EMPLOIS CRÉÉS

Nom de l'organisme
subventionné : _____
Numéro du fichier : _____

Tableau des dépenses prévues

Trimestre	(avril-juin) T1	(juillet-sept.) T2	(oct.-déc.) T3	(janv.-mars) T4
2009-2010				
2010-2011				

Tableau du nombre d'emplois créés ou maintenus

	Nombre moyen d'emplois temporaires
Trimestre précédent (indiquer la période)	
Trimestre actuel (indiquer la période)	

Objectif : Il faudrait pouvoir déterminer, à la fin de l'année budgétaire, le nombre total d'emplois (en années-personnes) que chaque projet aura permis de créer.

Compte rendu rédigé par : _____

Téléphone : _____

Adresse électronique : _____

Date : _____

NOTES :

- 1) Les dépenses sont considérées comme admises seulement après l'annonce officielle de l'approbation du projet.
- 2) Il faut remplir le tableau des dépenses d'après les dépenses réelles et prévues. Les dépenses doivent être indiquées selon le trimestre où elles ont été engagées ou le seront (au lieu de les indiquer d'après le trimestre où elles seront payées).
- 3) Il ne faut indiquer que les **dépenses admises nettes** (c.-à-d. les coûts totaux admis moins la TPS).
- 4) Les dépenses prévues ne doivent pas dépasser les coûts totaux admis qui sont notés à l'annexe D de l'entente.
- 5) Veuillez communiquer avec le Secrétariat d'infrastructure Canada-Ontario si le projet ne peut pas être achevé dans le délai établi par le programme.
- 6) Les données déclarées précédemment sont fournies. Si elles ont changé, veuillez donner les dépenses révisées et dire pourquoi elles ont changé.
- 7) Les renseignements doivent être communiqués trimestriellement, au plus tard aux dates suivantes : 15 mai, 15 août, 15 novembre et 15 février.
- 8) Les emplois temporaires se rapportent à tous les employés non municipaux (travailleurs de la construction, ingénieurs, etc.) qui sont affectés au projet.
- 9) Le nombre moyen d'emplois temporaires se rapporte au nombre de travailleurs associés au projet durant la période indiquée. Exemple : Si 5 travailleurs de la construction sont engagés pour tout le trimestre (13 semaines) et que 20 autres travailleurs de la construction sont engagés pour 6 semaines, le nombre moyen de travailleurs pour ce trimestre serait 15.

SCHEDULE "H" **EXPENDITURE AND JOB CREATION REPORT**




Infrastructure Stimulus Fund (ISF)
 Le Fonds de stimulation de l'infrastructure (FSI)

EXPENDITURE AND JOB CREATION REPORT

Recipient Name:

City of Brockville

File Number:

1211

Expenditure Forecast Table

Quarter	(April - June) Q1	(July - Sept.) Q2	(Oct - Dec.) Q3	(Jan. - March) Q4
2009/10	0	0	23,000	37,000
2010/11	390,000	1,050,000	0	0

Jobs Created / Sustained Table

	Average Number of Temporary Jobs
Previous Quarter (show date ranges)	—
Current Quarter (show date ranges)	—

The goal is that at the end of the fiscal year a calculation could be made of the total number of jobs (person-years of employment) from each project.

Prepared By:

Peter Raabe

Phone Number:

613-342-8772 x8257

Email:

P.Raabe@brockville.com

Date:

September 23, 2009

NOTES:

- Expenditures are only considered eligible after the announcement of the approval of the project.
- Please complete the expenditure table based on actual and projected expenditures. Costs are to be identified in the quarter that have been or will be incurred (rather than when they are to be paid).
- Please only include Net Eligible Expenditures – total eligible costs net GST.
- Expenditure forecasts should not exceed total eligible costs as identified in Schedule D of the Contribution Agreement.
- If the project cannot be completed within the timeframes of the program, please contact the Canada Ontario Infrastructure Secretariat.
- Previously reported information is provided for you. Should the information have changed, please provide the revised expenditures along with an explanation of the change.
- This information is required on a quarterly basis on or before the following dates: May 15, August 15, November 15 and February 15.
- Temporary Jobs refers to all non-municipal employees who are working on this project (e.g. Construction workers, engineers, etc).
- Average number of Temporary Jobs refers to the number of workers involved in the project over the time period. Example: If 5 construction workers were there for the entire quarter (13 weeks), and 20 additional construction workers were there for 6 weeks, the average number of workers for this quarter would be 15.

