

CANADA – ONTARIO MUNICIPAL RURAL INFRASTRUCTURE FUND (“COMRIF”)
INITIATIVE

FUNDING AGREEMENT FOR INFRASTRUCTURE PROJECTS

Ministry of Agriculture, Food, and Rural Affairs
File Number: [Enter file number]

THIS AGREEMENT made in quadruplicate as of the ____ day of _____, 200__.

B E T W E E N:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
as represented by the Minister of Agriculture, Food and Rural Affairs

(referred to herein as the “Ministry”)

A N D:

[Click **here** and type Recipient's name - IN CAPITAL LETTERS]

(referred to herein as the “Recipient”)

WHEREAS the Government of Ontario is investing in Ontario’s infrastructure;

AND WHEREAS the purpose of COMRIF is to improve and renew public infrastructure in Ontario’s small urban and rural communities with populations of less than 250,000;

AND WHEREAS the priority for COMRIF is improving water, sewage treatment, waste management and local roads and bridges;

AND WHEREAS the objectives for COMRIF include ensuring that sustainable infrastructure investments enhance and renew Ontario’s aging public infrastructure, improve the quality of the environment; protect the health and safety of citizens; support long-term economic growth; and build strong, sustainable communities by giving municipalities the tools they need.

AND WHEREAS Recipients under COMRIF may choose to apply for funding to Projects in the categories of water, wastewater, waste management, local roads and bridges, public transit, cultural, recreation, tourism, environmental energy improvements and connectivity;

AND WHEREAS this Agreement defines the terms and conditions of a financial contribution to assist with the Project under COMRIF which is being administered by the Ministry;

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
- Schedule "C" - Eligible Costs
- Schedule "D" - Budget
- Schedule "E" - Project Schedule (Milestones)
- Schedule "F" - Financial Assistance
- Schedule "G" - Federal Requirements
- Schedule "H" - Additional Provisions
- Schedule "I" - Communications Requirements
- Schedule "J" - Cash Flow Report
- Schedule "K" - Progress Report
- Schedule "L" - Claim Report
- Schedule "M" - Final Report

constitute 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 Ministry 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 Agriculture, Food and Rural Affairs by:

Name: Leona Dombrowsky
Title: Minister

Date

RECIPIENT'S NAME:
by:

Name:
Title:

Date

Affix
Corporate
Seal

Name:
Title:
I/we have authority to bind the Recipient

Date

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:

"**Act**" means the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended.

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

"**Agreement**" means this agreement, including the cover and execution pages and all of the schedules hereto, 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 this Agreement.

"**Budget**" means the Project budget set out in Schedule "D" hereto.

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

"**Cash Flow Report**" has the meaning given to it in Section 6.1 of this Agreement.

"**Claim Report**" has the meaning given to it in Section 6.2 of this Agreement.

"**Claims Submission**" has the meaning given to it in Section 6.2 of this Agreement.

"**Communication Requirements**" means the communication requirements set out in Schedule "I" hereto, or as directed by the Ministry from time to time.

"**COMRIF Initiative**" has the meaning given to it on the first page of this Agreement.

"**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 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* (Ontario).

“Eligible Cost” has the meaning given to it in Section 3 of this Agreement and Schedule “C”.

“End of Financial Assistance Date” means March 31, 2010.

“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* (Ontario), the *Environmental Assessment Act* (Ontario), the *Ontario Water Resources Act*, the *Canadian Environmental Protection Act 1999*, the *Canadian Environmental Assessment Act*, the *Fisheries Act* (Canada) and the *Navigable Waters Protection Act* (Canada).

“Event of Default” has the meaning given to it in Section 15 of this Agreement.

“Expiration Date” means March 31, 2010.

“Federal Government” means Her Majesty the Queen in right of Canada.

“Federal Licensed Marks” has the meaning given to it in Section 7 of Schedule “G” to this Agreement.

“Federal Maximum Financial Assistance” has the meaning set out in Schedule “F” hereto.

“Final Report” has the meaning given in section 6.3 of this Agreement.

“Final Report Date” has the meaning given in section 6.3 of this Agreement.

“Financial Assistance” means the funds contributed by the Senior Government to be advanced by the Ministry 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.

“Generally Accepted Accounting Principles” means Canadian Generally Accepted Accounting Principles as adopted by the Canadian Institute of Chartered Accountants, applicable as at the date on which such calculation is made or required to be made in accordance with Generally Accepted Accounting Principles.

“Government of Ontario” means Her Majesty the Queen in right of Ontario.

“Infrastructure” means publicly or privately owned fixed capital assets in Ontario for public use or benefit.

“Licensed Marks” has the meaning given to it in Section 13 of Schedule “A” to this Agreement.

“Local Government” means a “municipality” as defined in the *Municipal Act, 2001* (Ontario) and includes a local board of a municipality and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes in an unorganized township, but excludes municipalities having a population in excess of 250,000.

“Maximum Financial Assistance” has the meaning set out in Section 4.5 and Schedule “F” hereto.

“Ministry” has the meaning given to it on the first page of this Agreement.

“Ontario Maximum Financial Assistance” has the meaning set out in Schedule “F” hereto.

“OSTAR” means the Ontario Small Town and Rural Development Infrastructure initiative under the Canada-Ontario Infrastructure Program.

“Payment Certifier” means a payment certifier as defined in subsection 1(1) of the *Construction Lien Act* (Ontario).

“Progress Report” has the meaning given to it in Section 6.2 of this Agreement.

“Project” means the project described in Schedule “B” hereto.

“Project Schedule” means the schedule set out in Schedule “E” hereto.

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

“Senior Government” means the Ministry and the Federal Government collectively.

“Substantially Performed” has the meaning set out in and shall be determined in accordance with subsection 2(1) of the *Construction Lien Act* (Ontario).

“Total Eligible Costs” has the meaning set out in Schedule “F” hereto.

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 neuter gender and words in the singular include the plural, and vice versa.
- 1.6 **Ministry Approvals.** Any reference to, or requirement for, the approval of the Ministry in this Agreement or in any schedule hereto shall be deemed to require the prior and express written approval of the Ministry.

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.
- 2.2 **End of Financial Assistance Date.** Notwithstanding anything in this Agreement and regardless of the Project's state of completion, the Ministry shall not be obligated to provide Financial Assistance under this Agreement after the End of Financial Assistance Date.

SECTION 3 ELIGIBLE COSTS

- 3.1 **Eligible Costs.** In order for a cost to be eligible for Financial Assistance pursuant to this Agreement (an "Eligible Cost"), the cost must be in accordance with Schedule "C", Part C.1 and be specifically identified in Schedule "D", except where otherwise expressly approved in writing by the Ministry. 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.
- 3.2 **Discretion of Ministry.** Subject to Section 3.1, the eligibility of any items not listed in Schedule "C" to this Agreement will be determined in accordance with Ministry policies and guidelines. The final eligibility of items claimed is at the sole discretion of the Ministry. The Recipient should consult with Ministry staff when in doubt over specific items prior to incurring costs.
- 3.3 **Retention of Receipts.** The Recipient shall retain all evidence (such as invoices, receipts, etc.) of payment related to Eligible Costs and such supporting documentation must be available to the Ministry when requested and maintained by the Recipient for audit purposes.
- 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 Schedule "C", Part C.2.1 (Ineligible Costs).

- 3.5 **Deemed ineligible.** The Recipient acknowledges that the Ministry's fiscal year ends on March 31 in each year, and that should an Eligible 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 Eligible Cost shall be deemed ineligible for Financial Assistance.
- 3.6 **Clarification.** For clarity, the Recipient hereby expressly acknowledges that the inclusion of an item in the Budget does not necessarily mean that such item is an Eligible Cost. Where there is a conflict between the Budget and this Article, the provisions of this Article shall prevail.

SECTION 4 FINANCIAL ASSISTANCE

- 4.1 **Use of Financial Assistance.** The Financial Assistance is intended for and shall be used only for Eligible Costs.
- 4.2 **Basis of payout of Financial Assistance.** The Financial Assistance will be provided by the Ministry to the Recipient on the basis set out in Schedule "F".
- 4.3 **Semi-Annual Reporting.** The Recipient is required to submit semi-annual cashflow reports to the Ministry pursuant to Section 6.1 prior to the Ministry releasing any Financial Assistance.
- 4.4 **Funds advanced.** If Financial Assistance is provided to the Recipient by the Ministry prior to the Ministry receiving evidence that the associated Eligible Costs have already been paid by the Recipient, then such Financial Assistance, including all interest earned thereon, shall be deemed to remain the property of the Ministry and must be held by the Recipient in trust for the Ministry in an interest bearing account pending payment of Eligible Costs. Without limitation, any payment of Financial Assistance that is made to the Recipient without the requirement of the Recipient first providing the Ministry with either a Progress Report or a Final Report must meet the requirements of this Section.
- 4.5 **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.
- 4.6 **Excess funds.** Where actual costs are lower or appear likely to be lower than the total eligible expenditures identified in the Budget, or where additional funding is secured from other government sources such that the funds available to the Recipient for the Project (other than the Financial Assistance) exceed the Maximum Financial Assistance, the Recipient shall immediately notify the Ministry. The Ministry may, in its sole discretion, Adjust the Financial Assistance on the Project.
- 4.7 **Interdependent Projects.** Where implementation of the Project is dependent on completion of a project by others and the interdependent project is not completed by others in whole or in part, the Ministry may, in its sole discretion, Adjust the Financial Assistance for the Project.

- 4.8 Recipient not carrying out Project.** The Recipient shall immediately notify the Ministry if it does not intend to carry out the Project in whole or in part as specified in Schedule "B" in which case the Ministry may, in its sole discretion, Adjust the Financial Assistance for the Project.
- 4.9 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, the Ministry may, in its sole discretion, Adjust the Financial Assistance for the Project.
- 4.10 Alternatives to Project.** If the Recipient becomes aware of any alternatives to the Project that are more cost effective (for example, an area/joint servicing scheme), the Recipient shall immediately notify the Ministry, in which case the Ministry may, in its sole discretion, Adjust the Financial Assistance. Likewise, if the Ministry becomes aware of any alternatives to the Project that are more cost effective, the Recipient will be notified and the Ministry may, in its sole discretion, Adjust the Financial Assistance.
- 4.11 GST.** 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* (Canada), net of any applicable rebates.
- 4.12 Withholding payment.** The Ministry may, in its sole 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 applicable legislation.
- 4.13 Insufficient funds provided by the Legislature.** If, in the opinion of the Ministry, the Legislative Assembly of Ontario does not provide sufficient funds to continue the Financial Assistance for any fiscal year during which this Agreement is in effect, the Ministry may terminate this Agreement in accordance with the terms specified in Section 15.5 of Schedule "A" of this Agreement.

SECTION 5 PROJECT AWARD, 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 Ministry not responsible for implementation.** The Ministry shall not be responsible in any way whatsoever for the undertaking, implementation and completion of the Project or any interdependent project of others.

- 5.3 Ministry not responsible for costs, etc.** The Ministry 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.
- 5.4 Behaviour of Recipient.** The Recipient shall carry out the Project in an economical and businesslike manner, in accordance with this Agreement and in particular, but without limitation, in accordance with the Budget and the Project Schedule subject to any reasonable changes that the Ministry may agree to or require from time to time in writing.
- 5.5 Competitive process.** The Recipient shall acquire and manage all equipment, services and supplies required for the Project through a transparent, competitive process that ensures the best value for funds expended. For equipment, services and supplies, the estimated cost of which exceeds \$25,000.00, the Recipient shall obtain at least three written quotes unless the Ministry gives prior written approval and:
- a) the expertise 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.
- 5.6 Competitive tender.** Except as otherwise approved in writing by the Ministry, all portions of the construction component of the Project (including materials and equipment) shall be competitively and openly tendered, in the opinion of the Ministry, to competent contractors capable of completing the construction component of the Project, and the Contract must be awarded to the lowest qualified bidder or, where the bid price is not the sole specified selection criterion, the highest ranked bidder.
- 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 5.5 and 5.6 of this Agreement and the requirements of this Section 5.7, the requirements referenced in this Section 5.7 shall apply.
- 5.8 Long-term capital management plan.** The Recipient shall prepare and update annually thereafter a long-term capital asset management plan which outlines how the Recipient intends to meet its financial and other commitments for maintaining the Infrastructure on an ongoing basis, including plans to recover the full operating costs through service charges where appropriate. Upon request, the Recipient shall provide to the Ministry a copy of its then current long-term capital management plan.
- 5.9 Final claims.** The Recipient shall submit its final claims with the required documentation for approval, cost reviews, audits and settlement within three (3) months of completion of the Project and no later than the Final Report Date or such later date as is specified in writing by the Ministry. Upon completion of the cost reviews, audits and

settlement, the Ministry shall not be obligated to consider any further claims in relation to the Project. The Recipient shall also submit, upon request by the Ministry, the required documentation for approval, cost reviews and audits on an interim basis.

5.10 Commencement of Project. The Recipient shall begin the Project within six (6) months after the date of this Agreement, failing which this Agreement may be terminated pursuant to Section 15.

5.11 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 extent possible;
- c) conform to all policies and procedures issued by the Senior Government for the COMRIF Initiative;
- 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 all applicable policies and procedures issued by the Government of Ontario;
- e) require that the parties thereto comply with all applicable legislation; and
- f) authorize the Ministry and the Federal Government to gather data, perform audits and monitor the Project as they see fit.

SECTION 6 REPORTING REQUIREMENTS

6.1 Cash Flow Report. The Recipient shall submit semi-annual reports for the Project to the Ministry on or before February 15th and August 15th of each Fiscal Year outlining the current cash flow and projections and the Recipient shall follow such administrative procedures as are specified from time to time by the Ministry. For bridge infrastructure Projects, additional submissions may be required during the design phase of the Project, as described in Schedule "J".

6.2 Claims Submission. All Claim Submissions shall include the following reports:

1. Progress Report. The Recipient shall provide the Ministry with a report in the form set out in Schedule "K" ("Progress Report") that shall contain sufficient information to allow the Ministry to assess the progress of the Project. The Progress Report shall include:

- a) a detailed description of the progress of the Project to the date of the report;

- b) particulars of how the Communication Requirements have been implemented or applied;
- c) a certificate by a Payment Certifier or the chief financial officer of the Recipient certifying the percentage of the Project completed;
- d) details of any variance from the Project, the Budget and/or the Project Schedule; and
- e) any other information respecting the Project that may be requested by the Ministry.

2. Claim Report. The Recipient shall provide the Ministry with a report in the form set out in Schedule "L" ("Claim Report") on the invoices received and paid for the Project as at the date of the payment request which shall contain sufficient information to allow the Ministry to assess the eligibility of that portion of the Project for which disbursement is being requested and the individual Project tasks and Milestones. The Claim Report shall include:

- a) an invoice summary, in the form prescribed by the Ministry;
- b) a list of the vendor from which the invoice was received;
- c) a description of the type of work performed for each invoice; and
- d) when requested, all original invoices and receipts for the Project.

6.3 Final Report. Within three months of the Project becoming Substantially Performed and no later than the Final Report Date or such later date as is specified in writing by the Ministry, the Recipient shall submit a final report (the "Final Report") for the Project to the Ministry in a form satisfactory to the Ministry and the Recipient shall follow such administrative procedures as are specified from time to time by the Ministry. The Final Report shall include:

- a) a detailed description of the Project as completed, including photographs;
- b) particulars of how the Communication Requirements have been implemented or applied;
- c) a final unaudited financial statement showing Project expenditures and revenue, prepared by a qualified person;
- d) a certificate by a Payment Certifier or the chief financial officer of the Recipient certifying that the Project has been Substantially Performed;
- e) an invoice summary, in the form prescribed by the Ministry;
- f) a final cost summary in the form appended as Schedule M hereto;
- g) when requested, all original invoices and receipts for the Project;

- h) details of any variance from the Project, the Budget and/or the Project Schedule; and
- i) any other information respecting the Project that may be requested by the Ministry, including, but not limited to, audited financial statements.

Upon receipt of the Final Report, the Ministry shall not be obligated to consider any further claims in relation to the Project.

SECTION 7 RECORDS AND AUDIT

- 7.1 *Separate records.*** The Recipient shall maintain separate records and documentation for the Project and keep all records and documentation for six (6) years after the final settlement of accounts referred to in section 5.9 of Schedule “A” of this Agreement. Upon request, the Recipient shall submit all records and documentation relating to the Project including, but not limited to, work authorizations, invoices, time sheets, payroll records, estimates and actual cost of the activities carried out pursuant to this Agreement, together with tenders and proposals, final measurements, payment certificates, change orders, correspondence, memoranda, contracts and amendments thereto which shall be maintained in accordance with Generally Accepted Accounting Principles.
- 7.2 *Provide records to Ministry.*** The Recipient shall provide to the Ministry, 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, contractors, project managers and Consultants relating to the Project or any other project(s) of the Recipient under the COMRIF Initiative, or any other provincial program(s), for the purposes of cost reviews, audits and settlement, as may be required by the Ministry, of the Project or any other project(s) of the Recipient under the COMRIF Initiative, or any other provincial program(s). Such material shall be provided to the Ministry and other ministries of the Government of Ontario as may be requested from time to time, all in a form and manner satisfactory to the Ministry and other ministries of the Government of Ontario, as applicable.
- 7.3 *External auditor.*** The Ministry may require the assistance of an external auditor to carry out an audit of the material referred to in Sections 7.1 and 7.2 of Schedule “A” of this Agreement. If so, the Recipient shall, upon request, retain an external auditor acceptable to the Ministry at the Recipient’s sole expense. The Recipient shall ensure that any auditor who conducts an audit pursuant to this section of the Agreement or otherwise, provides a copy of the audit report to the Ministry for its consideration at the same time that the audit report is given to the Recipient.
- 7.4 *Information.*** The Recipient shall supply to the Ministry, 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 the Ministry may require. The Ministry and the Federal Government, their respective agents and employees, including the Ontario Provincial Auditor'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) confirm the results of the Project in terms of resolving the infrastructure problems that cause an immediate and serious problem for human health or the environment.

- 7.5 *Information condition precedent for payment.*** If, in the opinion of the Ministry, any of the information requirements of this Article are not met, the Ministry may, in its sole discretion, require the information as a condition precedent to any payment in relation to the Project or any other project(s) of the Recipient under the COMRIF Initiative, or any other provincial program(s) (either current or future). In addition, the Ministry may, in its sole discretion, Adjust the Financial Assistance for the Project.

SECTION 8 OVERPAYMENT

- 8.1 *Allowable Financial Assistance.*** Funds advanced to the Recipient prior to settlement in accordance with Section 5.9 of Schedule "A" of this Agreement 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, the Ministry will determine the final amount of Financial Assistance on the Project (the "Allowable Financial Assistance"). The Recipient agrees to repay to the Ministry, upon receipt of a written demand and within the period specified by the Ministry, that portion of the total of the funds advanced that exceeds the Allowable Financial Assistance applicable to the Project, as determined by the Ministry, as well as any funds used for a purpose other than that stated in the terms of this Agreement, as determined by the Ministry.
- 8.2 *Deduction of overpayment.*** The Ministry may deduct any overpayment of Financial Assistance pursuant to Section 8.1 made on the Project from financial assistance payable on any other project(s) of the Recipient under the COMRIF Initiative or any other provincial program(s) (either current or future). Any overpayment made on any other project(s) of the Recipient under the COMRIF Initiative or any other provincial program(s) (either current or future) may in turn be deducted from Financial Assistance payable on the Project.
- 8.3 *Interest on overpayment.*** The Ministry reserves the right to demand interest on any overpayment 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 the Ministry.

**SECTION 9
INSURANCE AND BONDING**

9.1 Insurance. The Recipient shall put in effect and maintain in full force and effect or cause to be put into effect and maintained for the period during which this Agreement is in effect, with insurers acceptable to the Ministry:

- a) Comprehensive general liability insurance to an inclusive limit of not less than five million (\$5,000,000.00) dollars per occurrence for property, damage, bodily injury and personal injury including, at least, the following policy endorsements:
 - (i) Her Majesty the Queen in right of Ontario as an additional insured for the purposes of the Project only;
 - (ii) Cross liability;
 - (iii) Contractual liability;
 - (iv) Independent contractors;
 - (v) Products and completed operations;
 - (vi) Employer's liability and voluntary compensation;
 - (vii) 30 day written notice of cancellation;
 - (viii) Tenants legal liability (if applicable); and
 - (ix) Non-owned automobile coverage with blanket contractual and physical damage coverage for hired automobiles; and

- b) All the necessary insurance that would be considered appropriate for a prudent Recipient of this type undertaking a project similar to the Project, including, where appropriate and without limitation, property, construction and errors and omissions insurance.

9.2 Certificates of Insurance. Prior to any scheduled payment of Financial Assistance pursuant to this Agreement and throughout the term of this Agreement, the Recipient shall provide the Ministry with a valid certificate of insurance that references the Project, confirms the above requirements and identifies major exclusions in the 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 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 covering the payment for labour, material or both.

SECTION 10 INDEMNITY

10.1 *Ministry not liable.* In no event shall the Ministry 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 this Agreement or the Project; nor
- 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 this Agreement or the Project.

10.2 *Recipient to indemnify.* The Recipient agrees to indemnify and hold harmless Her Majesty the Queen in right of Ontario, Her directors, officers, employees and agents 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 (Ontario)*) and for any and all liability for damages to property and injury to persons (including death) which Her Majesty the Queen in right of Ontario, Her 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: (a) the performance of this Agreement or any breach of the terms of this Agreement by the Recipient, its officers, servants, employees and agents, 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 Her Majesty the Queen in right of Ontario, Her directors, officers, employees and agents, for any incidental, indirect, special or consequential damages, or any loss of use, revenue or profit, which Her Majesty the Queen in right of Ontario, Her 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: (a) the performance of this Agreement or any breach of the terms of this Agreement by the Recipient, its officers, servants, employees and agents, 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 Senior Government, the Recipient will retain title to, and ownership of, the Infrastructure resulting from the Project for at least ten (10) years after Project completion.

11.2 *Repayment.* In the event that at any time within ten (10) years from the date of completion of the Project, 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 contributed under the terms of this Agreement, 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 Senior Government, on demand, a proportionate amount of the Financial Assistance, as follows:

Where asset is sold, leased, encumbered or disposed of:	Return of contribution (in current dollars)
Within 2 Years after Project completion	100%
Between 2 and 5 Years after Project completion	55%
Between 5 and 10 Years after Project completion	10%

11.3 *Notice.* At any time during the ten (10) years following the date of completion of the Project, the Recipient agrees to notify the Ministry in writing of any transaction triggering the above-mentioned repayment, at least one hundred eighty (180) days in advance.

11.4 *Deduction from Financial Assistance.* The Ministry may deduct the amount of Financial Assistance to be repaid under Section 11.2 from Financial Assistance payable on any other project(s) of the Recipient under the COMRIF Initiative or any other provincial program(s) (either current or future).

11.5 *Infrastructure Operation.* The Infrastructure established with the Financial Assistance from the Ministry shall be used, maintained and operated for a period of at least one half of the expected useful life of the asset after the completion of the Project as set out in Schedule "H". Any contravention of this provision shall give the Ministry the right to Adjust the Financial Assistance.

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 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 in the sole opinion of the Ministry) 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 Her Majesty the Queen in right of Ontario that is relevant to the Project or otherwise where the Ministry 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 the Ministry 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 Ministry is bound by the provisions of the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended.

SECTION 13 COMMUNICATION AND RECOGNITION

- 13.1 *Licensed Marks.*** The Recipient acknowledges that Her Majesty the Queen in right of Canada and Ontario is, 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 COMRIF (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 Senior Government 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.
- 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 COMRIF Management Committee. The Recipient agrees that it will not alter, modify, dilute or otherwise misuse the Licensed Marks;

- b) the Recipient agrees to submit to the COMRIF Joint Secretariat 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 the COMRIF Joint Secretariat may from time to time upon reasonable notice designate;
- 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 COMRIF Joint Secretariat and upon the direction of the COMRIF Joint Secretariat express disclaimers to that effect; and
- d) the Recipient agrees to promptly inform the COMRIF Joint Secretariat 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 COMRIF Joint Secretariat, 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.

13.5 Indemnity. The Recipient hereby indemnifies the Government of Ontario against any and all claims for death, illness, personal injury, property damage, improper business practices, or loss of any kind where such claims are in whole or in part premised upon the Recipient's use of the Licensed Marks.

SECTION 14 COVENANTS, REPRESENTATIONS AND WARRANTIES

14.1 Covenants, representations and warranties. The Recipient covenants, represents and warrants to the Ministry 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 and approvals;
- b) it has authority and any necessary approval to enter into this Agreement and to carry out its terms;
- c) it has or will apply for all permits, approvals, and licenses which are required in order to carry out the Project including, but not limited to, any approvals lawfully required under the *Planning Act* (Ontario), the *Building Code Act, 1992* (Ontario), the *Highway Traffic Act* (Ontario), the *Public Transportation and Highway Improvement Act* (Ontario), the *Bridges Act* (Ontario) and the Environmental Laws;
- d) it validly exists as a legal entity with full power to perform and observe all of the terms and conditions of this Agreement;

- e) where applicable, it has passed by-laws required to undertake the Project;
- f) it is now and will continue to be compliant with all Environmental Laws;
- g) 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 ten (10) years following Project completion;
- h) 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;
- i) it has the experience, financial health and ability to carry out this Project;
- j) if the Recipient is a Local Government or a Crown Agency, it has the requisite legislative authority to carry out the Project;
- k) other than the Financial Assistance being provided pursuant to this Agreement, the Recipient has not and will not use any funds received from Her Majesty the Queen in right of Ontario or a Crown Agency towards any aspect of the Project. Notwithstanding the foregoing, the Recipient may use funds received from the Northern Ontario Heritage Fund for the purposes of carrying out the Project; and
- l) all information provided during the COMRIF Initiative application process remains true, correct and complete in every respect except as set out to the contrary herein. Without limitation, the Project, Budget and Project Schedule are as set out herein.

14.2 Representations and warranties true condition precedent for payment. Upon request, the Recipient shall provide the Ministry with proof of the matters referred to in this Article. 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, the Ministry 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 the Ministry, 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 Ministry any representation or warranty made by the Recipient in this Agreement or any certificate delivered to the Ministry 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 the Ministry;
 - 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 the Ministry a material adverse change occurs such that the viability of the Recipient as a going concern is threatened in the opinion of the Ministry, acting reasonably;
 - g) if in the opinion of the Ministry the Recipient ceases to operate;
 - h) if the Recipient fails to begin the Project within six (6) months after the date of this Agreement, or, in the opinion of the Ministry, 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 the Ministry are beyond the control of the Recipient;
 - i) if the Recipient has submitted false or misleading information to the Ministry; or
 - j) the Recipient and/or any of its Consultants and/or any of their respective advisors, partners, directors, officers, employees, agents and volunteers has breached the requirements of Section 12 (Conflict of Interest and Confidentiality).
- 15.2** ***Waiver.*** The Ministry may, at any time, waive any Event of Default which may have occurred provided that no such waiver shall extend 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 the Ministry.

15.3 Remedies on default. Notwithstanding any other rights which the Ministry may have under this Agreement, if an Event of Default has occurred, the Ministry shall have the following remedies provided only that in the case of an Event of Default which, in the opinion of the Ministry in its sole discretion, is curable, the Ministry 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 days or such period of time as the Ministry may consent to in writing:

- a) the Ministry shall have no further obligation to provide any Financial Assistance for the Project;
- b) the Ministry may, at its option, terminate this Agreement and may, in its sole discretion, Adjust the Financial Assistance. The total amount of Financial Assistance 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 Ministry 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 Ministry may commence such legal action or proceedings as it, in its sole discretion, may deem expedient, without any additional notice under this Agreement. The rights and remedies of the Ministry hereunder are cumulative and in addition to, and not in substitution for, all other rights or remedies otherwise available to the Ministry.

15.5 Termination without cause. Notwithstanding anything else contained herein, the Ministry reserves the right to terminate this Agreement without cause upon such conditions as the Ministry may require, with a minimum of seven (7) days written notice to the Recipient. If the Ministry terminates this Agreement prior to its expiration, the Ministry, subject to all of the Ministry's rights under this Agreement, including, without limitation, the Ministry's 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 the Ministry that meets the requirements of a Progress Report. Such report must be received by the Ministry within three (3) months 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 "H" attached hereto 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 on the third Business Day following the day on which it was mailed.
- 16.2 Representatives.** The individuals identified pursuant to Section 16.1 above will, in the first instance, act as the Ministry'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 and the Consultant 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 Ministry 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 7.4 of Schedule "A" of this Agreement.
- 17.2 Time 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. The Ministry shall not be liable for any liquidated damages as a result of working days extensions.
- 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.
- 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 Ministry 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 Ministry'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 of the Province of Ontario and the laws of Canada 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), Section 10 (Indemnity), Section 11 (Transfer and Operation of Infrastructure), Section 12 (Conflict of Interest and Confidentiality), Section 13 (Communications and Recognition), Section 14 (Covenants, Representations and Warranties), Section 15 (Default, Enforcement and Termination), Section 5.8 (Long-term capital management plan) and Section 17.11 (Interest) of Schedule "A"; Schedule "G"; Schedule "H" (useful life of Project Infrastructure); and Schedule "I" (the Recipient's obligation to maintain a permanent plaque in cases where it is necessary to install a permanent plaque).
- 17.9 *No assignment.*** This Agreement shall not be assigned by the Recipient. The Ministry 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 Ministry and the Recipient.
- 17.11 *Interest.*** The Ministry 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 the Ministry.
- 17.12 *Ministry 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 Ministry for any purpose whatsoever.
- 17.13 *Recipient cannot represent the Senior Government.*** 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 Ministry and/or the Federal Government. The 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 Ministry and/or the Federal Government, to act as an

agent of the Ministry and/or the Federal Government, or to bind the Ministry and/or the Federal Government in any manner whatsoever other than as specifically provided in this Agreement.

17.14 *Consultants.* The Ministry acknowledges that, in connection with carrying out the Project, the Recipient may engage one or more Consultants. The Ministry 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 *Cooperation.* The Ministry and the Recipient 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.

17.16 *Data.* The Recipient agrees that the Ministry may, in its sole discretion, gather and compile data required under this Agreement and disclose such data to the Federal Government.

17.17 *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.

- END OF GENERAL TERMS AND CONDITIONS -

SCHEDULE "B"
DESCRIPTION OF THE PROJECT

COMRIF FILE #[Enter file number]

[Enter Recipient's name – ALL CAPS]

WORK DESCRIPTION:

SCHEDULE "C" ELIGIBLE COSTS

C.1 ELIGIBLE COSTS

C.1.1 Eligible Costs are all direct costs that, in the opinion of the Ministry, are:

- a) Properly and reasonably incurred by the Recipient and no other person; and
- b) Paid under a Contract for goods or services necessary for the implementation of the Project.

C.1.2 Eligible Costs may only include:

- a) Costs incurred after November 15, 2004 (in respect of a non-OSTAR carry-over Project) **OR** Costs incurred after May 6, 2004 (in respect of an OSTAR carry-over Project), and no later than March 31, 2009, as the case may be;
- b) The capital costs of acquiring, constructing or renovating a fixed capital asset;
- c) The costs incurred for professionals, technical personnel, consultants and contractors specifically engaged to undertake the surveying, design, engineering, manufacturing, or construction of the Project Infrastructure asset and related facilities and structures;
- d) The costs of environmental assessments, consisting of the engineering costs directly related to implementing the preferred solution selected under the environmental assessment process, required to undertake the Project Infrastructure, and follow-up investigations, as required by the *Canadian Environmental Assessment Act* and the *Environmental Assessment Act (Ontario)*;
- e) The costs of any public announcement and official ceremony, or of any temporary or permanent signage, as set out in this Agreement;
- f) The costs of bridge inspection reports incurred after November 15, 2004, that are completed in respect of the Project in accordance with the Ontario Structure Inspection Manual; and
- g) Other costs that are direct and necessary for the successful implementation of the Project and that have been approved in advance, and in writing, by the Ministry.

C.1.3 The cost of the Recipient's employees or equipment may be included in its Eligible Costs if:

- a) The Recipient is a rural or isolated Local Government;

- b) The Recipient satisfies the Ministry that it is not economically feasible to tender a Contract;
- c) Employees or equipment are employed directly in respect of the work that would have been the subject of the Contract; and
- d) Approved in advance and in writing by the Ministry.

C.2 INELIGIBLE COSTS

C.2.1. Notwithstanding any other provision in this Schedule other than C.1.3, costs related to the following are not eligible:

- a) Costs incurred before November 15, 2004 (in respect of a non-OSTAR carry-over Project) **OR** Costs incurred before May 6, 2004 (in respect of an OSTAR carry-over Project), and costs incurred after March 31, 2009, as the case may be;
- b) Services or works that, in the opinion of the Ministry, are normally provided by the Recipient or a related party;
- c) Salaries and other employment benefits of any employees of the Recipient;
- d) Overhead costs, direct or indirect operating or administrative costs and, more specifically costs related to planning, engineering, architecture, supervision, management and other activities normally carried out by the Recipient's staff;
- e) Costs of feasibility and planning studies;
- f) Taxes for which the Recipient or a Third Party is eligible for a tax rebate, and all other costs eligible for rebates;
- g) Costs of land or any interest therein, and related costs;
- h) Financing charges and interest costs;
- i) Cost of leasing of equipment by the Recipient;
- j) Costs related to an increase in the need for services attributable to new residential development;
- k) Legal fees; and
- l) Routine repair and maintenance costs.

SCHEDULE "D" BUDGET

(a) Project initiation date: _____

(b) Anticipated Project completion date: _____

(c) Fill in the following table where appropriate:

ESTIMATED COSTS

Project phase	Eligible Costs
1. Construction	
2. Preliminary engineering (Environmental Assessment, engineering reports)	
3. Engineering (final design/supervision)	
4. Project management	
5. Surveys	
6. Miscellaneous	
7. Sum of (1 to 7)	
8. Grants from other sources (specify)	
9. Total eligible cost (7 minus 8)	

(d) Complete the following table:

CASH FLOW BASED ON ESTIMATED COSTS

TOTAL IN TABLE (b) MUST BE EQUAL WITH LINE 10 OF ESTIMATED COSTS

Quarter	(April - June) Q1	(July - Sept.) Q2	(Oct. - Dec.) Q3	(Jan .- March) Q4
2004/05				
2005/06				
2006/07				
2007/08				
2008/09				

SCHEDULE "E"
PROJECT SCHEDULE (MILESTONES)

- a) Enter Milestone Description
- b) Shade the boxes by the appropriate quarter that pertain to the milestone timeline
- c) If you require more space, please add additional sheets

****Based on Government Fiscal Year:**

Q1 = April – June Q2 = July – September Q3 = October - December Q4 = January - March

MILESTONE DESCRIPTION	'04 Q1	'04 Q2	'04 Q3	'04 Q4	'05 Q1	'05 Q2	'05 Q3	'05 Q4	'06 Q1	'06 Q2	'06 Q3	'06 Q4	'07 Q1	'07 Q2	'07 Q3	'07 Q4	'08 Q1	'08 Q2	'08 Q3	'08 Q4

SCHEDULE "F"
FINANCIAL ASSISTANCE

Total Eligible Costs:	\$
Federal Maximum Financial Assistance:	\$
Ontario Maximum Financial Assistance:	\$
Maximum Financial Assistance:	\$

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

MINISTRY COLLABORATES WITH CLIENT ON AN APPROPRIATE PROJECT SCHEDULE

SCHEDULE "G" FEDERAL REQUIREMENTS

The Ministry and the Recipient agree to the following Federal Requirements:

1. The Recipient acknowledges and agrees that the amount of Financial Assistance being provided by the Ministry is dependent on the Ministry receiving funds for the Project from the Federal Government. Should the Ministry not receive the funds it expects to receive in relation to the Project from the Federal Government, the Ministry may, in its sole 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 represents and warrants to the Federal Government that other than the Financial Assistance being provided pursuant to this Agreement, the Recipient has not and will not use any other funding received from the Federal Government towards any aspect of the Project.
3. The Recipient agrees to indemnify and hold harmless the Federal Government, its directors, officers, servants, employees and agents 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* (Ontario)) and for any and all liability for damages to property and injury to persons (including death) which the Federal Government, its directors, officers, servants, 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: (a) the performance of this Agreement or any breach of the terms of this Agreement by the Recipient, its officers, servants, employees and agents, 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.
4. The Recipient further agrees to indemnify and hold the Federal Government, its directors, officers, employees and agents, for any incidental, indirect, special or consequential damages, or any loss of use, revenue or profit, which the Federal Government, 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.
5. The Recipient acknowledges that the provisions of the *Access to Information Act* (Canada) and the *Privacy Act* (Canada) and regulations thereunder bind Her Majesty the Queen in right of Canada.
6. The Recipient acknowledges that the Federal Government is or will be the owner of certain distinguishing marks comprised of designs, trademarks and official marks in relation to COMRIF (the "Federal Licensed Marks") and the Recipient is subject to the requirements of

Section 13 (Communication and Recognition) of Schedule “A” of this Agreement, with appropriate changes, in relation to the Federal Licensed Marks.

7. 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.
8. Notwithstanding any provisions of this Agreement, all obligations of Canada incurred by virtue of this Agreement shall be subject to the *Financial Administration Act* (Canada).
9. All of the provisions of this Schedule “G” shall survive the expiration or early termination of this Agreement.
10. 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 Federal Government.
11. The Recipient acknowledges and agrees that the Federal Government may, in its sole discretion, exercise the Ministry’s right to monitor the Project, perform audits and/or gather data pursuant to the terms and conditions of this Agreement.

**SCHEDULE “H”
ADDITIONAL PROVISIONS**

The Ministry and the Recipient agree to the following additional provisions:

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

(a) If to the Ministry:

Ministry of [Enter name]
[address]

Phone: [no.]
Fax: [no.]
E-Mail: [address]

Attention: [Name, title]

(b) If to the Recipient:

[Click **here** and type municipality’s name]
[Click **here** and type street address & PO Box]
[Click **here** and type city/town], ON
[Click **here** and type postal code]

Phone: [Click **here** and type number]
Fax: [Click **here** and type city/town]
E-Mail: [address]

Attention: [Click **here** and type CAO or Clerk/Treasurer]

2. Other provisions:
3. Other Reporting Requirements: [e.g. bridge requirements]
4. Useful Life of Project Infrastructure: [i.e. no. of years]

SCHEDULE “I” COMMUNICATIONS REQUIREMENTS

Unless specified otherwise in Schedule “G”, for the purposes of this Schedule “I” 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 Senior Government and the Recipient.

General Principles

The Recipient will work with COMRIF officials and other partners to undertake communication activities ensuring equal recognition of all parties making a significant financial contribution to the Project.

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

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 announcements, ceremonies, signs and plaques unless the COMRIF Joint Secretariat provides otherwise.

All announcements and ceremonies will be organized jointly with equal participation from all parties making a significant financial contribution to the Project.

Both official languages will be used for public information, signs and plaques in accordance with Canada’s language standards for Projects.

Signs and Plaques

The Recipient must comply with the COMRIF style guide when designing all signs and plaques as set out below:

- COMRIF style guide and digital templates are available from the COMRIF website at www.comrif.ca. For more information, please contact the COMRIF Joint Secretariat at 1-866-306-7827.

The Recipient will ensure that proofs of all Project signs and plaques are reviewed by the COMRIF Joint Secretariat before installation.

Responsibilities

The Recipient is responsible for producing and erecting Project signs to communicate the nature of the Project and the involvement of the Senior Government and the Recipient. Project signage will be erected at all sites, facilities, etc. where the Financial Assistance is being used, as negotiated with the COMRIF Joint Secretariat.

The Recipient shall erect signs and install plaques as directed by this Schedule. The relevant standards and procedures are outlined in the following paragraphs.

External Project Signs (Temporary)

- External Project Signs (at least 120cm high x 240cm wide / four feet high by eight feet wide) are required where the Maximum Financial Assistance exceeds \$100,000, the Project is underway and where the duration of the Project is longer than three months. Larger signs (240cm high by 480cm wide / eight feet high or sixteen feet wide) are required where the Maximum Financial Assistance exceeds \$1,000,000, where the Project is under way and where the duration of the Project is longer than six months.
- External Project signs will follow the approved design and guidelines outlined in the COMRIF style guide. These guidelines provide specifications such as the required positioning of government logos and those of its public and/or private sector partners, as appropriate.
- Both official languages will be used for public information, signs and plaques when required by Canada's language standards for Projects.
- The Recipient will submit proofs via e-mail or fax of the external Project signs to the COMRIF Joint Secretariat for approval.
- The Recipient will oversee the manufacture of the sign and ensure that the selected location of the sign does not restrict access, pose any hazard or interfere with facilities and services (e.g. electrical systems, drainage, etc.).
- The Recipient will ensure that the Project signs are erected in prominent locations at the Project site as soon as possible after the execution of this Agreement and no later than 10 days after the start of construction. Erected signs should be maintained for up to 30 days following Project completion. The Recipient will arrange for sign removal and re-cycling following the 30-day period.
- Signs should be freestanding, securely assembled and erected, away from other distracting signs. No other sign, including those of design and/or engineering firms and/or contractors involved with the Project, should be attached to the Project sign.
- The Recipient is responsible for sending to the COMRIF Joint Secretariat, within 30 days of receipt of the COMRIF approval of design proofs, a photograph (digital or otherwise) that portrays the erected sign in relation to the Project.
- Where the Maximum Financial Assistance does not exceed \$50,000, the Recipient may, at its option, install a sign (following the requirements of this Schedule) and the costs associated with so doing will be an Eligible Cost in accordance with this Schedule.

Plaques (Permanent)

- Upon completion of a Project where the Maximum Financial Assistance exceeds \$500,000, the Recipient will install a permanent plaque using acrylic, photo sublimation, cast aluminium or cast bronze. If the Maximum Financial Assistance exceeds \$1,000,000, the Recipient will install a permanent plaque using cast aluminium or cast bronze.
- Permanent plaques may follow the design outlined in the COMRIF style guide or use a style suited to the building, provided all governments and partner logos are included.
- Costs for plaques will be part of the Project's Eligible Costs in accordance with this Schedule.
- The Recipient will submit proofs of the plaques to the COMRIF Joint Secretariat for approval.
- Both official languages will be used for public information, signs and plaques when required by Canada's language standards for Projects.
- Upon completion of a Project where the Maximum Financial Assistance does not exceed \$500,000, the Recipient may, at its option, install a permanent plaque (following the requirements of this Schedule) and the costs associated with so doing will be an Eligible Cost in accordance with this Schedule.

Eligible Costs

External Project Signs (Temporary)

Small sign: 120 cm high by 240 cm wide/4 feet by 8 feet

Production –	\$1,250
Installation –	<u>1,000</u>
TOTAL	<u>\$2,250</u>

Large sign: 240 cm high x 480 cm wide/8 feet by 16 feet

Production –	\$2,250
Installation –	<u>2,000</u>
TOTAL	<u>\$4,250</u>

Plaques (Permanent)

Plaque: 71 cm high x 45.7 cm wide/28 inches high by 18 inches wide

Cast Bronze \$2,500 for one colour

Cast Aluminum \$2,000 for up to three colours

Engraved Acrylic \$1,500 for up to three colours

Embedded Acrylic \$400 for up to three colours

Photo Sublimation \$100 for up to three colours

Announcements and Ceremonies

Senior Government, in cooperation with the Recipient, is responsible for organizing the Project approval announcement. Milestone events, such as ground-breakings and ribbon-cuttings, will be organized by the Recipient, in cooperation with the Senior Government. All governments must be equally represented at all events.

When asked by elected representatives or designated officials from the Senior Government, the Recipient will coordinate a mutually agreeable venue, date and time for the event in light of the availability of participants from all levels of government. The Senior Government will consider announcing Projects by news release only when scheduling conflicts prevent announcing Project approval through a local event within 45 days of final approval by the Senior Government.

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 soon as possible, and in consultation with the Senior Government, prior to the event.

After the participants, date and location have been determined, the Recipient should send out invitations to all guests.

Where appropriate, the Recipient should invite the general public by posting notices in public areas, such as post office and libraries or by placing public service announcements in the local media.

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 COMRIF.

The Recipient could arrange for light refreshments to be served after the event, for example coffee, tea, juice, donuts and muffins.

The Recipient will have an opportunity to provide input into the agenda, news release, etc. and will receive final copies.

To ensure the COMRIF visual identity is visible at all events, a COMRIF backdrop and/or lectern sign will be provided to the Recipient for the event. Federal, provincial and municipal flags should also be on display at all COMRIF events.

Responsibilities

The Recipient will:

- make all local arrangements (e.g., podium, flags as appropriate, seating for speakers, shovels for ground-breaking ceremonies or ribbon for opening ceremonies, etc.) if required;
- produce invitation and guest list and distribute invitations;
- display Project material;
- choose a Master of Ceremonies, if required;

- arrange for refreshments if desired; and,
- arrange for a public address system if appropriate.

Eligible Costs

A portion of a recommended event (sod turning, plaque unveiling, ribbon-cutting, official opening) will be funded in accordance with this Agreement. In order for a cost to be considered an Eligible Cost for the purposes of this Schedule, COMRIF Joint Secretariat must pre-approve the budget related to the event. No more than \$750 of Eligible Costs will be considered.

Only costs associated with events recommended by the Senior Government will be considered Eligible Costs.

The Project may be of such regional or provincial significance that it warrants a major event (such determination to be made by the COMRIF Joint Secretariat, in its sole discretion). If this is the case, specific Project budgets above \$750 in Eligible Costs may be permitted with the prior approval of the COMRIF Management Committee.

For the purposes of announcements and ceremonies, Eligible Costs include the following:

- Printing and mailing invitations
- Refreshments*
- Draping for plaque unveiling
- Project material for display and/or media kit
- Temporary signage
- Rentals such as:
 - flagpoles
 - stage
 - chairs
 - podium
 - PA system

*Only light refreshments such as coffee, tea, juice, donuts, muffins will be considered Eligible Costs.

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.

**SCHEDULE "J"
CASH FLOW REPORT**



**Canada – Ontario Municipal Rural Infrastructure Fund (COMRIF)
Fonds sur l'infrastructure municipale rurale Canada-Ontario**

MUNICIPAL CASH FLOW REPORT

Municipality Name:
File Number:
Contract Status:

Quarter	(April - June) Q1	(July - Sept.) Q2	(Oct. - Dec.) Q3	(Jan .- March) Q4
2004/05				
2005/06				
2006/07				
2007/08				
2008/09				

Prepared By:
Phone Number:
Report Date:

NOTES:

- 1) Please only include **Net Eligible Expenditures** -- total eligible costs net GST
- 2) If the project could not be completed within the timeframes of the program, please enter cost forecasts in the last quarter of the program
- 3) Previously reported information is provided for you. Should the information have changed, please provide the revised cash flow along with an explanation of the change

SCHEDULE " K"
PROGRESS REPORT



Canada – Ontario Municipal Rural Infrastructure Fund (COMRIF)
Fonds sur l'infrastructure municipale rurale Canada-Ontario

Progress Report
Rapport sur l'état d'avancement des travaux

Report # / Rapport n° _____ of / de _____ File # / Dossier n° _____

Project Start Date / de début du projet : _____

Project End Date / Date de fin du projet : _____

Local Government Name / Nom de la municipalité : _____

Estimated % of Project Completion / Estimation du pourcentage des travaux réalisés : ____%

Detailed Description / Description détaillée :

Communications Requirements / Besoins en matière de communication :

Issues / Points à souligner :

Signature / Signature: _____ Date / Date: _____

SCHEDULE " L "

CLAIM REPORT

Canada		Ontario		Canada-Ontario Municipal Rural Infrastructure Fund (COMRIF) Claim Statement							
				Demande de remboursement - Fonds sur l'infrastructure municipale rurale Canada-Ontario (FIMRCO)							
Part 1 - Project Information / Partie 1 - Renseignements sur le projet											
Municipality / Municipalité		Project Claim # / No de la demande de remboursement pour		Project Representative / Représentant(e) du projet		Authorized Official responsible autorisé(e)		Name / Nom		Date / Date	
Period Covered by this Claim / Période visée par la demande		Telephone # / No de téléphone		FAX # / No de télécopieur				Title / Titre			
From / De		To / à						I certify the costs are eligible costs and in compliance with the provincial legal agreement. / J'atteste que les dépenses déclarées sont des dépenses admissibles et conformes à l'intente de financement.			
Project # / No de projet		Project Name / Nom du projet		Final Claim (Yes/No) / Demande finale (Oui/Non)						Signature / Signatur	
Part 2 - New Invoices / Partie 2 - Nouvelles factures											
Invoice # / No de facture	Date / Date	Period of Invoices / Période visée par la facture		Vendor Name / Nom du fournisseur	Work Description / Description des travaux A. Preliminary Engineering; B. Engineering; C. Project Management; D. Construction; E. Survey; F.	Invoice Amount / Montant de la facture	GST Rebate / Remboursement de la TPS	Net Claim Amount / Montant net demandé	Paid / Payé (Yes/No) / (Oui/Non)	Cheque # / No de chèque	
		From / De	To / à								
TOTAL / TOTAL						\$	-	\$	-	\$	-
Part 3 - Confirmation of Payment of Invoice on Prior Claims											
Partie 3 - Confirmation du paiement des factures visées par les remboursements											
Previous Claim # / No de demande antérieure	Invoice # / No de facture	Date Paid / Date de paiement	Cheque # / No de chèque	Amount / Montant	Total of All Invoices Claimed for this project / Total de toutes les factures déclarées pour ce projet	\$	Total Project Cost / Coût total du projet				
					Total of all Invoices Claimed and Paid by the Recipient / Total de toutes les factures déclarées et payées par le bénéficiaire	\$	Total Eligible Cost / Coût admissible total du				
					Total of All Invoices Claimed but not Paid by the Recipient / Total de toutes les factures déclarées mais non payées par le bénéficiaire	\$	Federal Funding / Financement fédéral				
							Provincial Funding / Financement provincial				
							Municipal Funding / Part municipale				

SCHEDULE " M "
FINAL REPORT



Canada-Ontario Municipal Rural Infrastructure Fund (COMRIF) Final Project Report
Rapport de projet final du Programme Fonds sur l'infrastructure municipale rurale Canada-Ontario (FIMRCO)

ONTARIO SMALL TOWN AND RURAL (OSTAR) DEVELOPMENT INFRASTRUCTURE INITIATIVE
INITIATIVE DÉVELOPPEMENT DES COLLECTIVITÉS RURALES ET DES PETITES LOCALITÉS DE L'ONTARIO

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

Municipality/Municipalité
File Number/Numéro de dossier
Project Name/Nom du projet
Eligible Project Cost/Coût admissible du projet
\$
Total Project Cost/Coût 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 provincial - municipal 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'affirme par la présente que le projet nommé a été terminé conformément à l'accord provincial-municipal et que, le cas échéant, toutes les mesures d'atténuation environnementales nommées ont été adressées de façon acceptables 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 l'annexe 2 de la demande)

Preliminary Engineering / Conception préliminaire	\$	GROSS PROJECT TOTAL / PROJET BRUT TOTAL	\$
Engineering / Ingénierie	\$	Less G.S.T. Rebate / Moins remboursement de la T.P.S.	\$
Construction / Construction	\$	NET PROJECT TOTAL / PROJET NET TOTAL	\$
Project Management / Gestion de projet	\$		
Surveys / Sondages	\$	Project Start Date / Date du début du projet	
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			