

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, Chapter 302, Section 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, Section 2.10, Paragraph 83, provides, inter alia, that By-laws may be passed by the Councils of local municipalities for establishing and maintaining a system for the collection, removal and disposal of garbage and of garbage and other refuse;

1.3 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;

1.4 AND WHEREAS the parties hereto have, by Agreement dated the 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";

1.5 AND WHEREAS the Park Road Site will shortly be filled to capacity thereby necessitating the creation of a new disposal site to serve the needs of the parties hereto;

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

1.8 AND WHEREAS this agreement is made in contemplation of the continued use of the Park Road Site until the acquisition of a new waste disposal site and the acquisition of all necessary approvals, and in contemplation of the closure and perpetual care of the Park Road Site;

1.9 AND WHEREAS this agreement is authorized by By-Law #88-74 of The Corporation of the Town of Grimsby, by By-Law #88-86 of The Corporation of the Town of Lincoln, by By-Law #1198 (1988) of The Corporation of the Town of Pelham and by By-Law #88-46 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

(a) "waste" means domestic, commercial and non-hazardous solid industrial waste.

(b) "Park Road Site" means the Park Road Waste Disposal Site established on Park Road in the Town of Grimsby.

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 term equal to the term granted in any Certificate of Approval issued with respect to the Park Road Site pursuant to the Environmental Protection Act, provided that nothing contained in this paragraph shall terminate the obligations of the parties hereto with respect to the closure, maintenance and perpetual care of the Park Road Site contained in Paragraph 12 of this Agreement.

4. TERMINATION

4.1 The term described in paragraph 3.1 hereof shall not be subject to termination by any party unless:

- (a) A party to this Agreement, wishing to have the Agreement terminated, has given written notice to all other parties;
- (b) All parties to this Agreement have agreed in writing to the termination of this Agreement; and
- (c) The termination of this Agreement occurs no earlier than the 31st day of December in the year subsequent to the year in which agreement by all parties to terminate this Agreement is achieved.

4.2 Nothing contained in this paragraph shall terminate the obligations of the parties hereto with respect to the closure, maintenance and perpetual care of the Park Road Site contained in paragraph 12 of this agreement.

5. BOARD OF MANAGEMENT

5.1 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.

5.2 The Board of Management shall be composed of one member of the council of each of the parties hereto, each member to be chosen by the respective councils of the parties hereto. Each member shall be appointed for a term to coincide with the terms of the council appointing such member.

5.3 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.

5.4 The parties hereto hereby appoint the Board of Management to act as agent of the parties hereto and to operate the Park Road Site on behalf of the parties as hereinafter provided for.

5.5 The parties hereto hereby appoint the Board of Management to be the agent of the Town of Grimsby 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 Park Road Site. Such actions shall be taken and such applications shall be made in the name of the Town of Grimsby 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.

5.6 The Town of Grimsby shall provide to the Board of Management such services and staff as may be required by the Board of Management to carry out its responsibilities in accordance with the terms of this agreement. All costs incurred by the Town of Grimsby in providing such services and staff will be apportioned between the parties hereto in accordance with the provisions of paragraph 6 below.

5.7 The Board of Management is hereby authorized and directed to retain, in the name of the Town of Grimsby,

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.

5.8 The Board of Management shall meet not less than once each month in order to properly manage those matters which have been delegated to it by the terms of this agreement.

5.9 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 members of the councils of each 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.

5.10 The Board of Management shall prepare a budget of the anticipated revenues and expenditures for each year and shall include therein the estimated contribution, if any, to be made to the Board during the course of the year. Such budget shall be submitted to each of the councils of the parties hereto on or before the 31st day of January of each and every year. The budget shall be subject to ratification and acceptance by the councils of the parties hereto.

5.11 The Board of Management shall maintain books, records and accounts of all actions, proceedings and matters within its delegated authority, which books, records and accounts shall be available to the councils of the parties hereto upon the request of any such council.

6. APPORTIONMENT OF COSTS

6.1 "Proportionate share of a party", in this paragraph, means that fraction which has as its numerator the total tonnage of waste, billed by the Board of Management to the party, disposed of at the Park Road Site, or in accordance with Paragraph 8.3 below, as established in the annual summary of the Board of Management, for the year prior to the year in

which the cost is incurred, and has as its denominator 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 8.3 below, as established in the annual summary of the Board of Management for the year prior to the year in which the cost is incurred.

6.2 Notwithstanding anything contained in paragraph 6.1 the parties hereto may, by unanimous agreement, at any time, determine a different basis of apportionment of costs.

6.3 Each of the parties hereto shall pay to the Board of Management all tipping fees incurred for the disposal of waste collected within the municipal boundaries of the party, together with the proportionate share of the party of all costs incurred by the Town of Grimsby or by the Board of Management with respect to the operation of the Park Road Site, and the administration of the Board of Management in accordance with the authorization contained in this agreement.

6.4 Each of the parties hereto shall pay its proportionate share of all costs incurred by the Town of Grimsby for the provision of municipal services, which have been approved by the Board of Management, which services are in addition to the services which would have been provided by the Town of Grimsby if the waste disposal site was not acquired, constructed and operated.

6.5 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 6.3 and 6.4 above, shall be paid by the Board on behalf of the host municipality.

6.6 The apportionment of costs as herein provided for shall be made by the Board of Management.

6.7 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.

7. ENVIRONMENTAL PROTECTION ACT APPLICATION

7.1 The parties hereto hereby authorize the Board of Management to prepare and to submit an application, in the name of the Town of Grimsby, pursuant to the provisions of Part 5 of the Environmental Assessment Act seeking a certificate for the continued operation of a waste disposal site at the Park Road Site.

7.2 The Board of Management shall take all steps necessary to obtain the Certificate of Approval.

7.3 The parties hereto hereby authorize, ratify and confirm the actions taken by the Board of Management, prior to the date of this agreement, in commencing studies and applications pursuant to the Environmental Protection Act and the Environmental Assessment Act with respect to the continued operation of the Park Road Site.

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;

8.2 The parties hereto shall not discontinue the use of the sites described in Paragraphs 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 6 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 jurisdictions.

8.5 The parties hereto are committed to the 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 Park Road Site on behalf of the parties hereto in accordance with:

- (a) Provincial statutes and regulations;
- (b) conditions imposed with respect to any approval required by 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. TERMINATION OF THE DISPOSAL OF WASTE

10.1 The disposal of waste in the Park Road Site shall terminate upon:

- (a) the attainment of the time limit for the disposal of waste or the final contours established for the disposal of waste by the approvals issued pursuant to the Environmental Protection Act, or,
- (b) the opening of the waste disposal site contemplated by the agreement referred to in paragraph 1.7 hereinbefore contained,

whichever event should first occur.

10.2 Notwithstanding the provisions of paragraph 10.1 above, in the event that the waste disposal site contemplated by the agreement referred to in paragraph 1.7 is opened before the attainment of (a) the time limit for the disposal of waste, or, (b) the maximum level for the disposal of waste, established by the approvals issued pursuant to the Environmental Protection Act, then the waste disposal site shall be utilized for the disposal of waste as may be determined by the Board of Management upon such terms as are established by the Board of Management from time to time.

11. LEASE OF THE SITE

11.1 The Town of Grimsby hereby demises and leases unto the parties hereto those lands and premises described in Schedule "A" attached hereto, herein referred to as the Park Road Site.

11.2 To have and to hold the said leased premises for and during the term of Five (5) years to be computed from the date hereof and from thenceforth ensuing and to be fully completed and ended on the day of , 19 .

11.3 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.

11.4 The Park Road Site shall at all times remain the property of the Town of Grimsby and upon completion of the term of this agreement the Park Road Site shall be free and clear of any and all claims by any of the parties hereto, save and except as herein specifically set forth.

12. CLOSURE, MAINTENANCE AND PERPETUAL CARE

12.1 "Proportionate share of a party" in this paragraph, means that fraction which has as its numerator the total tonnage of waste, billed by the Board of Management to the party, disposed of at the Park Road Site or in accordance with Paragraph 8.3 above, in the last SIXTY (60) MONTHS during which all of the parties hereto disposed of putrescible waste at the Park Road Site, as established in the annual summaries of the Board of

Management, and has as its denominator 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 8.3 above in the last SIXTY (60) MONTHS during which all of the parties hereto disposed of waste at the Park Road Site, as established in the annual summaries of the Board of Management.

12.2 Each of the parties hereto shall pay its proportionate share of all costs incurred by the Board of Management or the Town of Grimsby for the closure, maintenance and perpetual care of the Park Road Site.

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

13. ULTIMATE USE

13.1 The parties hereto hereby recognize that the Park Road Site shall at all times remain the property of Grimsby 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 Park Road Site, may, following closure, be put to a use by the Town of Grimsby in accordance with all Provincial acts, regulations, certificates, permits, licenses and directions, subject to the approval of all of the parties hereto.

14. TIPPING FEES AND OTHER RATES

14.1 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 Park Road Site.

14.2 Grimsby shall be permitted to dispose of non-putrescible waste at the Park Road Site, without charge, during the life of the site, in accordance with the past practice of the parties.

15. INSURANCE

15.1 The Town of Grimsby 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 for the four parties jointly. Such insurance shall name those parties, other than the Town of Grimsby, as co-insureds.

16. RESPONSIBILITIES OF THE TOWN OF GRIMSBY

16.1 The Town of Grimsby shall act expeditiously and in good faith with respect to all of its obligations in accordance with the terms and provisions of this agreement.

16.2 The Council of the Corporation of the Town of Grimsby shall authorize the proper signing officers to execute all documents, agreements, and applications which have been authorized and agreed to by the Board of Management and by the councils of each of the parties hereto in accordance with the terms and provisions of this agreement.

17. INDEMNIFICATION

17.1 The parties hereto shall indemnify the Town of Grimsby against all liabilities, costs, fines, suits, claims, demands and actions and causes of action of any kind for which the Town of Grimsby may become liable by reason of this agreement or any action taken hereunder, each party to bear its proportionate share of such indemnification as defined in paragraph 6.1 above. The parties hereto shall be jointly liable for all such liabilities, costs, fines, suits, claims, demands, actions and causes of action.

18. RESOLUTION OF DISPUTES

18.1 Where a disagreement or dispute arises between two or more parties to this agreement with respect to the interpretation, construction, meaning or effect of this agreement which the parties are unable to resolve, such disagreement or dispute shall be submitted to the Ontario Municipal Board which shall act as sole arbitrator pursuant to the provisions of the Municipal Act, R.S.O. 1980, c.302, S.208, paragraph 9.

18.2 Each of the parties hereto shall be a party to each such arbitration brought before the Ontario Municipal Board pursuant to the provisions of this agreement.

18.3 The provisions of the Ontario Municipal Board Act and Regulations passed thereunder shall, with necessary modifications, apply to proceedings brought under this paragraph.

18.4 Each decision of the Ontario Municipal Board with respect to matters placed before it for resolution pursuant to this paragraph shall be final and binding upon all of the parties.

19. AGREEMENT CONDITIONAL

19.1 This agreement shall be subject to the approval of the Ontario Municipal Board pursuant to S.64 of the Ontario Municipal Board Act, R.S.O. 1980, c.347.

20. NOTICE

20.1 Any notice which is permitted or required pursuant to the provisions of this agreement shall be in writing and shall be served personally or by registered mail upon the Municipal Clerk of each of the parties hereto at the addresses hereinafter set forth:

- (1) Town of Grimsby
Attention: Town Clerk
160 Livingston Avenue
P.O. Box 159
Grimsby, Ontario
L3M 4G4
- (2) Town of Lincoln
Attention: Town Clerk
206 King Street West
P.O. Box 1030
Beamsville, Ontario
LOR 1B0
- (3) Town of Pelham
Attention: Town Clerk
20 Pelham Town Square
P.O. Box 400
Fonthill, Ontario
LOS 1E0
- (4) Township of West Lincoln
Attention: Township Clerk
318 Canboro Street
P.O. Box 400
Smithville, Ontario
LOR 2A

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

21. FORMER AGREEMENT

21.1 This agreement shall replace the Agreement dated the 1st day of June, 1971 and the Agreement dated the 1st day of July, 1974.

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
in the presence of:-) TOWN OF GRIMSBY

) Per:

) Ross S. Hall

) MAYOR

) [Signature]

) TOWN ADMINISTRATOR

) THE CORPORATION OF THE
) TOWN OF LINCOLN

) Per:

) Ray A. Konkle Mayor

) [Signature]

) THE CORPORATION OF THE
) TOWN OF PELHAM

) Per:

) MAYOR E.S. Bergenstein

) [Signature]

) CLERK

) THE CORPORATION OF THE
) TOWNSHIP OF WEST LINCOLN

ALLARD COLYN
MAYOR
CORPORATION OF
THE TOWNSHIP OF
WEST LINCOLN

) Per:

) [Signature]

) [Signature]

ADMINISTRATOR

