

#1197

SCHEDULE "A"

THIS AGREEMENT made in quadruplicate this 23rd day of June, 1988.

B E T W E E N :

THE CORPORATION OF THE TOWN OF GRIMSBY
Hereinafter called "Grimsby"

OF THE FIRST PART;

- and -

THE CORPORATION OF THE TOWN OF LINCOLN
Hereinafter called "Lincoln"

OF THE SECOND PART;

- and -

THE CORPORATION OF THE TOWN OF PELHAM
Hereinafter called "Pelham"

OF THE THIRD PART;

- and -

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN
Hereinafter called "West Lincoln"

OF THE FOURTH PART.

1. RECITALS

1.1 WHEREAS the Municipal Act, R.S.O. 1980, c.302, S.208, paragraph 5, provides, inter alia, that by-laws may be passed by the councils of all municipalities for entering into agreement with one or more municipalities to provide for the joint management and operation of garbage collection and disposal systems and for the establishment of joint boards of management thereof;

1.2 AND WHEREAS the said Municipal Act, S. 210, paragraph 83, provides inter alia, that by-laws may be passed by the councils for local municipalities for establishing and maintaining a system for the collection, removal and disposal of garbage or of garbage and other refuse;

1.3 AND WHEREAS the said Municipal Act, Section 210, Paragraph 84, provides, inter alia, that by-laws may be passed by the Councils for municipalities for acquiring land in any local municipality or in territory without municipal organization for any of the purposes of Section 2.10, paragraph 83;

1.4 AND WHEREAS the said Municipal Act, Section 208, Paragraph 8, provides, inter alia, that by-laws may be passed by the Councils of all municipalities for providing in any agreement that may be lawfully made with another municipality that any dispute arising out of such agreement may be determined by the Municipal Board as sole arbitrator

1.5 AND WHEREAS the parties hereto have, by Agreement dated 1st day of June, 1971, amended by Agreement dated the 1st day of July, 1974, operated a waste disposal site in the Town of Grimsby, hereinafter referred to as the "Park Road Site";

1.6 AND WHEREAS the parties hereto by Agreement dated the 23rd day of June, 1988 have agreed to a joint effort in the acquisition of a suitable site for a waste disposal site, and in the acquisition of all approvals necessary for the creation and operation of such a waste disposal site;

1.7 AND WHEREAS the parties hereto have now acquired a suitable site namely the Waste Disposal Site, hereinafter referred to as "the Site", pursuant to the provisions of the said Agreement dated the 23rd day of June, 1988;

1.8 AND WHEREAS the parties hereto have now acquired all approvals necessary for the creation and operation of the Site;

1.9 AND WHEREAS the parties hereto have agreed to the joint occupation and operation of the Site and matters pertaining thereto;

1.10 AND WHEREAS this agreement sets forth the terms of the agreement between the parties hereto with respect to the operation of the Site;

1.11 AND WHEREAS this agreement is authorized by By-Law # 88-75 of The Corporation of The Town of Grimsby, by By-Law #88-86 of The Corporation of The Town of Lincoln, by By-Law #1197 (1988) of The Corporation of The Town of Pelham and by By-Law #88-47 of The Corporation of The Township of West Lincoln.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual terms and conditions herein contained the parties hereto hereby covenant and agree as follows:

2. DEFINITIONS

2.1 In this agreement,

- (a) "host municipality" means the municipality within which the waste disposal site is located;
- (b) "waste" means domestic, commercial and non-hazardous solid industrial waste;
- (c) "waste disposal site" means the waste disposal site, which site has been selected and acquired in accordance with the provisions of an agreement between the parties hereto dated the day of , 1988.

3. TERM

3.1 This agreement shall come into force and effect, upon the date hereof, subject to the receipt of the approval of the Ontario Municipal Board as hereinafter provided, and shall be for a period of FIFTY (50) YEARS from the date hereof.

3.2 Following the terms described in paragraph 3.1 this agreement shall continue from year to year until terminated pursuant to the provisions of this agreement.

4. TERMINATION

4.1 The term described in paragraph 3.1 hereof may be terminated only upon the unanimous agreement of all of the parties hereto.

4.2 Upon the termination of this agreement the value of all assets and liabilities shall be apportioned between the parties in accordance with the average proportion allocated to each of the parties during the term of this agreement in accordance with the provisions hereinafter contained.

4.3 In the event that the parties are unable or unwilling to agree with respect to the apportionment of any asset or liability, or all of them, the provisions hereinafter contained with respect to the resolution of disputes shall apply.

4.4 Notwithstanding the right of termination contained within this paragraph 4 the parties hereto shall continue to

be jointly responsible for the ultimate closure, maintenance and perpetual care of the waste disposal site, as provided for in paragraph 11, below.

5. WITHDRAWAL

5.1 No party shall withdraw from this agreement during the term described in paragraph 3.1 hereof.

5.2 Any party to this agreement wishing to withdraw from this agreement subsequent to the term described in paragraph 3.1 hereof shall give one full year's written notice to all other parties. Such withdrawal shall take effect on the 31st day of December in the year subsequent to the year in which such notice of termination is given.

5.3 Upon the withdrawal of a party all assets and liabilities shall be apportioned between the parties in accordance with the average proportion allocated to each of the parties during the terms of this agreement in accordance with the provisions hereinafter contained.

5.4 In the event that the parties are unable or unwilling to agree with respect to the apportionment of any asset or liability or all of them, the provisions hereinafter contained with respect to the resolution of disputes shall apply.

5.5 In the event that the party wishing to withdraw is the host municipality, it is understood and agreed that this agreement shall continue in full force and effect with respect to the rights and liabilities of the remaining parties including the right to the use and operation of the waste disposal site.

5.6 Notwithstanding the right of withdrawal given within this paragraph 5 the parties hereto shall continue to be jointly responsible for the ultimate closure, maintenance and perpetual care of the waste disposal site, as provided for in paragraph 11, below.

6. BOARD OF MANAGEMENT

6.1 The parties hereto hereby establish a Board of Management which shall be responsible to administer and implement in an orderly and proper fashion the terms of this agreement

and to advise the councils of the parties hereto with respect to waste disposal. All actions of the Board shall be subject to the ratification of the councils of the parties hereto.

6.2 The Board of Management shall be composed of one member of the council of each of the parties hereto.

6.3 The chairman of the Board of Management shall be elected by the members of the Board of Management, annually, from among its members. The chairman shall serve for a term of One (1) Year from the date of his election, provided that any person may be re-elected to serve in subsequent terms.

6.4 Notwithstanding paragraph 6.3 above, the first chairman of the Board of Management for the year in which the Site is open for operation shall be the representative of the host municipality, unless the host municipality should decline the right contained in this paragraph in which case the provisions of paragraph 6.3 shall apply.

6.5 The "Disposal Site Committee" created pursuant to the provisions of the Agreement dated the 1st day of June, 1971 as amended by the provisions of the Agreement dated the 1st day of July, 1974 shall constitute the Board of Management herein created.

6.6. The parties hereto hereby appoint the Board of Management to be the agent of the parties hereto and to operate the Waste Disposal Site on behalf of the parties as hereinafter provided for.

6.7 The parties hereto hereby appoint the Board of Management to be the agent of the host municipality and authorize the Board of Management to bring all applications and to take all actions necessary to acquire all approvals necessary for the continued operation of the Site. Such actions shall be taken and such applications shall be made in the name of the host municipality and the Board of Management is hereby specifically authorized so to do. The costs incurred in carrying out the actions authorized by this agreement shall be borne by the parties in accordance with the terms and provisions of this agreement as hereinafter set out.

6.8 The host municipality shall provide to the Board of Management such staff and services as are required by the Board of Management in order that it may carry out its responsibilities pursuant to the provisions of this agreement. Each party shall pay to the host municipality its proportionate share, as defined in paragraph 7.1, of all services and costs which the host municipality is required to provide to the Board of Management in accordance with the provisions of this paragraph.

6.9 Nothing herein contained shall prevent the host municipality from entering into an agreement with one or more of the parties hereto wherein the parties shall agree to provide to the Board of Management, on behalf of the host municipality, the services and staff required by the Board of Management. In such case each party shall pay to the party providing such services and staff its proportionate share as defined in paragraph 7.1 hereof, of the cost of providing such services and staff.

6.10 The Board of Management is hereby authorized and directed to retain, in the name of the host municipality, consultants, advisors and legal counsel to prepare studies and reports, to make representations and to appear before boards and tribunals in order to obtain the approvals contemplated by the terms of this agreement.

6.11 The Board of Management shall meet not less than once every three months, in order to properly manage those matters which have been delegated to it by the terms of this agreement.

6.12 The Board of Management shall keep minutes of its meetings, which minutes shall be circulated in a timely manner to the Municipal Clerk of each of the parties hereto for distribution to the members of the councils of the parties hereto. Further, the Board of Management shall take such further steps as the Board considers necessary or as the councils of the parties hereto shall jointly direct, in order to ensure that the said councils are fully informed of the actions being taken by the Board of Management.

6.13 The Board of Management shall prepare a budget of the anticipated revenues and expenditures for each year and

established in the annual summary of the Board of Management, for the year immediately preceding the first year of operation of the waste disposal site", and

- (b) the term "the total tonnage of waste billed by the Board of Management to the four parties, disposed of at the waste disposal site, as established in the annual summary of the Board of Management for the year prior to the year in which the cost is incurred" shall mean "the total tonnage of waste billed by the Board of Management to the four parties, disposed of at the Park Road Site, or in accordance with Paragraph 7.2 of an Agreement dated the day of , 1988 with respect to the operation of the Park Road Site, as established in the annual summary of the Board of Management for the year immediately preceding the first year of operation of the site".

7.2 Notwithstanding anything contained in paragraph 7.1 the parties hereto may, by unanimous agreement, at any time, determine a different basis of apportionment of costs.

7.3 Each of the parties hereto shall pay its proportionate share of all costs incurred by the host municipality or by the Board of Management with respect to the operation of the Site and the administration of the Board of Management in accordance with the authorizations contained in this agreement.

7.4 Each of the parties hereto shall pay to the Board of Management its proportionate share of all costs incurred or to be incurred by the host municipality for the provision of municipal services, which have been approved by the Board of Management, which services would not otherwise have been provided by the host municipality if the waste disposal site was not acquired, constructed and operated. Costs in this paragraph are to be calculated without regard to Provincial grants or subsidies payable to the host municipality for the

provision of such municipal services. For example, grants payable by the Ministry of Transportation and Communications to the host municipality for highway purposes will not be deducted from the cost of any highway project before calculating the proportionate share of each of the municipalities. The provincial grants and subsidies referred to in this paragraph shall not include any grant, subsidy or other provincial payment with respect to the disposal of recycling of waste.

7.5 All costs shall be paid to the Board of Management forthwith upon demand by the Board. Those costs paid to the Board by the parties hereto in accordance with paragraphs 7.3 and 7.4 above, incurred by the host municipality, shall be paid by the Board on behalf of the host municipality.

7.6 The apportionment of costs as herein provided for shall be made by the Board of Management after applying to such costs all ancillary revenues such as tipping fees, grants and interest earned.

7.7 Any dispute between the parties with respect to the necessity for incurring such costs or the apportionment of such costs described in this paragraph, which the parties are unable or unwilling to resolve shall be resolved in accordance with the provisions of this agreement with respect to resolution of disputes.

8. OPERATION OF OTHER WASTE DISPOSAL SITES

8.1 The parties hereto shall not operate nor seek approval to own or operate any waste disposal site save and except the following:

- (1) The Park Road Site;
- (2) The Caistor Road Site, West Lincoln, for non-putrescible waste only.
- (3) The Quarry Road Site, Lincoln, for non-putrescible waste only;
- (4) Telephone City gravel site, Pelham, for non-putrescible waste only;
- (5) The waste disposal site,

Provided that, where a party gives notice of its intention to terminate this agreement in accordance with the provisions hereof, such party may, after giving of notice of its intention to terminate, commence the necessary application seeking approval to operate another landfill site.

8.2 The parties hereto shall not discontinue the use of the sites described in paragraph 8.1 above unless such action has been agreed to by the Board of Management.

8.3 The parties hereto shall dispose of waste only in the sites referred to in paragraph 8.1 above, provided that, should the Board of Management determine to dispose of all or any part of the waste generated within the municipal boundaries of the four parties, in a site or in a manner other than described above, such waste shall be disposed of in accordance with the directions of the Board of Management. The cost of such disposal will be apportioned in accordance with paragraph 7 above.

8.4 Nothing herein contained shall prevent the parties hereto or any one or more of them from investigating alternatives to waste disposal which, without restricting the generality of the foregoing, may include recycling. The implementation of alternatives will be carried out after receiving the advice of the Board of Management and in such a manner as to maintain the intended joint responsibility of the parties hereto for the disposal of waste within their jurisdiction.

8.5 The parties hereto are committed to recycling of waste.

9. OPERATION OF THE WASTE DISPOSAL SITE

9.1 The parties hereto hereby appoint the Board of Management to act as agent of the parties hereto and to operate the waste disposal site on behalf of the parties hereto in accordance with:

- (a) Provincial statutes and regulations;
- (b) conditions imposed with respect to any approval required for the creation and operation of the landfill site;

- (c) authorizations and directions contained in this agreement;
- (d) directions given jointly by the councils of the parties hereto.

10. LEASE OF THE SITE

10.1 The host municipality hereby demises and leases unto the parties hereto those lands and premises described in Schedule "A" attached hereto, herein referred to as the "waste disposal site".

10.2 To have and to hold the said leased premises for and during a term of FIFTY (50) YEARS to be computed from the date of commencement of operations of the waste disposal site and from thence ensuing and to be fully completed and ended FIFTY (50) YEARS therefrom.

10.3 The lessees hereby covenant that the premises will be used for the purpose of a waste disposal site as herein provided for and for no other purpose.

10.4 The waste disposal site shall at all times remain the property of the host municipality, and upon completion of the term of this agreement the waste disposal site shall be free and clear of any and all claims by the parties hereto save and except as herein specifically set forth.

11. CLOSURE, MAINTENANCE AND PERPETUAL CARE

11.1 Notwithstanding anything herein contained to the contrary, the parties hereto shall be jointly responsible for the closure, maintenance and perpetual care of the waste disposal site in accordance with all Provincial acts, regulations, certificates, permits, licenses and directions.

11.2 All costs for the closure, maintenance and perpetual care of the waste disposal site shall be apportioned in accordance with the provisions of paragraph 7, hereinbefore contained.

12. ULTIMATE USE

12.1 The parties hereto hereby recognize that the waste disposal site shall at all times remain the property of

the host municipality and that the parties hereto are jointly liable for the operation, closure, maintenance and perpetual care of the site. It is therefore agreed that the waste disposal site may, following closure, be put to a use by the host municipality in accordance with all Provincial acts, regulations, certificates, permits, licenses and directions, subject to the approval of all of the parties hereto.

13. TIPPING FEES AND OTHER RATES

The Board of Management shall establish, from time to time, subject to the ratification of the councils of the parties hereto, tipping fees and other rates and fees to be charged for the use of the waste disposal site.

14. INSURANCE

14.1 The host municipality shall obtain and keep in good standing at all times insurance in accordance with the recommendation of the Board of Management, from time to time or as directed by the councils of the four parties jointly. Such insurance shall name those parties, other than the host municipality, as co-insureds.

15. COMPENSATION TO THE HOST MUNICIPALITY

15.1 The parties hereto recognize the special duties imposed upon the host municipality by the terms of this Agreement. In recognition therefore the host municipality shall be paid compensation as follows:

(a) The host municipality shall be permitted to dispose of 500 metric tonnes of waste, free of charge, per annum, in the waste disposal site, provided that:

(i) in any part year, the host municipality shall be entitled to dispose of an amount of waste, in accordance with the provisions of this paragraph, proportionate to that part of the year during which the disposal of such waste occurs; and,

(ii) the 500 metric tonnes of waste per annum referred to in this paragraph shall not be included in the calculation of the proportionate share of the host municipality as herein provided for.

(b) The three parties, other than the host municipality, shall pay to the host municipality the sum of ONE THOUSAND (\$1,000.00) DOLLARS per annum as compensation for reduced municipal assessment due to property acquisition for the landfill site. This payment shall commence in the taxation year for which the assessment roll has been amended to show the lands acquired for the purpose of the landfill site to be exempt from taxation.

(c) The three parties, other than the host municipality, shall pay to the host municipality the sum of FIVE HUNDRED (\$500.00) DOLLARS per annum as compensation for reduced municipal tax revenue caused by reduced assessment upon lands outside of the landfill site due to the existence of the landfill site.

Each of the parties, other than the host municipality, shall pay its proportionate share of the compensation described in paragraphs (b) and (c) above. "Proportionate share of a party" in this paragraph, means that fraction which has as its numerator the total tonnage of the municipally contracted waste component of waste collected within the municipal boundaries of the party, disposed of in accordance with the agreement then outstanding between the parties, as established in the annual summary of the Board of Management, for the year prior to the year in which the compensation is paid, and has as its denominator the total tonnage of the municipally contracted waste component of waste collected within the boundaries of the three parties other than the host

20.2 Where notice is served by registered mail the notice shall be effective on the Fifth day after the document is mailed.

IN WITNESS WHEREOF the parties have hereunto affixed their corporate seals duly attested by their proper officers in that behalf.

SIGNED SEALED AND DELIVERED) THE CORPORATION OF THE
) TOWN OF GRIMSBY

Per:

Per: Ross E. Hall
MAYOR

MAYOR
W. B. Brache
TOWN ADMINISTRATOR

) THE CORPORATION OF THE
) TOWN OF LINCOLN

Per:

Ray A. Konkle Mayor.

Julius H. P. 12/17

) THE CORPORATION OF THE
) TOWN OF PELHAM

Per:

MAYOR E.S. Bergenstein

Murray K. Holt
CLERK

THE CORPORATION OF THE
TOWNSHIP OF WEST LINCOLN

Per:

Per:  CORPORATION OF
THE TOWNSHIP OF
WEST LINCOLN

Behr

ADMINISTRATOR

