

Town of
Pelham

**THE CORPORATION OF THE
TOWNSHIP OF WAINFLEET**

BY-LAW NO. 019-2003

A by-law to authorize the Mayor and Council to execute an agreement between the Corporation of the Town of Pelham, the Corporation of the Township of Wainfleet and the Corporation of the Township of West Lincoln to provide for the sharing of services of a drainage superintendent.

WHEREAS the Corporation of the Town of Pelham, the Corporation of the Township of Wainfleet and the Corporation of the Township of West Lincoln have agreed to provide for the sharing of services of a drainage superintendent;

NOW THEREFORE the Council of the Corporation of the Township of Wainfleet **HEREBY ENACTS AS FOLLOWS:**

1. **THAT** the Mayor and Clerk are hereby authorized and directed to execute the said agreement attached to the by-law as Schedule "A".
2. **THAT** the Clerk is hereby instructed to affix the Corporate Seal thereto.

BY-LAW READ A FIRST TIME THIS 13TH DAY OF MAY 2003.

BY-LAW READ A SECOND TIME THIS 13TH DAY OF MAY 2003.

BY-LAW READ A THIRD TIME AND FINALLY PASSED THIS 13TH DAY OF MAY 2003.


G. Harry
MAYOR


A.C. Guiter
CLERK-TREASURER

CERTIFIED A TRUE COPY

CLERK-TREASURER
TOWNSHIP OF WAINFLEET

THIS AGREEMENT made this day of , 2003.

BETWEEN:

THE CORPORATION OF THE TOWNSHIP OF WAINFLEET

Hereinafter referred to as "Wainfleet"

- and -

THE CORPORATION OF THE TOWN OF PELHAM

Hereinafter referred to as "Pelham"

- and -

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN

Hereinafter referred to as "West Lincoln"

WHEREAS Pelham, West Lincoln and Wainfleet (hereinafter collectively referred to as the "parties" and individually as a "party") recognize the need for further joint efforts in regard to the provision of certain services;

AND WHEREAS the parties hereto recognize that cost and service efficiencies can be achieved through a sharing of the Drainage Superintendent services.

AND WHEREAS the parties have agreed to enter into this agreement to set out the terms and conditions in regard to the sharing of services of a Drainage Superintendent.

NOW THEREFORE THIS AGREEMENT WITNESSETH, that in consideration of the mutual covenants and agreements herein contained the parties hereto agree as follows:

1. (a) Each of the parties hereto agrees that it shall pass the necessary resolutions and by-laws and carry out whatever steps or procedures are necessary in order to share the services of a Drainage Superintendent, to carry out those specific matters as set out in this agreement and to give full force and effect to the terms of this agreement.

(b) The parties hereby acknowledge that the existing joint service committee created by the parties (the "Joint Committee") will be made up of members as defined in the approved terms of reference for that committee and will be involved in the administration of this agreement. The administration procedures for the operation of the Joint Committee itself, including the consideration and resolution of all matters pursuant to this agreement shall be in accordance with the guidelines and operating procedures of the Joint Committee as established by it from time to time.

2. The services to be provided by the Drainage Superintendent shall include those services as set out in the Drainage Act and Tile Drainage Act, as amended from time to time, as well providing such advice to senior staff of parties to this agreement on all drainage matters.

3. The Services shall be carried out in accordance with the respective policies and guidelines of each of the individual parties hereto.

4. The parties agree to co-operate in the transfer of responsibilities and as such agree to take all reasonable steps as required to transfer all information, files and resources as necessary.

5. The Drainage Superintendent in Wainfleet (the Superintendent) shall be responsible for the general administration of the Services and each party hereto agrees that it will pass the necessary by-law in order to appoint the Superintendent as each respective party's Drainage Superintendent in accordance with the requirements of the Drainage Act. The job description for the duties of the Drainage Superintendent shall be that as set out in Schedule "A" to this agreement. There shall be no change to the duties of the Drainage Superintendent unless and until they have been recommended by the Joint Committee and approved by all of the councils of the respective parties, subject to the provisions of paragraph 12 below.

The parties acknowledge that the Drainage Superintendent shall also have all the powers and duties as set out in the Act. It is acknowledged that the Drainage Superintendent shall be employed by Wainfleet.

6. (a) It is acknowledged that since Wainfleet is responsible for the employment of the Drainage Superintendent as well as incurring other additional costs, Wainfleet requires a specific commitment from West Lincoln and Pelham to the terms and provisions of this agreement throughout the term of this agreement. As such the parties hereto agree that the term of this agreement shall be for a period commencing as of the 1st day of March, 2003 and terminating on the 30th day of July, 2006 (the "Term"). It is further agreed that this agreement shall automatically renew for a further two year period from the end of the Term, provided, however, that any party may opt out of such renewal if it gives the other two parties notice that it wishes to so opt out of this agreement no later than six months prior to the end of the Term.

(b) Any party to this agreement may opt out of this agreement at any time provided that it gives either six (6) months notice in writing to the other parties or pays to Wainfleet a flat amount equal to 6 months of salary and benefits for the Drainage Superintendent. In the event that any such party shall give the written notice as required pursuant to this agreement it shall still be required to continue to abide by the terms of this agreement for that six (6) month period including use of all the Services as are being provided to that party at the time such notice is given.

7. No party will employ any other personnel whatsoever for the purpose of carrying out any of the Services which are provided to that party, unless and until the hiring of any such additional personnel has been recommended by the Joint Committee and approved unanimously by the councils of the respective parties, subject to the provisions of paragraph 12 below. The parties hereto acknowledge that this provision is necessary to protect Wainfleet in regard to the carrying out of the terms of this agreement.

8. The Drainage Superintendent shall be responsible for the hiring of those personnel as specified in this agreement who are to be hired by Wainfleet and that he/she shall be ultimately responsible for the enforcement of the terms and conditions of this agreement in regard to carrying out said terms and providing the Services to the parties hereto.

9. The hours of operation of the Drainage Superintendent shall be those as set by Wainfleet in order to most efficiently and expediently provide the Services to the parties.

10. It is agreed that Pelham and West Lincoln shall pay for their share of the Services as provided in accordance with Schedule "B" to this agreement.

11. (a) All complaints of a party to this agreement or complaints by any other person in regard to the provisions of the Services shall be made in writing to the Drainage Superintendent with a copy of such complaint to be given to the Clerk-Treasurer of Wainfleet, the Director of Corporate Services of the Township of West Lincoln and the Chief Administrative Officer of the Town of Pelham.

(b) All complaints in regard to the Drainage Superintendent shall be in writing and shall be made to the Clerk-Treasurer of the Township of Wainfleet.

(c) All complaints under Section 11 (a) or (b) above which is not resolved in a manner which is satisfactory to the complainant shall be referred to the Joint Services Committee and the decision of the Joint Services Committee in regard to such complaint shall be, provided it complies with all applicable laws, is final and binding.

12. (a) In the event that any matter which is required by the terms of this agreement to be referred by the Joint Committee to the councils of the parties for approval is not unanimously approved by all of the respective councils and of the parties then such matter shall be referred back to the Joint Committee for resolution in accordance with the administrative procedures and operation standards of the Joint Committee.

(b) The parties intend in future to insert an agreed arbitration clause into this agreement and upon the same being approved by all parties it shall be deemed thereafter to be and form part of this agreement.

13. Each party agrees to obtain written confirmation from its insurer that it has adequate liability, errors and omissions and all other applicable insurance coverage in place to cover all personnel to be employed as well as the individual parties hereto. Each party agrees to provide the other parties with copies of such confirmation and agrees to maintain all such insurance throughout the Term or any renewal thereof.

14. Any notice or other writing required or permitted to be given under this agreement or for the purpose hereof (referred to in this paragraph as a "notice") to any party shall be sufficiently given if delivered personally, or if sent by prepaid registered mail or if transmitted by fax or other form of recorded communication tested prior to transmission to such party:

- (a) in the case of notice to Pelham at 20 Pelham Town Square, P. O. Box 400, Fonthill, Ontario, L0S 1E0, fax number (905) 892-5055;
- (b) in the case of notice to West Lincoln at P. O. Box 400, 318 Canborough Road, Smithville, Ontario, L0R 1A0, fax number (905) 957-3219;
- (c) in the case of notice to Wainfleet at P. O. Box 40, 19M43 Highway 3, Wainfleet, Ontario, L0S 1V0, fax number (905) 899-2340,

or any such address as the party to whom such writing is to be given shall have last notified the party given the same in a manner provided in this paragraph. Any notice delivered to the party to whom it is addressed as provided in this paragraph shall be deemed to have been given and received on the day it is so delivered at such address, provided that if such day is not a business day then notice shall be deemed to have been given and received on the business day next following such day.

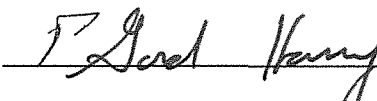
Any notice mailed as aforesaid shall be deemed to have been given and received on the third business day next following the date of its mailing. Any notice transmitted by fax or other form or mode of communication shall be deemed given and received on the first business day after its transmission.

15. If any provision hereof becomes illegal or unenforceable, the provisions shall be deemed to be severed and the agreement shall continue as amended.

16. This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.

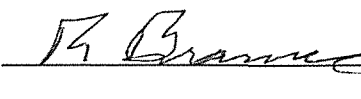
IN WITNESS WHEREOF the parties hereto have executed this agreement as of the date first above written.

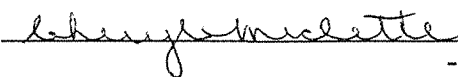
THE CORPORATION OF THE TOWNSHIP OF
WAINFLEET

Per:  - Mayor

Per:  - Clerk

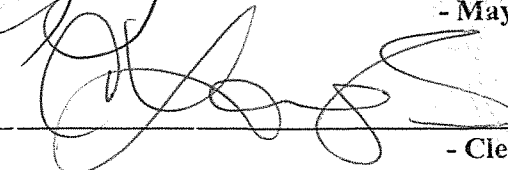
THE CORPORATION OF THE TOWN OF PELHAM

Per:  - Mayor

Per:  - Clerk

THE CORPORATION OF THE TOWNSHIP OF WEST
LINCOLN

Per:  - Mayor

Per:  - Clerk

SCHEDULE "A"

JOB DESCRIPTION – DRAINAGE SUPERINTENDENT

POSITION TITLE: Drainage Superintendent

PRIMARY FUNCTIONS: To initiate and supervise construction, maintenance and repairs of municipal drainage works; to investigate drainage concerns and carry out duties of the Drainage Superintendent and Tile Drainage Inspector.

REPORTING RELATIONSHIP: Reports to the Clerk-Treasurer of the Township of Wainfleet.

DUTIES AND RESPONSIBILITIES SUBJECT TO PARAGRAPH 2 OF THE AGREEMENT:

1. Manages the maintenance of existing and the construction of new municipal drains constructed under the Municipal Drainage Act and tile drainage under the Tile Drainage Act.
2. Prepares all documentation required for submission to Ministry of Agriculture and Food.
3. Prepares all documentation for billing costs to allow the Clerk to bill ratepayers for maintenance and construction of costs of municipal drains.
4. Prepares and recommends to Council all policies as they relate to municipal drainage.
5. Provides advice to Council, staff and ratepayers with regard to all drainage matters.
6. Ensures the timely and appropriate response and subsequent action to all public and political enquiries.
7. Schedules equipment for drainage projects.
8. Prepares annual and periodic written reports on drainage matters.
9. Prepares estimates for costs for municipal drainage projects and maintenance.
10. Attends Council and Committee meetings of the municipalities as required from time to time.
11. Prepares budgets for Drainage Department.
12. Coordinates inter-municipal service sharing with participating municipalities.
13. Performs other duties as assigned by the Clerk-Treasurer of the Township of Wainfleet.

WORKING RELATIONSHIPS:

- a) With Council – provides advice and assistance in the development and evaluation of drainage policies and procedures for the participating municipalities.
- b) With the Clerk-Treasurer – discuss corporate policies and implements and administers policies.
- c) With the public – responds to inquiries and complaints – maintains courteous relationships.
- d) With staff – maintains harmonious working relationships with senior staff to coordinate activities and maintains cooperation and courtesy with others.
- e) With subordinate staff – plans, organizes and assigns work – directs operations, provides instruction and guidance – reviews performance.
- f) With exterior contacts – usual courtesy and cooperation in obtaining and furnishing information.

QUALIFICATIONS:

Secondary School Diploma with specialized training in the provisions of the Municipal Drainage Act, the Drainage Act approved by the Ministry of Agriculture and Food, the Tile Drainage Act, surveying, construction and heavy equipment operations.

EXPERIENCE:

5-10 years in drainage construction and maintenance.

SCHEDULE "B"

REVENUE AND EXPENSE DISTRIBUTION

SHARING OF ADMINISTRATION, COSTS AND EXPENSES

1. It is agreed that each party shall collect and retain their own revenue for all services provided under this agreement.
2. It is agreed that Wainfleet will invoice Pelham and West Lincoln quarterly, each for one third (1/3) of salary and benefits of the Drainage Superintendent. Each of Pelham and West Lincoln agrees to pay such amounts immediately upon receipt of the invoice.
3. The costs of the administration for the Drainage Superintendent (i.e. secretarial services, mileage, etc.) shall be invoiced to Pelham and West Lincoln quarterly, at cost.
4. Pelham hereby delegates the authority to pay all such invoices pursuant to this agreement to its Chief Administrative Officer. West Lincoln hereby delegates the authority to pay all such invoices pursuant to this agreement to its Director of Corporate Services.