

**Schedule "A"**  
**to By-Law Number 2558 (2004)**  
**(Ongoing Projects)**

(1)	(2)	(3)	(4)
<u>By-Law Number/ Project Number</u>	<u>Description of Capital Work</u>	<u>Estimated Expenditure</u>	<u>Loan Amount</u>
By-law #2486 (2003)	Reconstruction of Canboro Road from Regional Road #24 to Haist Street – approximately 7km	\$2.5 million	\$2.5 million

**Schedule "B"**  
**to By-Law Number 2558 (2004)**

**OMEIFA Application**

## Financing Agreement

Effective as of this 2<sup>nd</sup> day of March, 2004

Among: The Ontario Municipal Economic Infrastructure Financing Authority (herein after referred to as "**OMEIFA**");

And

The Regional Municipality of Niagara (herein after referred to as the "**Region**")

And

The Town of Pelham (herein after referred to as the "**Municipality**")

### Whereas:

OMEIFA has advised the Region that its loan application dated June 26, 2003 (the "**Application**"), a copy of which is annexed hereto as Schedule "A", has been approved; and

OMEIFA agrees to make long term financing available to the Region up to a maximum aggregate principal amount of \$2,500,000 (TWO MILLION, FIVE HUNDRED THOUSAND DOLLARS) and agrees to make short term financing available to the Municipality up to a maximum aggregate principal amount of \$2,500,000 (TWO MILLION, FIVE HUNDRED THOUSAND DOLLARS) (the "**Committed Amount**") for the project(s) listed in the Application and more particularly described in Schedule "B" (the "**Project Schedule**") hereto (each, a "**Project**"), subject to the terms and conditions set out in this Agreement.

**Now therefore** for good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged by the parties, the Region, the Municipality and OMEIFA hereby agree as follows:

1. **Definitions.** In this Agreement:
  - (a) "**Act**" means the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended from time to time.
  - (b) "**Agreement**" means the agreement constituted by this agreement including all attached schedules, as the same may be amended, restated, modified or replaced from time to time. Terms such as "hereof", "herein" and "hereto" refer to this Agreement.

- (c) **"BA (Bankers Acceptance) Rate"** means, on any day, the annual rate of interest which is the average 30 day rate applicable to Canadian Dollar bankers' acceptances appearing on the "Reuters Screen CDOR Page" (as defined in the International Swap Dealers Association, Inc. definitions, as modified and amended from time to time) as of 10:00 a.m. on such day or, if such day is not a Business Day, then on the immediately preceding Business Day; provided, however, if such rates do not appear on the Reuters Screen CDOR Page as contemplated, then the BA Rate on any day shall be calculated by OMEIFA as the arithmetic mean of the 30 day rates applicable to Canadian Dollar bankers' acceptances quoted by five major Canadian Schedule I chartered banks as of 10:00 a.m. on such day or, if such day is not a Business Day, then on the immediately preceding Business Day. Initially, the five major Canadian Schedule I banks will be Royal Bank of Canada, Canadian Imperial Bank of Commerce, The Bank of Nova Scotia, Bank of Montreal and The Toronto-Dominion Bank (the **"Reference Banks"**). If fewer than five of the Reference Banks quote the aforementioned rate on the days and at the times described above, the "BA Rate" shall be the arithmetic mean of the rates quoted by the remaining Reference Banks.
- (d) **"Business Day"** means a day on which banking institutions in Toronto, Ontario, the Region and the Municipality are not authorized or obligated by law or executive order to be closed, other than Saturday or Sunday.
- (e) **"Committed Amount"** has the meaning given to it in the second recital hereof; and when used in reference to an Eligible Category, "Committed Amount" means that portion of the Committed Amount allocated to that Eligible Category in Schedule "C" hereto and when used in reference to a particular Project "Committed Amount" means the portion of the Committed Amount allocated to such Project in Schedule "C" hereto.
- (f) **"Eligible Category"** means one of the categories so designated in section C of the Application in respect of which the Municipality has requested financing.
- (g) **"Facility Termination Date"** means the earlier of March 2, 2009 and the date on which the obligations of OMEIFA hereunder have been terminated pursuant to paragraphs 12(b) or 12(c) hereof.
- (h) **"Interest Period"** for an Advance means: (i) initially, the period from and including the date of the Advance to but not including the next following "Reset Date" (as defined in paragraph 8 hereof); and (ii) subsequently, each period from and including a Reset Date to but not including the next following Reset Date.
- (i) **"Issue Date"** for a Debenture means the date on which the Debenture is issued.
- (j) **"Obligations"** means all Advances evidenced by the promissory note issued pursuant to this Agreement and any unpaid interest thereon.

- (k) **"Prime Rate"** means, on any day, the annual rate of interest which is the arithmetic mean of the prime rates announced from time to time by the Reference Banks as their reference rates in effect on such day for Canadian dollar commercial loans made in Canada. If fewer than five of the Reference Banks quote a prime rate on such days, the "Prime Rate" shall be the arithmetic mean of the rates quoted by the remaining Reference Banks.
- (l) **"Principal Amount"** of an interest-bearing Debenture means the amount stated to be payable at maturity, exclusive of any interest.
- (m) **"Proposed Completion Date"** for a Project means the date so designated for the Project in the Project Schedule.

2. **Representations and Warranties:** The Region, with regard to subparagraphs (c), (f) and (g) and the Municipality with regard to subparagraphs (a), (b) (d), (e) and (f), represent and warrant to OMEIFA that:

- (a) the information contained in the Application, to the extent that it relates to the Municipality or the Project(s), is true and correct in all material respects;
- (b) the financing applied for in the Application relates only to expenditures in respect of the Project(s) that were or will be actually incurred by the Municipality on or after January 1, 2003 and that will be incurred prior to the date of any Advance;
- (c) long term financing for the Project(s) by way of one or more debentures (**"Debentures"**) to be issued to OMEIFA and the entering into of this Agreement have been approved by by-law duly passed by the Council of the Region in full compliance with the Act and the regulations made thereunder and more particularly described in Schedule "D.1" hereto (the **"Regional Authorizing By-law"**);
- (d) the Project(s) and short-term temporary financing for such Project(s) by way of one or more advances (**"Advances"**) and the entering into of this Agreement have been approved by the Municipality by by-law duly passed by the Council of the Municipality in full compliance with the Act and the regulations made thereunder and more particularly described in Schedule "D.2" hereto; (the **"Municipal Authorizing By-law"**);
- (e) the amount of financing allocated to each Project in the Municipal Authorizing By-law does not exceed the expenditures approved by the Municipality in respect of such Project;
- (f) the Municipality and the Region are not now subject to any restructuring order under Part V of the Act; accordingly, in the case of the Municipality, no approval of the Projects, the Application or the borrowings applied for in the Application is required to be given by any transition board or commission appointed in respect of the restructuring of the Municipality and in the case of the Region, no approval

of the issuance of the debentures is required to be given by any transition board or commission appointed in respect of the restructuring of the Region; and

- (g) the Region is not currently in default under any debentures or other debts of any kind and undertakes to immediately inform OMEIFA if it is in default under any such financial obligations at any time.

### 3. **Use of Proceeds.**

- (a) The Municipality covenants and agrees that the proceeds of all Advances and Debentures, subject to paragraph (b) below in the case of Debentures, shall be immediately applied only to expenditures actually incurred by the Municipality on or after January 1, 2003 in respect of hard and soft capital costs directly related to the Project(s) and not for any other purpose.
- (b) The Region covenants and agrees that the proceeds of each Debenture shall be immediately applied only to either:

- (1) pay the proceeds to the Municipality in respect of the Debenture Project(s), as hereinafter defined, or
- (2) legal costs and expenses directly related to the issue of such Debenture;

and not for any other purpose.

- (c) For greater certainty, OMEIFA is not responsible for ensuring that the proceeds of Advances and Debentures are in fact used in the manner specified in paragraph (a) or (b) above, respectively.

### 4. **Project Expenditure Requirements.**

- (a) The Municipality shall not request an Advance in respect of a Project hereunder unless expenditures in an amount no less than the amount of the Advance to be allocated to such Project (the "**Allocated Project Expenditures**") have actually been made by the Municipality prior to the date of such request.
- (b) Where the request for an initial Advance in respect of a Project is made after the first anniversary of this Agreement (the "**Expenditure Deadline**"), the Allocated Project Expenditures therefor must have been made no later than the Expenditure Deadline, as evidenced by a Treasurer's Certificate (as defined in paragraph 6). If such request for an initial Advance is made in respect of a Project for which the Allocated Project Expenditures were made on or after the Expenditure Deadline (each, a "**Late Project**"):
  - A. the request will be denied to the extent that it relates to such Late Project;

- B. the Late Project shall thereupon cease to be eligible for financing under this Agreement, and approval by OMEIFA for the Late Project shall be deemed to be withdrawn;
  - C. the Project Schedule shall be deemed to be amended to delete the Late Project; and
  - D. the Committed Amount for the Late Project shall be reduced to zero.
- (c) If expenditures on a particular Project in respect of which a binding contract has been entered into have been delayed beyond the Expenditure Deadline for reasons beyond the reasonable control of the Municipality (including without limitation, unusually adverse weather conditions, strike, lockout, shortage of labour or materials, acts of war or terrorism, change in law, court order, injunction, delay in obtaining necessary governmental approvals for which application has been made, but not including insufficient financing), the applicable Treasurer's Certificate (as defined in paragraph 6 below) shall specify such reasons, and OMEIFA may in its discretion agree to extend the Expenditure Deadline for such delayed expenditures, which shall be deemed to be the Expenditure Deadline for such Project.
5. **Evidence of Advances –Notes.** Each Advance hereunder shall be evidenced by an entry recorded by OMEIFA on the schedule to a grid promissory note of the Municipality in favour of OMEIFA substantially in the form of Schedule "E" hereto (the "**Note**"), which entry shall be presumed to be conclusive evidence of the matters recorded, absent manifest error; provided, however, that the failure of OMEIFA to make any such recording shall not affect the obligations of the Municipality under the Note.
6. **Procedure for Obtaining Advances.** The Municipality may request an Advance to be paid on either the 10<sup>th</sup> or the 20<sup>th</sup> day of any calendar month or the first Business Day following such date if such date is not a Business Day (either of which is defined as the "Advance Date") by delivering to OMEIFA at the address shown on Schedule "F" hereto no later than five Business Days prior to the Advance Date on which the Advance is required, by courier or fax, a certificate of the treasurer of the Municipality substantially in the form of Schedule "G" hereto in respect of the Advance so requested (a "**Treasurer's Certificate**")
7. **Conditions Precedent to Advances.** OMEIFA shall not be required to make any Advance until each of the following conditions precedent has been satisfied:
- (a) the Municipality shall have executed and delivered to OMEIFA a Note in respect of all Advances to be made under this Agreement;
  - (b) OMEIFA shall have received a Treasurer's Certificate in respect of the Advance requested;

- (c) at OMEIFA's discretion, if any issues that were raised in any audit conducted under paragraph 13 (a) have been resolved to OMEIFA's satisfaction and/or OMEIFA has neither required an audit under paragraph 13 (a) nor is such an audit ongoing;
- (d) the amount of the requested Advance, when added to the aggregate amount of all Advances then outstanding in respect of the Eligible Category relating to such requested Advance, shall not exceed the Committed Amount for that Eligible Category;
- (e) the representations and warranties of the Municipality set out in paragraph 2 hereof shall be true and correct as at the date of the Advance, as evidenced by the Treasurer's Certificate;
- (f) the Municipality shall not be in material default of any of its obligations under this Agreement as at the date of the Advance, as evidenced by the Treasurer's Certificate;
- (g) none of the events specified in paragraph 12(c) shall have occurred and be continuing;
- (h) expenditures on the Project(s) for which the Advance is requested shall have been made in accordance with paragraph 4, as evidenced by the Treasurer's Certificate; and
- (i) at OMEIFA's discretion, the Advance requested when added to the aggregate amount of all Advances then outstanding does not exceed the cash flow projections contained in the Application.

#### 8. **Interest on Advances.**

- (a) Each Advance shall bear interest at a floating rate per annum determined by the following formula (the "**Advance Interest Rate**"):
 
$$[0.5 \times (\text{BA Rate} + \text{Prime Rate})] \div 2.$$

The Advance Interest Rate for an Advance for the initial Interest Period shall be determined by OMEIFA as at the date of the Advance on the basis of the BA Rate and Prime Rate then in effect. The Advance Interest Rate for each subsequent Interest Period shall be reset on the first Business Day of each calendar month (each such Business Day, a "**Reset Date**") for the following Interest Period on the basis of the BA Rate and Prime Rate in effect on the Reset Date, which Advance Interest Rate as so reset shall apply to the Advance for such Interest Period until reset again.

- (b) Interest accrued during an Interest Period on the principal balance of an Advance outstanding during such Interest Period shall be payable in arrears on the first



Business Day of the calendar month following the Interest Period in an amount equal to the product of the Advance Interest Rate in effect during such Interest Period and the principal balance of the Advance outstanding as at the Reset Date for such Interest Period multiplied by a fraction, the numerator of which is the number of days in the Interest Period and the denominator of which is 365 or 366 as appropriate.

- (c) Payments of interest shall be made by pre-authorized debit from an account of the Municipality maintained with a deposit-taking institution, such account to be designated by notice in writing to OMEIFA by the execution and delivery of the attached Schedule I to this Agreement, which Schedule forms part of this Agreement, together with such other authorizations, voided cheques and other documentation as the deposit-taking institution and the rules of the Canadian Payments Association may require for such pre-authorized debit, and the Municipality undertakes to notify OMEIFA immediately in writing of any changes in its designated account for the purposes of pre-authorized debits.
- (d) The Municipality shall pay to OMEIFA interest on any overdue amount of principal or interest in respect of any Advance, both before and after demand, default, maturity and judgment, at a rate per annum equal to the Prime Rate plus 200 basis points, calculated on a daily basis from the date such amount becomes overdue for so long as such amount remains overdue, and the Municipality shall pay to OMEIFA any and all costs and losses incurred by OMEIFA as a result of the payment having been overdue.
- (e) For purposes of disclosure pursuant to the *Interest Act* (Canada), the yearly rate of interest which is equivalent to a rate of interest payable in respect of the principal amount of any Advance for any period of less than a year may be determined by multiplying the rate of interest for such period by a fraction, the numerator of which is the actual number of days in a year commencing on and including the first day in such period and ending on but excluding the corresponding day in the next calendar year and the denominator of which is the actual number of days in such period.

#### 9. **Purchase of Debentures.**

- (a) Provided that the Municipality is not in default under this Agreement and none of the events specified in paragraph 12(c) shall have occurred and be continuing, and upon satisfaction of such other usual and customary conditions precedent as OMEIFA and its counsel may reasonably require, and subject to paragraph 10 hereof, OMEIFA agrees to purchase Debentures from the Region, at a time to be determined in the sole discretion of OMEIFA, prior to the Facility Termination Date in an aggregate Principal Amount not to exceed the Committed Amount.
- (b) The purchase price for any Debentures purchased in accordance with paragraph 9(a) shall be satisfied by virtue of and to the extent of the satisfaction of the

Obligations effected by such issuance pursuant to paragraph 10(e). Satisfaction of such purchase price by such means shall be deemed to be equivalent for all purposes, including without limitation the purposes of subsection 413(1) of the Act, to the receipt by the Region from OMEIFA of a sum of money equal to the amount of the Obligations so satisfied. If such purchase price exceeds the amount of the Obligations so satisfied, OMEIFA shall pay such excess to the Region in immediately available funds upon the issue of the Debentures.

10. **Issue of Debentures and Repayment of Advances.**

- (a) As used herein, the **"Substantial Completion Date"** of a Project is the date on which the contract for the Project has been "substantially performed" for the purposes of section 2(1) of the *Construction Lien Act* (Ontario), as amended (the **"CLA"**), whether or not the CLA applies to such Project, subject to the following provisions:
  - A. Substantial performance of a Project may be evidenced by a certificate of substantial performance as provided in the CLA, or if the Project is not subject to the CLA, by a certificate of a qualified architect, engineer or project manager stating that the Project satisfies the criteria set out in section 2(1) of the CLA (a **"Certificate of Substantial Performance"**) obtained by the Municipality. The date specified on any Certificate of Substantial Performance shall be conclusively deemed to be the Substantial Completion Date of the Project absent manifest error or fraud.
  - B. The Municipality shall give notice to OMEIFA and to the Region of the Substantial Completion Date for each Project within 30 days after its occurrence, together with a copy of the relevant Certificate of Substantial Performance.
  - C. If by any date the Municipality has not obtained a Certificate of Substantial Performance for a Project but on such date the Project in fact satisfies the criteria set out in section 2(1) of the CLA, as evidenced by any source deemed by OMEIFA to be reasonably reliable, such date shall be the Substantial Completion Date for the Project notwithstanding that a Certificate of Substantial Performance has not been obtained.
- (b) All Obligations relating to a particular Project shall be due and payable in full on the date (the **"Maturity Date"**) that is the first Business Day of the calendar month following the 30 day period after the earlier of the Substantial Completion Date and the Proposed Completion Date for such Project, subject to OMEIFA's right to extend the Maturity Date in its sole discretion. The Municipality shall satisfy the Obligations on the Maturity Date by:

- A. paying an amount equal to the Obligations to OMEIFA in immediately available funds;
  - B. converting the Obligations into long term financing by requesting the Region to issue to OMEIFA one or more Debentures in a principal amount at least equal to the Obligations to be satisfied; or
  - C. any combination of A or B
- (c) No Advance may be prepaid in whole or in part prior to its Maturity Date.
- (d) If one or more Debentures are to be issued to OMEIFA on the same Issue Date in an aggregate principal amount (the "**Principal Amount**") that is less than the aggregate amount of the Obligations then outstanding, then prior to the issue of any such Debenture(s), the Municipality shall designate by notice in writing to OMEIFA and to the Region the Project or Projects (each, a "**Debenture Project**") in respect of which the Debenture(s) will be issued, the Advances that will be repaid by the proceeds of such issue (the "**Related Advances**") and the portion of the Principal Amount of the Debenture(s) that relates to each such Debenture Project.
- (e) OMEIFA is not responsible for ensuring that the proceeds of any Debenture are in fact used for the Debenture Project(s) designated as such by the Municipality pursuant to paragraph (d) nor that any Advance designated as a Related Advance by the Municipality in fact relates to the Debenture Project(s) designated as such by the Municipality pursuant to paragraph (d) above.
- (f) The issuance of Debentures shall satisfy an amount of the Obligations then outstanding to the extent of the aggregate Principal Amount of such issuance. If such aggregate Principal Amount is less than the amount of the Obligations then outstanding, then the Related Advances shall be repaid to the extent of such aggregate Principal Amount.
- (g) If any portion of the total expenditures relating to a Debenture Project in respect of which the Related Advances are repaid by way of conversion into a Debenture has been financed by Non-OMEIFA Funds, the percentage of the Principal Amount of such Debenture allocated to such Debenture Project shall not exceed the percentage of Project expenditures financed by the Related Advances pending the issue of such Debenture(s).
- (h) The interest rate for each Debenture (the "**Debenture Interest Rate**") shall be fixed at a rate to be effective at the time of issue at an annual rate of interest equal to the rate posted on OMEIFA's web site (<http://www.omeifa.on.ca>) applicable to the type and term of the Debenture on the Issue Date of the Debenture.

11. **Right of Deduction.** As security for the satisfaction of the Region of the Debentures and by the Municipality of the Obligations, the Region and the Municipality hereby agree, pursuant to subsections 18(1) and (2) of the *Ontario Municipal Economic Infrastructure Financing Authority Act, 2002* (Ontario), as amended from time to time hereafter, that the Minister of Finance is entitled to deduct from money appropriated by the Legislative Assembly of Ontario for payment to the Region or to the Municipality as appropriate, or from money appropriated by such Assembly for payment to the Region or to the Municipality as appropriate, in respect of such matters as may be specified, amounts not exceeding the amounts that the Region or the Municipality fails to pay to OMEIFA on account of the Debentures or the Obligations and to pay such amounts to OMEIFA.
  
12. **Term, Termination and Default.**
  - (a) This Agreement shall terminate ten Business Days following the date on which the last Obligations outstanding hereunder are paid in full unless earlier terminated in accordance with paragraphs (b) or (c) below.
  
  - (b) OMEIFA may terminate its obligations under this Agreement on 30 days prior notice in writing to the Region and to the Municipality if in the reasonable opinion of OMEIFA the Region and/or the Municipality is in material default under this Agreement, other than for any cause enumerated in (c) below.
  
  - (c) OMEIFA may terminate its obligations under this Agreement immediately, subject to paragraph (d) below,
    - A. (i) if the Municipality:
      - (1) fails to make one or more payments of interest on the Note within 5 Business Days after the same becomes due and payable;
      - (2) reaches or exceeds its updated debt and financial obligation limit received from the Ministry of Municipal Affairs;
      - (3) has failed to meet and pay any of its debts or liabilities when due and default in payment is occasioned from financial difficulties affecting the Municipality;
      - (4) has or may develop financial problems such that default or unusual difficulty in meeting debts or obligations or in providing adequate funds to meet current expenditures may ensue, or has failed to levy the necessary rates to meet current expenditures;

- (ii) if the Ontario Municipal Board makes an order under section 21 of the *Municipal Affairs Act* (Ontario), as amended, or any successor legislation to vest in the Ministry of Municipal Affairs control and charge over the administration of all the affairs of the Municipality as set forth in the order;
  - (iii) if issues raised in an audit required under paragraph 13 (a) have not been resolved to OMEIFA's satisfaction within a reasonable time after the Municipality has been notified of such issues.
- B.
  - (i) if the Region:
    - (1) reaches or exceeds its updated debt and financial obligation limit received from the Ministry of Municipal Affairs;
    - (2) has failed to meet and pay any of its debentures or interest thereon when due and after payment thereof has been duly demanded;
    - (3) has failed to meet and pay any of its other debts or liabilities when due and default in payment is occasioned from financial difficulties affecting the Region ;
    - (4) has or may develop financial problems such that default or unusual difficulty in meeting debts or obligations or in providing adequate funds to meet current expenditures may ensue, or has failed to levy the necessary rates to meet current expenditures;
  - (ii) if the Ontario Municipal Board makes an order under section 21 of the *Municipal Affairs Act* (Ontario), as amended, or any successor legislation to vest in the Ministry of Municipal Affairs control and charge over the administration of all the affairs of the Region as set forth in the order; or
  - (iii) if issues raised in an audit required under paragraph 13 (a) have not been resolved to OMEIFA's satisfaction within a reasonable time after the Region has been notified of such issues.
- (d) If OMEIFA elects to terminate its obligations under this Agreement pursuant to paragraph 12(c) hereof, it shall give notice in writing of such termination to the Region and to the Municipality, specifying the reason for such termination. Upon delivery of such notice OMEIFA shall have no further obligation to make any Advances hereunder. In such notice OMEIFA may also declare all Obligations outstanding hereunder and under the Note to be immediately due and payable, whereupon such Obligations shall become immediately due and payable; and in addition to any rights or remedies that OMEIFA may have at law or in equity to

enforce such Obligations, OMEIFA may request that the Minister of Finance exercise the authority described in paragraph 11.

**13. General Provisions.**

- (a) OMEIFA reserves the right to audit compliance with this Agreement at any time. The cost of any such audit will be at OMEIFA's or the Region's or the Municipality's expense at OMEIFA's discretion. The Region and the Municipality are required to keep any supporting documents required for any such audit for a minimum of seven years.
- (b) No amendment, supplement, restatement or termination of any provision of this Agreement is binding unless it is in writing and signed by each party.
- (c) The Municipality shall comply during the term of this Agreement with the signage and other communications requirements set out in Schedule "H" hereto.
- (d) Neither the Region nor the Municipality may assign its rights or transfer its obligations under this Agreement without the prior written consent of OMEIFA. OMEIFA may assign its rights or transfer its obligations under this Agreement without the prior written consent of the Region or the Municipality by giving 30 days notice of such assignment or transfer to the Region and the Municipality. This Agreement enures to the benefit of and binds the parties and their respective successors and permitted assigns.
- (e) This Agreement, together with the Application, the Debentures and the Note, constitutes the entire agreement between the parties with respect to the subject matter referenced in those documents and supersedes all prior agreements, negotiations, discussions, undertakings, representations, warranties and understandings, whether written or oral.
- (f) Each party shall from time to time promptly execute and deliver all further documents and take all further action reasonably necessary or appropriate to give effect to the provisions and intent of this Agreement.
- (g) This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in the Province of Ontario.
- (h) This Agreement and any amendment, supplement, restatement or termination of any provision of this Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitute one and the same instrument.
- (i) Either party may deliver an executed copy of this Agreement by fax but that party shall immediately deliver to the other party an originally executed copy of this Agreement.

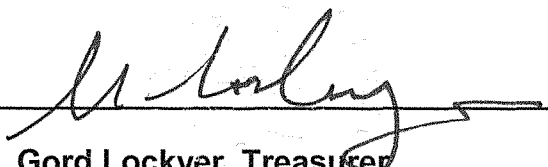
- (j) Unless otherwise specified, each notice to a party must be given in writing and delivered personally or by courier, sent by prepaid registered mail or transmitted by fax to the address or fax number set out in Schedule "F".
- (k) If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, the illegality, invalidity or unenforceability of that provision will not affect:
  - A. the legality, validity or enforceability of the remaining provisions of this Agreement; or
  - B. the legality, validity or enforceability of that provision in any other jurisdiction.

IN WITNESS WHEREOF the parties hereto have executed the Agreement effective as of the date first above written.

**ONTARIO MUNICIPAL ECONOMIC INFRASTRUCTURE FINANCING AUTHORITY**


per:   
Bill Ralph, Chief Executive Officer

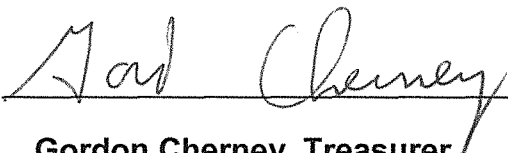
**The Regional Municipality of Niagara**

per:   
Gord Lockyer, Treasurer

Executed by the above parties as authorized by By-Law # 21-2004 of the Region.

**The Town of Pelham**

per:   
Ron Leavens, Mayor

per:   
Gordon Cherney, Treasurer

Executed by the above parties as authorized by By-Law # 2558 (2004) of the Municipality.



**SCHEDULE "A"**

**[Loan Application]**

ONTARIO MUNICIPAL ECONOMIC INFRASTRUCTURE FINANCING AUTHORITY



2003 Loan Application

Application Id: 120

Ontario Municipal Economic

Date: 26-Jun-03

JUN 27 2003

Infrastructure Financing Authority

**A. GENERAL INFORMATION**

Name of Municipality: Niagara R  
Address: 2201 St David's Road  
Thorold  
L2V 4T7

Code MMAH : 18000  
MUNID: 26000

Questions regarding the information contained in the application form should be addressed to:

Name: John Murphy  
Telephone: 905 685-4225 ext.3294  
Fax No.: 905 682-8521  
e-mail: jmurphy@regional.niagara.on.ca

This Application form must be signed by an authorized official

Name of Clerk or Clerk/Treasurer: Gord Lockyer  
Telephone: 905 685-4225 ext. 3635

Signature:

A handwritten signature in black ink, appearing to read 'Gord Lockyer', written over a horizontal line.

Date:

6/26/03

**B. BANK ACCOUNT INFORMATION - to be completed by borrowing Municipality**

**Account Information for Direct Deposit:**

Name of Bank: Royal Bank

Branch Transit #: 4222

Street Address: 89-91 St Paul Street

Acc't. #: 026-5

St Catharines

L2R 6X2

**Account Information for Direct Withdrawal (if different from above account):**

Name of Bank:

Branch Transit #:

Street Address:

Acc't. #:

\*\*\* Please attach a 'Void Cheque' corresponding to the above mentioned accounts\*\*\*

C. PROJECT INFORMATION

Under the Eligible Category column, indicate one (or more if applicable) of the following categories related to the project: Clean Water Infrastructure, Sewage Treatment Facilities, Municipal Roads, Municipal Bridges, Public Transit, Waste Management Infrastructure and the borrowing Municipality.

For the financing term, please note that the length of the term cannot exceed the useful life of the project - max. 40 year under sub-section 408 (3) of the Municipal Act.

Municipality Name:      Niagara R			Total OMEIFA Borrowing Requested (\$)
ProjectID	Eligible Category	Benefiting Municipality (may be more than one)	
	Municipal Roads	Pelham T	\$2,500,000.00

D. TERMS OF FINANCING (Short Term)

OMEIFA provides both short-term borrowing (interim financing while the project is under construction) and long-term borrowing (financing when the project is complete). Please provide information in either one or both sections, based on your borrowing needs.

Municipality Name:    Niagara R

TEMPORARY BORROWING FOR WORKS (INTERIM FINANCING)

Benefiting Municipality		Pelham T
Eligible Category		Municipal Roads
Estimated Construction Dates	Start	1-Jan-03
	Finish	30-Nov-04
Year		2003
Months		January
Estimated Drawdown Amount		\$2,500,000.00

**Ontario Municipal Economic Infrastructure Financing Authority  
2003 Loan Application**

**D. TERMS OF FINANCING**

OMEIFA provides both short-term borrowing (interim financing while the project is under construction) and long-term borrowing (financing when the project is complete). Please provide information in either one or both sections, based on your borrowing needs.

Municipality Name: TOWN OF PELHAM

**TEMPORARY BORROWING FOR WORKS (INTERIM FINANCING)**

	Estimated Construction Dates		Estimated Drawdown Schedule												
Eligible Category	Start	Finish	Year	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Clean Water Infrastructure			2003	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2004	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2005	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Sewage Treatment Facilities			2003	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2004	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2005	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Municipal Roads			2003	\$ -	\$ -	\$ 2,140	\$ 20,330	\$ 20,330	\$ 20,330	\$ 102,720	\$ 537,943	\$ 537,943	\$ 537,943	\$ 390,761	\$ -
			2004	\$ 235,400	\$ -	\$ -	\$ -	\$ 47,080	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 47,080	\$ -
			2005	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Municipal Bridges			2003	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2004	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2005	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Public Transit			2003	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2004	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2005	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Waste Management Infrastructure			2003	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2004	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2005	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$

John Morphy  
Sep 29/03. OK'd  
change

*John Murphy  
Instruct  
@ Sep  
29/03.*

*John Murphy  
Sep 29/03 - OK'd  
change*

D. LONG TERM FINANCING

For the financing term, please note that the length of term cannot exceed the useful life of the project, or a maximum of 40 years under sub-section 408 (3) of the Municipal Act

Municipality Name:      Niagara R

Benefiting Municipality:      Pelham T

Eligible Category      Municipal Roads

Amount of Loan (\$)      \$2,500,000.00

Date when Funds are Required      1-Dec-04

Requested Term of Loan (years)      10

Type of Loan  
(Amortizing or Serial)      Serial

ONTARIO MUNICIPAL ECONOMIC INFRASTRUCTURE FINANCING AUTHORITY

E. PROJECT FINANCING

\*\*\*If applying on behalf of one or more municipalities, complete separate copies of the next three pages for each additional municipality.

MUNICIPALITY OF: Town of Pelham

Total combined project costs.	\$2,500,000.00
Proposed OMEIFA loan amount.	\$2,500,000.00
Difference between total combined project costs and OMEIFA loan amount.	\$0.00

SOURCES OF FINANCING:

Revenue Fund Contributions:

- Taxation
- User Fees and Service Charges
- Sub-Total (including other Revenue Fund Sources)

Reserves & Reserve Funds Contributions:

- Reserves & Reserve Funds (excluding Development Charges)
- Development Charges Reserve Funds
- Sub-Total

Grants:

- Provincial Grants
- Federal Grants
- Sub-Total

Other Financing:

- Please specify:
- Please specify:
- Please specify:
- Sub-Total

If you plan to repay a portion of the OMEIFA loan through water or sewer charges, please provide a brief description of how you plan to do this?:

ONTARIO MUNICIPAL ECONOMIC INFRASTRUCTURE FINANCING AUTHORITY

F: FEDERAL AND PROVINCIAL GRANTS

Municipality

Town of Pelham

Eligible Category:

Municipal Roads

Name of Funding Program

Not Applicable

Status of Application

Applied for Funding

No

Funding Approved

No

Allocation Received

No

Total Project Cost

\$0.00

Allocation of Funding

Federal Contribution

Provincial Contribution

Municipal Contribution

Subtotal

\$0.00

PROGRAM

AMOUNT

Other Provincial Funding

Subtotal

\$0.00

G. DEBT SUMMARY

	2001	2002	2003
Total Debt, as of Jan 1:	\$94,357,000.00	\$100,641,000.00	\$129,742,000.00
New Debt Forecast:	\$23,747,000.00	\$46,584,000.00	\$48,896,000.00
Debt Retired:	\$17,463,000.00	\$17,483,000.00	\$21,463,000.00
Total Debt, as of Dec 31	\$100,641,000.00	\$129,742,000.00	\$157,175,000.00

	2004	2005	2006
Total Debt, as of Jan 1:	\$157,175,000.00	\$183,173,000.00	\$227,649,000.00
New Debt Forecast:	\$49,442,000.00	\$67,753,000.00	\$70,561,000.00
Debt Retired:	\$23,444,000.00	\$23,277,000.00	\$27,993,000.00
Total Debt, as of Dec 31	\$183,173,000.00	\$227,649,000.00	\$270,217,000.00

ONTARIO MUNICIPAL ECONOMIC INFRASTRUCTURE FINANCING AUTHORITY

G1. DEBT SUMMARY FOR BENEFITING MUNICIPALITY

Municipality Name: Town of Pelham

	2001	2002	2003
Total Debt, as of Jan 1:	\$112,325.00	\$1,258,594.00	\$1,146,402.00
New Debt Forecast:	\$1,172,255.00	\$0.00	\$2,500,000.00
Debt Retired:	\$25,986.00	\$112,192.00	\$119,358.00
Total Debt, as of Dec 31	\$1,258,594.00	\$1,146,402.00	\$3,527,402.00
	2004	2005	2006
Total Debt, as of Jan 1:	\$3,527,044.00	\$3,700,530.00	\$3,874,067.00
New Debt Forecast:	\$500,000.00	\$500,000.00	\$500,000.00
Debt Retired:	\$326,514.00	\$326,463.00	\$337,481.00
Total Debt, as of Dec 31	\$3,700,530.00	\$3,874,067.00	\$4,036,586.00

H. LITIGATION

Is there any litigation threatened or existing which would affect any projects or substantially impair the applicant's ability to pay debt service costs on its general obligation indebtedness? Please indicate yes or no. If yes, please attach a summary of such litigation including its current status.

No

I. NON-REPAYMENT OF LOANS OR DEBENTURES

In the last 10 years, have you ever failed to make a loan or debenture repayment on time to any lender, including the Provincial Government? If yes, please provide details.

No

J. PROVINCIAL GRANTS AS SECURITY

Please note: Section 18 of the *Ontario Municipal Economic Infrastructure Authority Act, 2002* states:

"As security for the payment by an entity of an amount that the entity has agreed to pay to the Authority or a related entity, as defined in subsection (3), on account of the indebtedness of the entity to the Authority or related entity, the entity may agree in writing with the Authority or related entity that the Minister is entitled to deduct from money appropriated by the Assembly for payment to the entity, or from money appropriated by the Assembly for payment to the entity in respect of specified matters, amounts not exceeding the amounts that the entity fails to pay to the Authority or related entity on account of the indebtedness. 2002, c. 22, Sched. A, s. 18 (1)."



ONTARIO MUNICIPAL ECONOMIC INFRASTRUCTURE FINANCING AUTHORITY

K. ATTACHMENTS (Please indicate by a checkmark those boxes which are applicable):

MUNICIPALITY: Town of Pelham

GENERAL

- ☐ Yes Certified copy of by-law authorizing the project borrowing
- ☐ Yes Certified copy of by-law authorizing Clerk or Clerk/Treasurer to apply for a loan.
- ☐ No Certified copy of project bylaw and environmental assessment
- ☐ No Certificate of no litigation
- ☐ No OMB approval if exceeding debt repayment limit
- ☐ Yes Updated Annual Repayment Calculation (to incorporate proposed OMEIFA loan)
- ☐ No Detailed Project Information which would normally be prepared to support a loan
- ☐ No Other

FOR WATER, SEWER AND WASTE MANAGEMENT PROJECTS

- ☐ No An explanation of the public health and safety concerns addressed by the proposed project using a Project Evaluation Schedule.
- ☐ No Copies of any supporting studies or investigations, or copies of the Environmental Study Report, if required under the Environmental Assessment Act.

FOR BRIDGES

- ☐ No Bridge Inspection Report
- ☐ No Identification of posted bridges

FOR TRANSIT

- ☐ No Council Resolution/ Approval
- ☐ No Any supporting reports, if applicable
- ☐ No Implementation schedule

FOR ROADS

- ☐ Yes Engineer design report ( TO BE PROVIDED )

ONTARIO MUNICIPAL ECONOMIC INFRASTRUCTURE FINANCING AUTHORITY

L. FINANCIAL PROJECTIONS

	2002	2003	2004
Net Revenue Fund Revenues	\$360,036,839.00	\$363,637,207.00	\$367,273,579.00
Net Debt Charges	\$24,843,366.00	\$29,366,646.00	\$32,420,108.00
Number of Households	169,100	170,500	172,400
Population	423,000	424,000	426,900

	2005	2006
Net Revenue Fund Revenues	\$370,946,314.00	\$374,655,778.00
Net Debt Charges	\$34,269,974.00	\$41,548,756.00
Number of Households	176,300	178,200
Population	430,800	432,700

As the Ontario Municipal Economic Infrastructure Financing Authority (OMEIFA) is subject to the provisions within the *Freedom of Information and Protection of Individual Privacy Act*, R.S.O. 1990, c. F. 31, information contained within this loan application may be subject to disclosure and access by a member or members of the general public.

Schedule “B”  
Project Schedule

Eligible Category	Description of Project	Proposed Completion Date
Municipal Roads	Canboro road Reconstruction	May 31, 2004

SCHEDULE “C”

Committed Amounts

Eligible Category	Project	Project Committed Amount	Category Committed Amount
Municipal Roads	Reconstruction of Canboro Road	\$2,500,000	
			\$2,500,000
Total Committed Amount			\$2,500,000

**SCHEDULE "D.1"**

**Authorizing By-Law**

**[upper-tier, lower tier in a county or single tier]**

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NUMBER ● 21-2004

A BY-LAW TO AUTHORIZE THE SUBMISSION OF AN APPLICATION TO THE ONTARIO MUNICIPAL ECONOMIC INFRASTRUCTURE FINANCING AUTHORITY ("OMEIFA") FOR FINANCING CERTAIN CAPITAL WORKS OF THE CORPORATION OF THE TOWN OF PELHAM; AND TO AUTHORIZE LONG TERM BORROWING FOR SUCH WORKS THROUGH THE ISSUE OF DEBENTURES TO OMEIFA

WHEREAS the *Municipal Act, 2001* (Ontario), as amended, (the "Act") provides that a municipal power shall be exercised by by-law unless the municipality is specifically authorized to do otherwise;

AND WHEREAS the Council of The Corporation of the Town of Pelham (the "**Lower-tier Municipality**"), a lower-tier municipality that forms part of The Regional Municipality of Niagara (the "**Upper-tier Municipality**") for municipal purposes has requested the Upper-tier Municipality to provide money for the purposes described in column (2) of Schedule "A" (individually an "**Ongoing Lower-tier Project**", collectively the "**Ongoing Lower-tier Projects**") attached hereto and forming part of this By-law (**Schedule "A"**) in the amount of the respective estimated expenditure set out in column (3) of Schedule "A";

AND WHEREAS before the Council of the Lower-tier Municipality approved each Ongoing Lower-tier Project, in accordance with section 4 of Ontario Regulation 403/02, the Council of the Lower-tier Municipality had its Treasurer update its most recent annual debt and financial obligation limit received from the Ministry of Municipal Affairs (as so updated, the "**Prior Updated Lower-tier Limit**"), and, on the basis of the authorized expenditure for each Ongoing Lower-tier Project as set out in column (3) of Schedule "A" (referred to hereinafter as the "**Authorized Expenditure**" for each such Ongoing Lower-tier Project) the Treasurer calculated the estimated annual amount payable in respect of each Ongoing Lower-tier Project and determined that the estimated annual amount payable in respect of each Ongoing Project would not exceed the Prior Updated Lower-tier Limit, and accordingly the approval of the Ontario Municipal Board under the *Ontario Municipal Board Act* (Ontario), as amended, was not required before any such Ongoing Lower-tier Project was authorized by Council;

AND WHEREAS subsection 405(1) of the Act provides that a municipality may authorize temporary borrowing to meet expenditures made in connection with a work to be financed in whole or in part by the issue of debentures if,

- (a) the municipality is an upper-tier municipality, a lower-tier municipality in a county or a single-tier municipality and it has approved the issue of debentures for the work;

- (b) the municipality is a lower-tier municipality in a regional municipality and it has approved the work and the upper-tier municipality has approved the issue of debentures for the work; or
- (c) the municipality has approved the issue of debentures for another municipality or a school board under section 404;

AND WHEREAS subsection 405(4) of the Act provides that a municipality may delegate the power set out in subsection 405(1) to the head of council, to the treasurer, or to both of them;

AND WHEREAS subsection 403(1) of the Act provides that a by-law of an upper-tier municipality authorizing the issuing of debentures for the purposes or joint purposes of one or more of its lower-tier municipalities may require those lower-tier municipalities to make payments in each year to the upper-tier municipality in the amounts and on the dates specified in the by-law.

AND WHEREAS subsection 401(1) of the Act provides that a municipality may incur a debt for municipal purposes, whether by borrowing money or in any other way, and may issue debentures and prescribed financial instruments and enter prescribed financial agreements for or in relation to the debt;

AND WHEREAS subsection 401(3) of the Act provides that a lower-tier municipality in a regional municipality does not have the power to issue debentures;

AND WHEREAS the Act also provides that a municipality shall authorize long term borrowing by the issue of debentures or through another municipality under section 403 or 404 of the Act and subsection 403(7) of the Act provides that all debentures issued under a by-law passed by an upper-tier municipality under section 403 are direct, joint and several obligations of the upper-tier municipality at its lower-tier municipalities;

AND WHEREAS OMEIFA has invited Ontario municipalities desirous of obtaining temporary and long term debt financing in order to meet capital expenditures incurred after December 31, 2002 in connection with eligible capital projects to make application to OMEIFA for such financing by completing and submitting an application in the form provided by OMEIFA;

AND WHEREAS the Lower-tier Municipality requested the Upper-tier Municipality to issue debentures for the Projects and in this connection the Upper-tier Municipality and the Lower-tier Municipality submitted an Application (hereinafter the "**Application**") to OMEIFA to request financing in order to meet capital expenditures incurred after December 31, 2002 in connection with the Projects (the "**Project Expenditures**") by way of long term borrowing pursuant to section 403 of the Act through the issue of debentures to OMEIFA and by way of temporary borrowing pursuant to section 405 of the Act;

AND WHEREAS OMEIFA has accepted and has approved such Application;

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF NIAGARA ENACTS AS FOLLOWS:


1. The Upper-tier Municipality hereby approves the issue of debentures for the Lower-tier Projects in the maximum aggregate principal amount of \$2,500,000 and the Council of the Upper-tier Municipality hereby confirms, ratifies and approves the completion by the Treasurer of the Application and the submission by such authorized official of the Application by the Upper-tier Municipality, duly executed by such authorized official, to OMEIFA for the financing of the Lower-tier Projects through the issue of debentures in such maximum aggregate principal amount substantially in the form of Schedule "B" attached hereto and forming part of this By-law with such changes thereon as such authorized official approved.
  2. The Treasurer is hereby authorized to negotiate and enter into, execute and deliver a financing agreement (a "**Financing Agreement**") with OMEIFA that provides for long term borrowing from OMEIFA in respect of the Lower-tier Projects on such terms and conditions as such authorized officials may approve, such execution and delivery to be conclusive evidence of such approval.
  3. Subject to the terms and conditions of the Financing Agreement and such other terms and conditions as OMEIFA may otherwise require, the Treasurer is hereby authorized to enter into long term borrowing in respect of the Lower-tier Projects and to issue debentures to OMEIFA on the terms and conditions provided in the Financing Agreement and on such other terms and conditions as such authorized officials may agree (the "**Debentures**"); provided that the principal amount of such Debentures in respect of a Lower-tier Project does not exceed the Authorized Expenditure for such Lower-tier Project and does not exceed the loan amount set out in column (4) of Schedule "A" in respect of such Lower-tier Project.
  4. In accordance with the provisions of section 18 of the *Ontario Municipal Economic Infrastructure Financing Authority Act, 2002* (Ontario), as security for the payment by the Upper-tier Municipality of Niagara any indebtedness of the Upper-tier Municipality to OMEIFA incurred under any Debentures, the Upper-tier Municipality is hereby authorized to agree in writing with OMEIFA that the Minister of Finance is entitled to deduct from any money appropriated by the Legislative Assembly of Ontario for payment to the Upper-tier Municipality or from money appropriated by the Assembly for payment to the Upper-tier Municipality in respect of specified matters, amounts not exceeding the amounts that the Upper-tier Municipality fails to pay to OMEIFA on account of the outstanding indebtedness evidenced by any Debentures issued by the Upper-tier Municipality to OMEIFA, and to pay such amounts to OMEIFA.
  5. For the purposes of meeting the obligations of the Upper-tier Municipality in respect of any Debentures to the extent that such amounts relate to Project Expenditures, the Upper-tier Municipality shall, in accordance with the Act, provide for raising in each year as part of the general upper-tier levy, the amounts of principal and interest payable in each year under any outstanding Debenture, to the extent that the amounts have not been provided for by any other available source including other taxes or fees or charges imposed on persons or property by a by-law of any
-



municipality. Without limiting the generality of the foregoing, the Lower-tier Municipality shall pay the aforesaid amounts to the Upper-tier Municipality one (1) business day before the date payment is due as such amounts are, under the Act, a debt of the Lower-tier Municipality to the Upper-tier Municipality and such amounts shall, when combined with any amount payable by the Upper-tier Municipality in the year for the repayment of the debt for which the Debentures will be issued, be sufficient to meet the total amount of principal and interest payable in each year by the Upper-tier Municipality in respect of the Debentures, all in accordance with the provisions of the Act. Furthermore, if the Lower-tier Municipality fails to make any payment or portion of it as provided in the by-law pursuant to which the Debentures are issued (the "**Debenture By-law**"), the Lower-tier Municipality shall, if the Act permits, pay interest to the Upper-tier Municipality on the amount in default at the rate of 15% per annum, from the date that the payment is due until it is made. In addition, if the Act provides that such is the case, there shall be raised pursuant to the Debenture By-law, in each year of the currency of the Debentures, as part of the general upper-tier levy, the amounts required to be paid to the Upper-tier Municipality in any previous year by the Lower-tier Municipality to the extent that the amounts have not been paid to the Upper-tier Municipality in accordance with the Debenture By-law.

6.
  - (a) The Treasurer is hereby authorized to enter into, execute and deliver the Financing Agreement and to cause Debentures to be issued, the Regional Chair, Regional Clerk and the Treasurer are severally hereby authorized to generally do all things and execute all other documents and papers in the name of the Upper-tier Municipality in order to perform the obligations of the Upper-tier Municipality under the Financing Agreement and to carry out the issue of the Debentures, and the Regional Clerk is authorized to affix the Upper-tier Municipality's municipal seal to any such documents and papers.
  - (b) The proceeds realized in respect of the Debentures, after providing for the expenses related to their issue, if any, shall be apportioned and applied for the respective Lower-tier Projects and for no other purpose except as permitted by the Act.
7. This By-law takes effect on the day of passing.

Enacted and Passed: February 19, 2004

  
(Peter Partington, Regional Chair)

  
(Pam Gilroy, Acting Regional Clerk)

Schedule "A"  
to By-Law Number ●

(1)	(2)	(3)	(4)
<u>By-Law Number/ Project Number</u>	<u>Description of Capital Work</u>	<u>Estimated Expenditure</u>	<u>Loan Amount</u>
2486 (2003)/	Reconstruction of Canboro Road between Regional Road #24 and Haist Street for a distance of approximately 7km	\$2,500,000	\$2,500,000



2003 Loan Application

Application Id: 120

Date: 26-Jun-03

A. GENERAL INFORMATION

Name of Municipality:	Niagara R	Code MMAH :	18000
Address:	2201 St David's Road	MUNID:	26000
	Thorold		
	L2V 4T7		

Questions regarding the information contained in the application form should be addressed to:

Name:	John	Murphy
Telephone:	905 685-4225 ext.3294	
Fax No.:	905 682-8521	
e-mail:	jmurphy@regional.niagara.on.ca	

This Application form must be signed by an authorized official

Name of Clerk or Clerk/Treasurer:	Gord Lockyer
Telephone:	905 685-4225 ext. 3635

Signature:	_____	Date:	_____
------------	-------	-------	-------

B. BANK ACCOUNT INFORMATION - to be completed by borrowing Municipality

Account Information for Direct Deposit:

Name of Bank:	Royal Bank	Branch Transit #:	4222
Street Address:	89-91 St Paul Street	Acc't. #:	026-5
	St Catharines		
	L2R 6X2		

Account Information for Direct Withdrawal (if different from above account):

Name of Bank:	Branch Transit #:
Street Address:	Acc't. #:

\*\*\* Please attach a 'Void Cheque' corresponding to the above mentioned accounts\*\*\*

C. PROJECT INFORMATION

Under the Eligible Category column, indicate one (or more if applicable) of the following categories related to the project: Clean Water Infrastructure, Sewage Treatment Facilities, Municipal Roads, Municipal Bridges, Public Transit, Waste Management Infrastructure and the borrowing Municipality.

For the financing term, please note that the length of the term cannot exceed the useful life of the project - max. 40 year under sub-section 408 (3) of the Municipal Act.

Municipality Name: Niagara R			Total OMEIFA Borrowing Requested (\$)
ProjectID	Eligible Category Municipal Roads	Benefiting Municipality (may be more than one) Pelham T	\$2,500,000.00

D. TERMS OF FINANCING (Short Term)

OMEIFA provides both short-term borrowing (interim financing while the project is under construction) and long-term borrowing (financing when the project is complete). Please provide information in either one or both sections, based on your borrowing needs.

Municipality Name: Niagara R

TEMPORARY BORROWING FOR WORKS (INTERIM FINANCING)

Benefiting Municipality		Pelham T
Eligible Category		Municipal Roads
Estimated Construction Dates	Start	1-Jan-03
	Finish	30-Nov-04
Year		2003
Months		January
Estimated Drawdown Amount		\$2,500,000.00

**Ontario Municipal Economic Infrastructure Financing Authority  
2003 Loan Application**

**D. TERMS OF FINANCING**

OMEIFA provides both short-term borrowing (interim financing while the project is under construction) and long-term borrowing (financing when the project is complete). Please provide information in either one or both sections, based on your borrowing needs.

Municipality Name: TOWN OF PELHAM

**TEMPORARY BORROWING FOR WORKS (INTERIM FINANCING)**

Eligible Category	Estimated Construction Dates		Estimated Drawdown Schedule												
	Start	Finish	Year	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Clean Water Infrastructure			2003	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2004	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2005	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Sewage Treatment Facilities			2003	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2004	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2005	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Municipal Roads			2003	\$ -	\$ -	\$ 2,140	\$ 20,330	\$ 20,330	\$ 20,330	\$ 102,720	\$ 537,943	\$ 537,943	\$ 537,943	\$ 390,761	\$ -
			2004	\$ 235,400	\$ -	\$ -	\$ -	\$ 47,080	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 47,080	\$ -
			2005	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Municipal Bridges			2003	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2004	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2005	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Public Transit			2003	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2004	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2005	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Waste Management Infrastructure			2003	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2004	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
			2005	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$

D. LONG TERM FINANCING

For the financing term, please note that the length of term cannot exceed the useful life of the project, or a maximum of 40 years under sub-section 408 (3) of the Municipal Act

Municipality Name:     Niagara R

Benefiting Municipality:             Pelham T

Eligible Category                     Municipal Roads

Amount of Loan (\$)                 \$2,500,000.00

Date when Funds are Required       1-Dec-04

Requested Term of Loan (years)     10

Type of Loan  
(Amortizing or Serial)               Serial

E. PROJECT FINANCING

\*\*\*If applying on behalf of one or more municipalities, complete separate copies of the next three pages for each additional municipality.

MUNICIPALITY OF: Town of Pelham

Total combined project costs.	\$2,500,000.00
Proposed OMEIFA loan amount.	\$2,500,000.00
Difference between total combined project costs and OMEIFA loan amount.	\$0.00

SOURCES OF FINANCING:

Revenue Fund Contributions:

- Taxation
- User Fees and Service Charges
- Sub-Total (including other Revenue Fund Sources)

Reserves & Reserve Funds Contributions:

- Reserves & Reserve Funds (excluding Development Charges)
- Development Charges Reserve Funds
- Sub-Total

Grants:

- Provincial Grants
- Federal Grants
- Sub-Total

Other Financing:

- Please specify:
- Please specify:
- Please specify:
- Sub-Total

If you plan to repay a portion of the OMEIFA loan through water or sewer charges, please provide a brief description of how you plan to do this?:

F: FEDERAL AND PROVINCIAL GRANTS

Municipality Town of Pelham

Eligible Category: Municipal Roads

Name of Funding Program Not Applicable

Status of Application

Applied for Funding

Funding Approved

Allocation Received

Total Project Cost

Allocation of Funding

Federal Contribution

Provincial Contribution

Municipal Contribution

Subtotal

PROGRAM AMOUNT

Other Provincial Funding

Subtotal

G. DEBT SUMMARY

	2001	2002	2003
Total Debt, as of Jan 1:	\$94,357,000.00	\$100,641,000.00	\$129,742,000.00
New Debt Forecast:	\$23,747,000.00	\$46,584,000.00	\$48,896,000.00
Debt Retired:	\$17,463,000.00	\$17,483,000.00	\$21,463,000.00
Total Debt, as of Dec 31	\$100,641,000.00	\$129,742,000.00	\$157,175,000.00
	2004	2005	2006
Total Debt, as of Jan 1:	\$157,175,000.00	\$183,173,000.00	\$227,649,000.00
New Debt Forecast:	\$49,442,000.00	\$67,753,000.00	\$70,561,000.00
Debt Retired:	\$23,444,000.00	\$23,277,000.00	\$27,993,000.00
Total Debt, as of Dec 31	\$183,173,000.00	\$227,649,000.00	\$270,217,000.00



G1. DEBT SUMMARY FOR BENEFITING MUNICIPALITY

Municipality Name: Town of Pelham

	2001	2002	2003
Total Debt, as of Jan 1:	\$112,325.00	\$1,258,594.00	\$1,146,402.00
New Debt Forecast:	\$1,172,255.00	\$0.00	\$2,500,000.00
Debt Retired:	\$25,986.00	\$112,192.00	\$119,358.00
Total Debt, as of Dec 31	\$1,258,594.00	\$1,146,402.00	\$3,527,402.00
	2004	2005	2006
Total Debt, as of Jan 1:	\$3,527,044.00	\$3,700,530.00	\$3,874,067.00
New Debt Forecast:	\$500,000.00	\$500,000.00	\$500,000.00
Debt Retired:	\$326,514.00	\$326,463.00	\$337,481.00
Total Debt, as of Dec 31	\$3,700,530.00	\$3,874,067.00	\$4,036,586.00

H. LITIGATION

Is there any litigation threatened or existing which would affect any projects or substantially impair the applicant's ability to pay debt service costs on its general obligation indebtedness? Please indicate yes or no. If yes, please attach a summary of such litigation including its current status.

No

I. NON-REPAYMENT OF LOANS OR DEBENTURES

In the last 10 years, have you ever failed to make a loan or debenture repayment on time to any lender, including the Provincial Government? If yes, please provide details.

No

J. PROVINCIAL GRANTS AS SECURITY

Please note: Section 18 of the *Ontario Municipal Economic Infrastructure Authority Act, 2002* states:

"As security for the payment by an entity of an amount that the entity has agreed to pay to the Authority or a related entity, as defined in subsection (3), on account of the indebtedness of the entity to the Authority or related entity, the entity may agree in writing with the Authority or related entity that the Minister is entitled to deduct from money appropriated by the Assembly for payment to the entity, or from money appropriated by the Assembly for payment to the entity in respect of specified matters, amounts not exceeding the amounts that the entity fails to pay to the Authority or related entity on account of the indebtedness. 2002, c. 22, Sched. A, s. 18 (1)."

K. ATTACHMENTS (Please indicate by a checkmark those boxes which are applicable):

MUNICIPALITY: Town of Pelham

GENERAL

- |                              |  |
|------------------------------|--|
| <input type="checkbox"/> Yes | Certified copy of by-law authorizing the project borrowing                         |
| <input type="checkbox"/> Yes | Certified copy of by-law authorizing Clerk or Clerk/Treasurer to apply for a loan. |
| <input type="checkbox"/> No  | Certified copy of project bylaw and environmental assessment                       |
| <input type="checkbox"/> No  | Certificate of no litigation   |
| <input type="checkbox"/> No  | OMB approval if exceeding debt repayment limit                                     |
| <input type="checkbox"/> Yes | Updated Annual Repayment Calculation (to incorporate proposed OMEIFA loan)         |
| <input type="checkbox"/> No  | Detailed Project Information which would normally be prepared to support a loan    |
| <input type="checkbox"/> No  | Other  |

FOR WATER, SEWER AND WASTE MANAGEMENT PROJECTS

- |                             |  |
|-----------------------------|--|
| <input type="checkbox"/> No | An explanation of the public health and safety concerns addressed by the proposed project using a Project Evaluation Schedule.                       |
| <input type="checkbox"/> No | Copies of any supporting studies or investigations, or copies of the Environmental Study Report, if required under the Environmental Assessment Act. |

FOR BRIDGES

- |                             |                                  |
|-----------------------------|----------------------------------|
| <input type="checkbox"/> No | Bridge Inspection Report         |
| <input type="checkbox"/> No | Identification of posted bridges |

FOR TRANSIT

- |                             |                                       |
|-----------------------------|---------------------------------------|
| <input type="checkbox"/> No | Council Resolution/ Approval          |
| <input type="checkbox"/> No | Any supporting reports, if applicable |
| <input type="checkbox"/> No | Implementation schedule               |

FOR ROADS

- |                              |   |
|------------------------------|---|
| <input type="checkbox"/> Yes | Engineer design report ( TO BE PROVIDED ) |
|------------------------------|---|

ONTARIO MUNICIPAL ECONOMIC INFRASTRUCTURE FINANCING AUTHORITY

L. FINANCIAL PROJECTIONS

	2002	2003	2004
Net Revenue Fund Revenues	\$360,036,839.00	\$363,637,207.00	\$367,273,579.00
Net Debt Charges	\$24,843,366.00	\$29,366,646.00	\$32,420,108.00
Number of Households	169,100	170,500	172,400
Population	423,000	424,000	426,900

	2005	2006
Net Revenue Fund Revenues	\$370,946,314.00	\$374,655,778.00
Net Debt Charges	\$34,269,974.00	\$41,548,756.00
Number of Households	176,300	178,200
Population	430,800	432,700

As the Ontario Municipal Economic Infrastructure Financing Authority (OMEIFA) is subject to the provisions within the *Freedom of Information and Protection of Individual Privacy Act*, R.S.O. 1990, c. F. 31, information contained within this loan application may be subject to disclosure and access by a member or members of the general public.

**SCHEDULE "D.2"**

**Authorizing By-Law**

**[lower-tier municipality in regional municipality]**

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MAR 1 2004

THE CORPORATION OF THE  
TOWN OF PELHAM

BY-LAW NO 2558 (2004)

A BY-LAW TO AUTHORIZE CERTAIN CAPITAL WORKS OF THE CORPORATION OF THE TOWN OF PELHAM (THE "MUNICIPALITY"); TO AUTHORIZE THE SUBMISSION OF AN APPLICATION TO THE ONTARIO MUNICIPAL ECONOMIC INFRASTRUCTURE FINANCING AUTHORITY ("OMEIFA") FOR FINANCING SUCH WORKS AND CERTAIN OTHER ONGOING WORKS; TO AUTHORIZE TEMPORARY BORROWING FROM OMEIFA TO MEET EXPENDITURES MADE IN CONNECTION WITH SUCH WORKS; AND TO AUTHORIZE LONG TERM BORROWING FOR SUCH WORKS THROUGH THE ISSUE OF DEBENTURES BY THE REGIONAL MUNICIPALITY OF NIAGARA (THE "UPPER-TIER MUNICIPALITY") TO OMEIFA

WHEREAS the *Municipal Act, 2001* (Ontario), as amended, (the "Act") provides that a municipal power shall be exercised by by-law unless the municipality is specifically authorized to do otherwise;

AND WHEREAS the Council of the Lower-tier Municipality has passed the by-laws enumerated in column (1) of Schedule "A" attached hereto and forming part of this By-law ("**Schedule "A"**") authorizing the ongoing capital works described in column (2) of Schedule "A" (individually, a "**Project**", collectively, the "**Projects**") in the amount of the respective estimated expenditure set out in column (3) of Schedule "A";

AND WHEREAS before the Council of the Lower-tier Municipality approved each Project, in accordance with section 4 of Ontario Regulation 403/02, the Council of the Lower-tier Municipality had its Treasurer update its most recent annual debt and financial obligation limit received from the Ministry of Municipal Affairs (as so updated, the "**Prior Updated Limit**"), and, on the basis of the authorized expenditure for each Project as set out in column (3) of Schedule "A" (referred to hereinafter as the "**Authorized Expenditure**" for each such Project) the Treasurer calculated the estimated annual amount payable in respect of each Project and determined that the estimated annual amount payable in respect of each Project would not exceed the Prior Updated Limit, and accordingly the approval of the Ontario Municipal Board under the *Ontario Municipal Board Act* (Ontario), as amended, was not required before any such Project was authorized by Council;

AND WHEREAS subsection 405(1) of the Act provides that a municipality may authorize temporary borrowing to meet expenditures made in connection with a work to be financed in whole or in part by the issue of debentures if,

- (a) the municipality is an upper-tier municipality, a lower-tier municipality in a county or a single-tier municipality and it has approved the issue of debentures for the work;
- (b) the municipality is a lower-tier municipality in a regional municipality and it has approved the work and the upper-tier municipality has approved the issue of debentures for the work; or
- (c) the municipality has approved the issue of debentures for another municipality or a school board under section 404;

AND WHEREAS subsection 405(4) of the Act provides that a municipality may delegate the power set out in subsection 405(1) to the head of council, to the treasurer, or to both of them;

AND WHEREAS subsection 403(1) of the Act provides that a by-law of an upper-tier municipality authorizing the issuing of debentures for the purposes or joint purposes of one or more of its lower-tier municipalities may require those lower-tier municipalities to make payments in each year to the upper-tier municipality in the amounts and on the dates specified in the by-law;

AND WHEREAS subsection 401(1) of the Act provides that a municipality may incur a debt for municipal purposes, whether by borrowing money or in any other way, and may issue debentures and prescribed financial instruments and enter prescribed financial agreements for or in relation to the debt;

AND WHEREAS subsection 401(3) of the Act provides that a lower-tier municipality in a regional municipality does not have the power to issue debentures and accordingly the Lower-tier Municipality intends that the Upper-tier Municipality will issue debentures in respect of the Projects and will request that the Upper-tier Municipality do so;

AND WHEREAS the Act also provides that a municipality shall authorize long term borrowing by the issue of debentures or through another municipality under section 403 or 404 of the Act and subsection 403(7) of the Act provides that all debentures issued under a by-law passed by an upper-tier municipality under section 403 are direct, joint and several obligations of the upper-tier municipality and its lower-tier municipalities;

AND WHEREAS OMEIFA has invited Ontario municipalities desirous of obtaining temporary and long term debt financing in order to meet capital expenditures incurred after December 31, 2002 in connection with eligible capital projects to make application to OMEIFA for such financing by completing and submitting an application in the form provided by OMEIFA;

AND WHEREAS the Lower-tier Municipality requested the Upper-tier Municipality to issue debentures for the Projects and in this connection the Upper-tier Municipality and the Lower-tier Municipality submitted an Application (hereinafter the "**Application**") to OMEIFA to request financing in order to meet capital expenditures incurred after December 31, 2002 in connection with the Projects (the "**Project Expenditures**") by way of long term borrowing pursuant to section 403 of the Act through the issue of debentures to OMEIFA and by way of temporary borrowing pursuant to section 405 of the Act;

AND WHEREAS OMEIFA has accepted and has approved such Application;

AND WHEREAS the Upper-tier Municipality has agreed to issue debentures for the Projects to OMEIFA in the maximum aggregate principal amount of \$2.5 million (the "**Debentures**"); and OMEIFA has indicated that pending the issue of the Debentures it will provide financing by way of temporary advances to the Lower-tier Municipality in respect of the Projects;

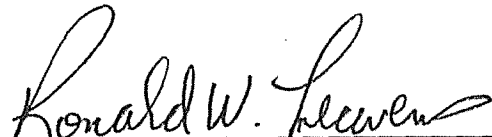
AND WHEREAS the Lower-tier Municipality will enter into a financing agreement with OMEIFA pursuant to the terms of which OMEIFA will provide temporary advances to the Lower-tier Municipality in respect of the Projects;

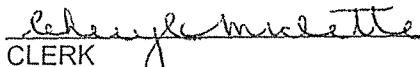
NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

1. The Council of the Lower-tier Municipality hereby confirms, ratifies and approves the completion by the Treasurer of the Application and the submission by such authorized official of the Application, to OMEIFA, in cooperation with the Upper-tier Municipality, for the financing of the Projects by way of temporary borrowing from OMEIFA, pending the issue of Debentures, in the maximum aggregate principal amount of \$2.5 million substantially in the form of Schedule "B" attached hereto and forming part of this By-law, with such changes thereon as such authorized official approved.
2. The **Mayor** and the **Treasurer** are hereby authorized to negotiate and enter into, execute and deliver for and on behalf of the Lower-tier Municipality a financing agreement (a "**Financing Agreement**") with OMEIFA that provides for temporary borrowing from OMEIFA in respect of the Projects on such terms and conditions as such authorized officials may approve, such execution and delivery to be conclusive evidence of such approval.

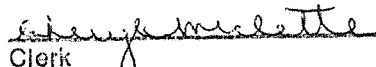
3. The **Mayor** and/or the **Treasurer** are hereby authorized, pending the substantial completion of a Project or as otherwise agreed with OMEIFA, to make temporary borrowings pursuant to section 405 of the Act in respect of such Project, on the terms and conditions provided in the Financing Agreement and on such other terms and conditions as such authorized officials may agree, and to sign such evidence of indebtedness as OMEIFA may require (a "Note"); and the Treasurer is authorized to sign such certifications as OMEIFA may require in connection with such borrowings in respect of the Projects; provided that the amount of borrowings allocated to any Project does not exceed the Authorized Expenditure for such Project and does not exceed the loan amount set out in column (4) of Schedule "A" in respect of such Project as appropriate.
4. In accordance with the provisions of section 18 of the *Ontario Municipal Economic Infrastructure Financing Authority Act, 2002* (Ontario), as security for the payment by the Lower-tier Municipality of any indebtedness of the Lower-tier Municipality to OMEIFA incurred under the Note, and as security for the payment by the Lower-tier Municipality of any indebtedness of the Lower-tier Municipality to the Upper-tier Municipality in respect of Debentures issued for any Projects, the Lower-tier Municipality is hereby authorized to agree in writing with OMEIFA that the Minister of Finance is entitled to deduct from money appropriated by the Legislative Assembly of Ontario for payment to the Lower-tier Municipality, or from money appropriated by the Assembly for payment to the Lower-tier Municipality in respect of specified matters, amounts not exceeding the amounts that the Lower-tier Municipality fails to pay to OMEIFA on account of the outstanding indebtedness evidenced by the Note issued by the Lower-tier Municipality to OMEIFA and on account of the outstanding indebtedness evidenced by Debentures issued by the Upper-tier Municipality to OMEIFA for any Projects, and to pay such amounts to OMEIFA.
5. For purposes of meeting the obligations of the Lower-tier Municipality in respect of the Note and any Debentures issued by the Upper-tier Municipality to OMEIFA for any Projects, the Lower-tier Municipality shall provide for raising in each year as part of the general lower-tier levy the amounts of principal and interest payable in each year under the Note or any such Debentures, to the extent that the amounts have not been provided for by any other available source including other taxes or fees or charges imposed on persons or property by a by-law of any municipality.
6.
  - (a) The **Mayor** and/or the **Treasurer** are hereby authorized to execute and deliver the Note, the **Mayor** and the **Treasurer** are hereby authorized to enter into, execute and deliver the Financing Agreement, the Clerk and Treasurer are hereby severally authorized to generally do all things and to execute all other documents and papers in the name of the Lower-tier Municipality in order to perform the obligations of the Lower-tier Municipality under the Financing Agreement and the Note, and the Treasurer is authorized to affix the Lower-tier Municipality's municipal seal to any such documents and papers.
  - (b) The proceeds realized in respect of the Note after providing for the expenses related to its execution and delivery, if any, shall be apportioned and applied to the respective Projects and to no other purpose except as permitted by the Act.
7. This By-law takes effect on the day of passing.

ENACTED AND PASSED this 1<sup>st</sup>. day of March, A.D. 2004.

  
\_\_\_\_\_  
MAYOR

  
\_\_\_\_\_  
CLERK

THE CORPORATION OF  
THE TOWN OF PELHAM  
CERTIFIED A TRUE COPY

  
\_\_\_\_\_  
Clerk

Schedule "A"  
to By-Law Number 2558 (2004)  
(Ongoing Projects)

(1)	(2)	(3)	(4)
<u>By-Law Number/ Project Number</u>	<u>Description of Capital Work</u>	<u>Estimated Expenditure</u>	<u>Loan Amount</u>
By-law #2486 (2003)	Reconstruction of Canboro Road from Regional Road #24 to Haist Street – approximately 7km	\$2.5 million	\$2.5 million



Schedule "B"  
to By-Law Number 2558 (2004)

OMEIFA Application

**SCHEDULE "E"**  
**PROMISSORY NOTE**

March 10, 2004

**FOR VALUE RECEIVED**, The Town of Pelham, ("**Borrower**"), hereby promises to pay to THE ONTARIO MUNICIPAL ECONOMIC INFRASTRUCTURE FINANCING AUTHORITY ("**Lender**") at the City of Toronto in lawful money of Canada in immediately available funds all amounts advanced (each, an "**Advance**") under this Grid Promissory Note (as amended, restated, supplemented or otherwise modified from time to time, this "**Note**"), as noted from time to time on the grid attached as Schedule "A" hereto, together with interest thereon and other amounts due as provided below.

1. This Note is issued pursuant to, and is subject to the terms and conditions of, the financing agreement dated March 2, 2004 between Borrower and Lender (the "**Financing Agreement**"). Capitalized terms used in this Note and not otherwise defined have the meanings ascribed to them in the Financing Agreement.
2. The aggregate amount of Advances outstanding hereunder shall at no time exceed \$2,500,000 (TWO MILLION, FIVE HUNDRED THOUSAND DOLLARS). Any amount of Advances in excess of \$2,500,000 (TWO MILLION, FIVE HUNDRED THOUSAND DOLLARS) shall be immediately repaid by Borrower without the need for demand by Lender.
3. Borrower authorizes Lender to record on Schedule "A" hereto the amount of each Advance and all repayments and prepayments of principal and interest and the unpaid balance of principal from time to time. Borrower agrees that in the absence of manifest error the record kept by Lender on Schedule A shall be conclusive evidence of the matters recorded. However, the failure of Lender to record or correctly record any amount or date shall not affect the obligations of Borrower under this Note to pay the outstanding principal amount and interest owing hereunder.
4. All Advances evidenced hereby and any unpaid interest thereon (collectively, the "**Obligations**") shall be due and payable on the dates and in the manner specified in paragraph 10 of the Financing Agreement unless earlier declared by Lender to be immediately due and payable pursuant to paragraph 12(d) of the Financing Agreement.
5. Each Advance from time to time outstanding hereunder shall bear interest from and including the date of such Advance to (but excluding) the date of repayment or satisfaction at an annual rate of interest equal to the Advance Interest Rate in effect during each Interest Period. Borrower shall pay such interest in arrears on the principal amount of Advances outstanding hereunder in the amounts

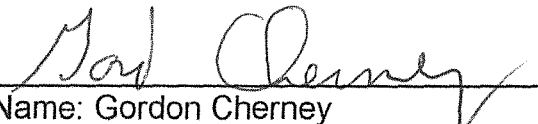
determined in accordance with paragraph 8 of the Financing Agreement at the Advance Interest Rate in effect during each Interest Period in accordance with paragraph 8(b) of the Financing Agreement, commencing on April 1, 2004 and on the first Business Day of each calendar month thereafter.

6. Calculation of interest under this Note shall be on the basis of a 365-day year for the actual days elapsed in the period during which it accrues. For purposes of disclosure pursuant to the *Interest Act* (Canada), the yearly rate of interest which is equivalent to a rate of interest payable in respect of the principal amount of any Advance for any period of less than a year may be determined by multiplying the rate of interest for such period by a fraction, the numerator of which is the actual number of days in a year commencing on and including the first day in such period and ending on but excluding the corresponding day in the next calendar year and the denominator of which is the actual number of days in such period.
7. Time is of the essence under this Note.
8. Borrower (i) waives diligence, demand, presentment, protest and notice of any kind, (ii) agrees that it will not be necessary for Lender to first institute suit in order to enforce payment of this Note and (iii) consents to any one or more extensions or postponements of time of payment, release, surrender or substitution of collateral security, or forbearance or other indulgence, without notice or consent. Borrower expressly hereby waives the pleading of any statute of limitations as a defense to any demand against Borrower.
9. Upon demand under this Note and on and after the Facility Termination Date, Lender shall have the right, but not the obligation to set-off against this Note all money owed by Lender to Borrower. In addition, as security for the payment by Borrower of the Obligations, Borrower hereby agrees, pursuant to subsections 18(1) and (2) of the *Ontario Municipal Economic Infrastructure Financing Authority Act, 2002* (Ontario), as amended, that the Minister of Finance is entitled to deduct from money appropriated by the Legislative Assembly of Ontario for payment to Borrower, or from money appropriated by such Assembly for payment to Borrower in respect of specified matters, amounts not exceeding the amounts that the Borrower fails to pay to Lender on account of the Obligations and to pay such amounts to Lender.
10. This Note shall be governed by and construed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable in the Province of Ontario.
11. All rights and remedies of Lender under this Note and under applicable law are in addition to and not in substitution for any other rights and remedies available to Lender, shall be cumulative, not exclusive and shall be enforceable alternatively, successively and concurrently.

13. This Note may be assigned by Lender without the consent of Borrower. However, this Note is not intended to be a negotiable instrument or bill of exchange.

Dated this 10th day of March, 2004●

The Town of Pelham

per:   
Name: Gordon Cherney  
Title: Treasurer

## Town of Pelham

### SCHEDULE A TO NOTE

(to be completed by OMEIFA)

[illegible]

**SCHEDULE "F"****Addresses for Notice**

Ontario Municipal Economic Infrastructure Financing Authority

1 Dundas Street West, Suite 1400

Toronto, Ontario

M7A 1Y7

Attn: Bill Ralph, Chief Executive Officer

Fax: 416-212-6452

The Regional Municipality of Niagara

2201 St. David's Road

Thorold, Ontario L2V 4T7

Attn: Gord Lockyer

Fax: 905-687-4977

The Town of Pelham

PO Box 400

20 Pelham Town Square

Fonthill, Ontario L0S 1E0

Attn: Gordon Cherney

Fax: 905-892-5055

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## SCHEDULE "G"

### Treasurer's Certificate

#### CERTIFICATE OF TREASURER REGARDING TEMPORARY FINANCING

IN THE MATTER OF an issue of debentures (the "**Debentures**") of The Regional Municipality of Niagara (the "**Region**") in the aggregate principal amount of \$2,500,000 (TWO MILLION, FIVE HUNDRED THOUSAND DOLLARS) as authorized by the Region by By-law # 21-2004 of the Region (the "Upper-Tier By-law"), which Debentures are to be issued to the Ontario Municipal Economic Infrastructure Financing Authority ("**OMEIFA**") to finance the works of the Town of Pelham (the "**Municipality**") described in column (2) of Schedule "A" of the Upper-Tier By-law (individually a "Project" and collectively the "Projects")

AND IN THE MATTER OF temporary financing to be obtained from OMEIFA to meet expenditures made in connection with the Projects, as authorized by the By-law # 2558 (2004) pending the issue of the Debentures by the Region

**TO: OMEIFA**

This Certificate is issued pursuant to the financing agreement between OMEIFA, the Region and the Municipality dated March 2, 2004 (the "**Financing Agreement**"). Capitalized terms used herein and defined in the Financing Agreement have the meanings ascribed to them in the Financing Agreement.

I, Gordon Cherney, the Treasurer of the Municipality, hereby request that OMEIFA make an Advance to the Municipality on the 20<sup>th</sup> of March, 2004 (the "**Advance Date**") in the principal sum of \$2,263,759.36 Dollars said principal sum as calculated using Schedule "A" to this Treasurer's Certificate, as authorized by the Authorizing By-law and as contemplated by the Financing Agreement (the "**Requested Advance**"), such Requested Advance to be evidenced by an entry on the Note as provided in the Financing Agreement and the Note.

I agree on behalf of the Municipality that the Requested Advance shall bear interest at the rate per annum equal to the Advance Interest Rate determined in accordance with the Financing Agreement as at the date hereof and that the Requested Advance shall be repayable out of the proceeds of the Debentures and otherwise at the time or times and in the manner set out in the Financing Agreement.


I hereby certify for and on behalf of the Municipality as follows:

1. Since the date of the last Advance, if any, the Municipality has expended funds on Projects, as noted on the attached Schedule A, (excluding financing costs) (each, a "Project Expenditure") and all amounts entered on such Schedule "A" are true and correct.
2. The principal amount of the Requested Advance has been calculated using Schedule "A" to this Treasurer's Certificate and all amounts used in such calculation are true and correct.
- [2 (a). {If certificate is dated after the first anniversary of the Financing Agreement}: All expenditures for Projects in respect of which an Advance has not been previously requested were made on or before the relevant Expenditure Deadline. [except in respect of the Project[s] listed in Schedule "B" (the "Delayed Projects"). Schedule "B" sets out the date[s] on which the first Project Expenditures for the Delayed Project[s] were made and the reasons for the delay pursuant only to s. 4(c) of the Financing Agreement.]
3. The aggregate amount of the Advances in respect of a Project do not exceed the expenditures for that Project as approved by the Authorizing By-law.
4. The amount of the Requested Advance, when added to the aggregate amount of Advances now outstanding in respect of the Eligible Category relating to the Requested Advance, does not exceed the Committed Amount for that Eligible Category.
5. The proceeds of the Requested Advance will be applied to one or more of the Project[s] and will not be applied to any other purposes.
6. An Authorizing By-law has been passed by the Council of the Municipality in full compliance with the *Municipal Act, 2001* (Ontario), as amended, (the "**Act**") and the regulations made thereunder.
7. Forthwith after the passage of the Authorizing By-law, the same was signed by the Head of the Council and the Clerk and sealed with the municipal seal of the Municipality.
8. No application has been made or action brought to quash, set aside or declare invalid the Authorizing By-law nor has the same been in any way repealed, altered or amended and the Authorizing By-law is now in full force and effect.
9. All of the recitals contained in the Authorizing By-law are true in substance and fact.
10. To the extent that the public notice provisions of the Act are applicable in respect of the Projects described in the Authorizing By-law, the Municipality has fully complied with such public notice provisions.



11. The Authorizing By-law and the transactions contemplated thereby do not conflict with, or result in a breach or violation of any statutory provisions which apply to the Municipality or any agreement to which the Municipality is a party or under which the Municipality or any of its property is or may be bound, or, to the best of my knowledge, violate any order, award, judgment, determination, writ, injunction or decree applicable to the Municipality of any regulatory, administrative or other government or public body or authority, arbitrator or court.
12. The representations and warranties of the Municipality set out in paragraph 2 of the Financing Agreement are true and correct as at the date hereof.
13. The Municipality is not in material default of any of its obligations under the Financing Agreement as at the date hereof and none of the events described in paragraph 12(c) of the Financing Agreement has occurred and is continuing.
14. The Municipality has not reached or exceeded its updated debt and financial obligation limit as at the date hereof.
15. No litigation or proceedings of any nature are now pending or threatened, attacking or in any way attempting to restrain or enjoin the temporary borrowing of the Municipality by way of the Requested Advance as authorized under the Authorizing By-law, or in any manner questioning the proceedings and authority under which such borrowing will be made, or the capacity of the officers of the Municipality authorized there under to make such borrowing, and no authority or proceedings for such borrowing or any part of it have been repealed, revoked or rescinded in whole or in part.
16. The Municipality is not now subject to any restructuring order under Part V of the Act or other statutory authority; accordingly, no approval of the Authorizing By-law, the Financing Agreement, or the transactions contemplated thereby, or of the Note or any Advance is required to be given by any transition board or commission appointed in respect of the restructuring of the Municipality.

DATED March 10<sup>th</sup>, 2004.

  
Gordon Cherney, Treasurer  
The Town of Pelham

Schedule A to  
"CERTIFICATE OF TREASURER REGARDING TEMPORARY FINANCING"  
ALL PROJECTS

Corporation of the Town of Pelham  
Municipality Name

Project Details	Total Cost	OMEIFA Loan Amount	OMEIFA %	Expenses To Date	Advances To Date	Allowable Advance	Requested Amount
<u>Water Projects</u>							
		-	0.00%	-	-	-	-
			0.00%			-	
			0.00%			-	
			0.00%			-	
			0.00%			-	
			0.00%			-	
Sub Total	-	-		-	-	-	-
<u>Sewage Projects</u>							
	-	-	0.00%	-		-	
			0.00%			-	
			0.00%			-	
			0.00%			-	
			0.00%			-	
			0.00%			-	
Sub Total	-	-		-	-	-	-
<u>Road Projects</u>							
Canboro Road Reconstruction	2,605,500.00	2,500,000.00	95.95%	2,359,290.00		2,263,759.36	
			0.00%			-	
			0.00%			-	
			0.00%			-	
			0.00%			-	
			0.00%			-	
Sub Total	2,605,500.00	2,500,000.00		2,359,290.00	-	2,263,759.36	-
<u>Bridge Projects</u>							
			0.00%			-	
			0.00%			-	
			0.00%			-	
			0.00%			-	
			0.00%			-	
			0.00%			-	
Sub Total	-	-		-	-	-	-
<u>Transit Projects</u>							
			0.00%			-	
			0.00%			-	
			0.00%			-	
			0.00%			-	
			0.00%			-	
			0.00%			-	
Sub Total	-	-		-	-	-	-
<u>Waste Projects</u>							
			0.00%			-	
			0.00%			-	
			0.00%			-	
			0.00%			-	
			0.00%			-	
			0.00%			-	
Sub Total	-	-		-	-	-	-
Total for Municipality	2,605,500.00	2,500,000.00		2,359,290.00	-	2,263,759.36	-


Total maximum loan advance reque 2,263,759.36

Amount per Treasurer's Certificate 2,263,759.36 \*  
\* amount can not exceed maximum above

Advance Date March 19/04

CERTIFIED

Date 10-Mar-04

Treasurer 

**SCHEDULE “H”**  
**OMEIFA COMMUNICATIONS REQUIREMENTS**

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**Purpose of Schedule**

This Schedule describes the Municipality’s responsibilities and financial obligations involved in producing, installing and maintaining signs and plaques as well as related communications materials in arranging announcements and ceremonies with respect to those infrastructure projects for which OMEIFA has provided loans (“OMEIFA Project”).

Municipalities should note that this schedule may be amended or altered by OMEIFA in its sole discretion from time-to-time.

**General Principles**

The Municipality will work with OMEIFA officials to ensure that the OMEIFA Project receives recognition and prominence in any communication activities that are undertaken. OMEIFA will have the final decision on approving all OMEIFA Project communication initiatives.

All ceremonies, events, signs and plaques and related communications materials produced for the OMEIFA Project will follow these Communications Requirements and any other requirements that may be specified by OMEIFA, from time to time.

The OMEIFA Project shall receive substantial recognition and prominence when logos, symbols, flags and other types of identification are incorporated into formal announcements/releases, ceremonies, signs and plaques unless OMEIFA officials direct otherwise.

All announcements and ceremonies will be organized jointly by both the Municipality and OMEIFA officials with respect to the specified OMEIFA Project.

Both English and French languages will be used for communication activities related to the OMEIFA Project, including public information, signs and plaques in accordance with the French Language Services Act, R.S.O. 1990, c. F.32.

## Signs and Plaques

In terms of style requirements for the production of signs and plaques for the OMEIFA Project, the Municipality should follow the visual identity guidelines as set out by the Management Board of Cabinet and OMEIFA officials. The Municipality must comply with the Management Board of Cabinet's *Visual Identity Directive* (for agencies) and OMEIFA's *Visual Identity Standards* when designing all signs and plaques. Copies of both documents will be supplied to the municipality by OMEIFA and are also available on the OMEIFA Web site at <[www.omeifa.on.ca](http://www.omeifa.on.ca)>.

The visual identity standards of any other partners in the project, such as the Government of Ontario or the Government of Canada, must also be followed. Government of Canada identity guidelines are managed by the Treasury Board, and information can be found at <[www.tbs-sct.gc.ca](http://www.tbs-sct.gc.ca)>.

The Municipality will ensure that proofs, including styles, products and materials used in the design and manufacture of all OMEIFA Project signs and/or plaques and any communications materials related to the announcement are first reviewed and approved by OMEIFA officials sufficiently in advance of the final installation and/or release.

## Responsibilities

The Municipality is responsible for erecting OMEIFA Project signs on all OMEIFA Project work sites.

The Municipality shall erect signs and install plaques as required and as directed by this Schedule. The relevant standards and procedures are outlined in the following paragraphs. The cost of all signage will be paid by the Municipality.

The Treasurer of the Municipality shall submit colour high resolution digital prints or photographs of the OMEIFA Project site, including the appropriate signage, to OMEIFA officials with each Treasurers' Certificate and shall provide any necessary consents for publication and any other usage of the digital prints or photographs.

## External OMEIFA Project Signs (Temporary)

- External OMEIFA Project Signs (at least 120cm high x 240cm wide / four feet high by eight feet wide) are required where the OMEIFA loan principal is an amount between \$40,000 and \$2.5 million. Larger signs (240cm high x 360cm or 480cm wide / eight feet high by twelve feet or sixteen feet wide) are required where the OMEIFA loan principal exceeds \$2.5 million.
- External OMEIFA Project signs shall follow the approved design and guidelines outlined in the Management Board of Cabinet's *Visual Identity Directive* and OMEIFA's *Visual Identity Standards*. These guidelines provide easy and uniform

public identification of OMEIFA and the Ontario Government, its programs and agencies through the use of graphic standards for logo use.

- Both English and French languages will be used for communication activities related to the OMEIFA Project, including public information, signs and plaques in accordance with the French Language Services Act, R.S.O. 1990, c. F.32. If appropriate, the Municipality may recommend other languages in regard to the Communications Requirements for the OMEIFA Project.
- The Municipality will submit proofs via electronic mail or facsimile of the external project signs to a designated OMEIFA official for approval prior to erecting the sign.
- The Municipality will oversee the installation of the sign and ensure that the selected location of the OMEIFA Project sign does not restrict accessibility, pose any hazard or interfere with facilities and services (e.g. electrical systems, drainage, etc.).
- The Municipality shall ensure that the OMEIFA Project sign is erected in a prominent location at the OMEIFA Project site as soon as possible after the execution of this Agreement and no later than 30 days after the start of construction. Erected signs should be maintained for up to 60 days following OMEIFA Project completion. The Municipality will arrange for sign removal and re-cycling of the sign following the 60-day period.
- Signs should be freestanding, securely assembled and erected, away from other signs to ensure that they are clearly visible. No other sign, including those of design and/or engineering firms and/or contractors involved with the OMEIFA Project, should be attached to the OMEIFA Project sign.
- The Municipality is responsible for sending to the designated OMEIFA official within 45 days of receipt of OMEIFA's approval of design proofs, a photograph (standard or digital) that portrays the erected sign in relation to the OMEIFA Project.

#### Plaques (Permanent)

- If the OMEIFA loan principal is \$500,000 or more and where the OMEIFA Project falls into any of the following categories; water or sewage treatment plants, waste management facilities and bridges, a plaque will be required to be installed in a visible and prominent location that will identify OMEIFA as one of the primary entities responsible for providing financing for the OMEIFA Project. Plaques must be installed within 90 days of OMEIFA Project completion.
  - At OMEIFA's discretion a plaque may be required if the OMEIFA loan principal is less than \$500,000 and/or where the OMEIFA Project falls into a category not identified above.
  - When the OMEIFA Project requires a permanent plaque, it must follow the design requirements outlined in the Management Board of Cabinet's *Visual Identity Directive* and OMEIFA's *Visual Identity Standards*.
-

- The Municipality will submit proofs of the plaques to a designated OMEIFA official for approval prior to the installation of the plaque.
- Both English and French languages will be used for communication activities related to the OMEIFA Project, including public information, signs and plaques in accordance with the *French Language Services Act*, R.S.O. 1990, c. F.32.

### **Announcements, Events and Project Updates**

There may be several public communication milestones throughout the duration of the OMEIFA Project that provide opportunities for announcements, events or updates on the project's progress. When requested by OMEIFA, the Municipality will coordinate a mutually agreeable venue, date and time for announcements, events or updates on the OMEIFA Project. Each announcement, event or update will be guided by the availability of participants from government or other partners.

The Municipality may invite other elected officials and members of council. The Municipality should also invite local interested parties, such as contractors, architects, labour groups, and community leaders.

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

When appropriate, the Municipality 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/releases, displays/posters, etc.) must indicate that the OMEIFA Project received a loan from OMEIFA and must use the Ontario logo in accordance with Ontario Government Visual Identity Guidelines. All written communications must also be in accordance with the *French Language Services Act*, R.S.O. 1990, c. F.32.

The Municipality will have an opportunity to provide input into any media advisories, news releases or other print materials produced by OMEIFA on behalf of the Government of Ontario and will receive final copies in advance of the announcement, event, update or the release of any material.

Depending on the size of the event site, a specially designed program backdrop, banner and/or lectern sign may be provided to the Municipality. Canadian (if the federal government is a participant), provincial and municipal flags should also be on display at all events and should be displayed according to protocol rules [www.ontariocanada.com/ontcan/en/about/a\\_oirp-protocol-contact.jsp](http://www.ontariocanada.com/ontcan/en/about/a_oirp-protocol-contact.jsp).

## **Responsibilities**

The Municipality will:

- make all local and event arrangements, including but not limited to: venue booking (if necessary), podium, flags as appropriate, platform (if necessary) and seating for speakers and guests, shovels for ground-breaking ceremonies or ribbon for opening ceremonies, etc. as required;
- develop invitation and guest list and distribute invitations;
- notify local media;
- display OMEIFA Project material;
- choose a Master of Ceremonies, if required;
- arrange for reasonable and appropriate refreshments (excluding alcoholic beverages) if desired; and,
- arrange for the necessary audio visual equipment if appropriate.

**SCHEDULE "I"**  
**Pre-Authorized Debit**  
**The Corporation of the Town of Pelham**

**Payor Authorization**

**TO: OMEIFA (the "Company")**

**To Direct Debit an Account**

**Account Holder (the "Customer"):**

Corporation of the Town of Pelham	Town of Pelham_Gen
Full Legal Name	Exact Name in which Account is Held

Box 400	905-892-2607
Address	Telephone Number

Fonthill	Ontario	L0S 1E0
City	Province	Postal Code

**Financial Institution (the "Bank"):**

<b>CIBC</b>	<b>1461 Pelham</b>
-------------	--------------------

_____	_____
Name of Bank	Address



Fonthill

Ontario

L0S 1E0\_\_\_\_\_

City

Province

Postal Code

73-00913

06672

010

Bank Account No.

Branch No.

Institution No.

### 1. Purpose of Debits

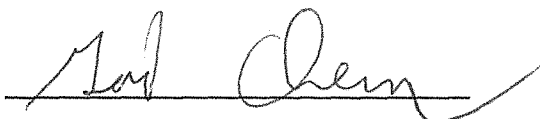
☒ Business PAD

### 2. Pre Notification of Amounts

**Fixed Amounts:** The Company will provide written notice of the amount to be debited and the date of the debit at least ten (10) calendar days before the date of the first debit and every time there is a change in the amount or payment date.

☒ The Customer and Company agree to waive the above pre notification requirements.

Authorized Signature of Customer:



Authorized Signature of Company:



### 3. Rights of Dispute

The Customer may dispute a debit under the following conditions: (i) the debit was not drawn in accordance with this Authorization; (ii) this Authorization was revoked or cancelled; or (iii) prenotification (as set out in paragraph 2 above) was not received.

In order to be reimbursed, the Customer must complete a Declaration Form at the above indicated branch of the Bank up to and including 10 calendar days, after the date on which the debit in dispute was posted to the Customer's account.

The Customer acknowledges that disputes after the above noted time limitations are matters to be resolved solely between the Company and Customer.

#### 4. Terms of Authorization to Debit the Above Account

The Customer authorizes the Company to debit the above account in the amount of \$ (intentionally left blank) on the 1<sup>st</sup> day of each month for payments payable to the Company in respect of its indebtedness to OMEIFA.

The Bank is not required to verify that any debits drawn by the Company are in accordance with this Authorization or the agreement made between the Customer and the Company.

It is acknowledged that this Authorization cannot be revoked without the express written agreement of the Company. This Authorization applies only to a method of payment and cancellation of this Authorization does not mean that the Customer's contractual obligations to the Company are ended.

The Customer will notify the Company promptly in writing if there is any change in the above account information.

Any delivery of this Authorization to the Company constitutes delivery by the Customer to the Bank. It is warranted by the Customer that all persons whose signatures are required to sign on the above account have signed this Authorization. The Customer acknowledges receipt of a signed copy of this Authorization.

Ronald W. Leaven March 11/04  
Signature(s) or Authorized Signature(s) of Account Holder(s) (Date)

D. Cherne March 11/04  
Signature(s) or Authorized Signature(s) of Account Holder(s) (Date)

\*\*\*\*\*For verification, please attach a blank cheque marked "VOID" below.\*\*\*\*\*

VENDOR NUMBER		Y	M	D	CHEQUE NUMBER	AMOUNT
DATE						
P.O. NUMBER	CONTROL	YOUR REFERENCE		AMOUNT	DESCRIPTION	

THE CORPORATION OF THE TOWN OF PELHAM  
P.O. BOX 400  
FONTHILL, ONT.  
L0S 1E0  
(905) 892-2607

INQUIRIES  
QUOTE ALL OF  
THE INFORMATION  
ON THIS STUB

VOID



THE CORPORATION OF THE TOWN OF PELHAM

P.O. BOX 400, FONTHILL, ONTARIO L0S 1E0

0006531

VENDOR NUMBER	YEAR	DATE MONTH	DAY	CHEQUE NUMBER	AMOUNT
CANADIAN IMPERIAL BANK OF COMMERCE FONTHILL, ONTARIO L0S 1E0					
GENERAL ACCOUNT					
AUTHORIZED SIGNING OFFICERS					

1:0667200101: 730091311