

**THE CORPORATION OF THE CITY OF PETERBOROUGH**

**BY-LAW NUMBER 02-115**

**BEING A BY-LAW TO AUTHORIZE THE EXECUTION OF AN  
AGREEMENT BETWEEN THE CORPORATION OF THE CITY OF  
PETERBOROUGH AND THE CORPORATION OF THE COUNTY OF  
PETERBOROUGH**

THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL  
THEREOF HEREBY ENACTS AS FOLLOWS:

1. That the Mayor and the Clerk be and they are hereby authorized to execute an Agreement between The Corporation of the City of Peterborough and The Corporation of the County of Peterborough, in the form attached hereto as Schedule "A", and to affix the seal of the Corporation thereto.

By-law read a first and second time this 3<sup>rd</sup> day of September, 2002.

By-law read a third time and finally passed this 3rd day of September, 2002..

(Sgd.) Sylvia Sutherland, Mayor

(Sgd.) Doris Neufeld, Deputy City Clerk

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THIS AGREEMENT made as of the 1st day of July, 2002.

BETWEEN:

**THE CORPORATION OF THE COUNTY OF PETERBOROUGH**

hereinafter called "County"

AND

**THE CORPORATION OF THE CITY OF PETERBOROUGH**

hereinafter called "City"

WHEREAS the parties hereto have agreed to jointly develop and operate a waste disposal Facility to be named the "Peterborough County/City Waste Management Facility";

AND WHEREAS the *Municipal Act*, R.S.O. 1990, Chapter M.45, S.207, paragraph (5), provides that by-laws may be passed by the councils of all municipalities for entering into an agreement with one or more municipalities to provide for the joint management and operation of garbage disposal systems and for the establishment of joint boards or committees;

NOW THEREFORE, THIS AGREEMENT WITNESSTH that in consideration of the mutual terms and conditions herein contained, and other good and valuable consideration (the receipt and sufficiency of which is acknowledged by each of the parties hereto), the parties hereto hereby covenant, promise and agree with each other as follows:

1. **LOCATION AND DESCRIPTION OF THE FACILITY**

1.1 The Peterborough County/City Waste Management Facility is located in the Township of Otonabee-South Monaghan, County of Peterborough, and comprises the lands more particularly described in Schedule "A" attached hereto (hereinafter referred to as the "Facility").

2. **EFFECTIVE DATE**

2.1 This agreement shall come into force and effect on July 1, 2002.

3. **SCOPE OF AGREEMENT**

3.1 It is agreed that this agreement, including any schedules attached hereto, shall constitute the entire agreement between the City and County with respect to the joint ownership, operation, maintenance, licensing, development, closure and perpetual care of the Facility.

3.2 The Facility will receive non-hazardous waste from the County and City in accordance with the applicable regulations and the Certificate of Approval issued by the Ministry of the Environment and Energy to develop, operate and close the Facility.

**4. OWNERSHIP OF FACILITY AND ADJACENT LANDS**

4.1 The Facility shall be owned in equal shares by the County and the City. The lands comprising the Facility shall be conveyed into the joint names of the County and City, as tenants in common. The County shall pay to the City the sum of Two Million Dollars (\$2,000,000) in full satisfaction of the County's contribution to the cost of all the real property which comprises the Facility.

4.2 The Adjacent Lands shall be owned in equal shares by the County and the City. For the purposes of this agreement, "Adjacent Lands" means any lands in the vicinity of the Facility which are jointly owned by the County and City at the date hereof, or which may hereinafter be jointly acquired. Any of the Adjacent Lands owned by the parties at the date hereof on a 60-40 basis shall be conveyed into equal ownership, with the County paying to the City the necessary adjustment to bring the cost contributions to a 50-50 basis.

**5. APPORTIONMENT OF REVENUES AND COSTS**

5.1 All revenues and costs related to the development, management, closure and post-closure care and monitoring of the Facility, and the activities of the Waste Management Committee, or its successor, shall be borne by the County and the City in equal shares. Schedule "B", attached hereto, is a summary of a financial model by which the parties intend, at the date hereof, that the revenues and costs are to be accounted for. The parties acknowledge and agree that the model shall be adjusted annually, as required, following approval of the annual budget and work plan.

**6. WASTE MANAGEMENT COMMITTEE**

6.1 The Waste Management Steering Committee, previously established by the parties, is hereby continued as the Waste Management Committee, which shall be responsible for the administration and implementation of the terms of this agreement in an orderly and proper fashion, and which shall advise the County and City Councils with respect to waste management issues. The Waste Management Committee shall be deemed not to be a Municipal Service Board, as defined in the *Municipal Act*, 2001.

- 6.2 The responsibilities of the Waste Management Committee shall include, but not necessarily be limited to, the following:
- 6.2.1 Preparation of a draft annual work plan and budget and presentation to the Councils of the County and the City for approval.
  - 6.2.2 Management of the Facility and related infrastructure, as well as the Adjacent Lands, all in accordance with the approved annual budget and work plan.
  - 6.2.3 Establishment and administration of rules governing the operation of the Facility.
  - 6.2.4 Making recommendations to the Councils regarding tipping fees and any other charge to the public.
  - 6.2.5 Establishment of hours of operation for the Facility in accordance with the Certificate of Approval.
  - 6.2.6 Direction of the preparation and call for tenders for necessary services in accordance with the approved budget.
  - 6.2.7 Reporting to such Government agencies as may be required.
  - 6.2.8 Administration of the Public Liaison Committee.
  - 6.2.9 Undertaking all other actions and steps as may be required to oversee and implement the operations of the Facility in accordance with the Certificate of Approval.
  - 6.2.10 Providing on-going advice and recommendations in accordance with the approved Waste Management System Plan.
- 6.3 The Waste Management Committee shall receive advice from such staff members of the County and the City as it deems appropriate, and in particular, shall receive advice from an Operations and Development Advisory Committee, which shall function in accordance with the Terms of Reference attached hereto as Schedule "C".
- 6.4 The Waste Management Committee shall be composed of three (3) members of each of the Councils of the County and the City, which shall include the Warden and the Mayor, or their designates.
- 6.5 The Members of the Waste Management Committee shall elect from among themselves a Chairperson who shall serve for a one (1) year term from January 1<sup>st</sup> to December 31<sup>st</sup> in each year. The position of Chairperson shall alternate from year to year between the County and the City Committee Members. The Chairperson shall vote on all matters.

- 6.6 Decisions and recommendations of the Waste Management Committee shall be by way of majority vote of the members present. Accordingly, no action may be taken on matters which result in a tie vote. A quorum shall consist of four (4) voting members.
- 6.7 The Waste Management Committee shall maintain books, records and accounts of all actions, proceedings and matters within its delegated authority, which records shall be available to the County and City Councils of the parties hereto upon request. The auditors for the City shall be the auditors for the Waste Management Committee, and are authorized to release information directly to both parties, and to submit audited financial statements to both parties as soon as they have been completed.
- 6.8 The City shall provide administrative services and staff, including, without limiting the generality, financial services, as may be required by Waste Management Committee to carry out its responsibilities in accordance with this agreement. Costs incurred by the City in providing such services and staff will be apportioned between the parties in accordance with the provisions of this Agreement and the annual approved budget.
- 6.9 The Waste Management Committee shall meet as often as required, in order to properly manage those matters which have been assigned to it by the terms of this agreement.
- 6.10 The Waste Management Committee shall keep minutes of its meetings, which shall be circulated in a timely fashion to Waste Management Committee members and the Clerk of the County and the City, for distribution to members of each Council. Further, the Waste Management Committee shall take such further steps as the Waste Management Committee considers necessary, or as the Councils shall jointly direct, to ensure that the said Councils are fully informed of actions being taken by the Waste Management Committee.

## 7. DEVELOPMENT AND OPERATION

- 7.1 The Waste Management Committee shall forthwith take all steps necessary to develop and operate the Facility for use as a waste disposal Facility subject to the annual approved budget and work plan.
- 7.2 The City will have responsibility for day to day operations of the Facility, subject to the directions, policies, rules and budgets established and approved by the Waste Management Committee. Such responsibility shall include daily oversight of the entity who is awarded the contract for the daily operations of the Facility.

- 7.3 The City shall provide adequate treatment capacity at its Waste Water Treatment Plant in order to accept the leachate from the Facility. All costs associated with such treatment, together with the cost of transmitting the leachate to the Waste Water Treatment Plant, shall be equally shared by the parties in accordance with this agreement.
- 7.4 Any contracts entered into by the County and City with consultants or contractors for the operation or maintenance of the Facility shall be administered by the City, to facilitate cost and financial management.
- 7.5 Any external Consulting, Contracting or Equipment Procurement Services falling outside the limits of the approved annual budget shall be reviewed and recommendations made by the Waste Management Committee for subsequent approval by County and City Councils prior to any such procurement proceeding.

## **8. RESPONSIBILITY FOR LIABILITIES**

- 8.1 In recognition of the fact that the operation of the south fill area ("SFA") within the Facility represents a continuation of the operation of the City's Bensfort Road Landfill Site, the parties wish to express their intentions with respect to responsibility for Liabilities which may be incurred after July 1, 2002. For the purposes of this agreement, "Liabilities" means any liabilities, claims, causes of action or law suits brought by any third party which are solely related to, arising from, or based upon, directly or indirectly, the existence or operation of the Facility. For certainty, Liabilities do not include operating, maintenance closure and post-closure care and monitoring expenses, as well as any remedial expenses to maintain the Facility in compliance with environmental laws.
- 8.2 Any Liabilities which are conclusively determined to solely relate to, arise from or be based upon, directly or indirectly, the existence or operation of the Bensfort Road Landfill Site prior to July 1, 2002, shall be borne entirely by the City, and the City shall indemnify, save, defend and hold harmless, at the City's sole cost and expense, the County and its officers, agents and employees, as well as the successors and assigns of each of the foregoing, in respect of such Liabilities.
- 8.3 Any Liabilities which are conclusively determined to solely relate to, arise from or be based upon, directly or indirectly, the existence or operation of either the Bensfort Road Landfill Site prior to July 1, 2002, or the SFA after July 1, 2002, but which cannot be conclusively assigned to one or the other, shall be divided between the parties proportionately, based upon the actual amount of waste

placed in the Bensfort Road Landfill Site and the SFA by each party, since the commencement of the receipt of waste at the Bensfort Road Landfill Site until the date upon which such Liabilities arise.

8.4 Any Liabilities which are conclusively determined to solely relate to, arise from or be based upon, directly or indirectly, the existence or operation of the Facility, other than those described in Sections 8.2 and 8.3 above, shall be borne by the parties in equal shares.

**9. INSURANCE**

9.1 The City shall ensure that the operation of the Facility is adequately and appropriately insured, with the cost of such insurance forming part of the shared expense, and with the interests of both the City and the County being properly reflected.

**10. ARBITRATION**

10.1 In the event that the parties are unable to agree on any matter intended to be governed by this Agreement, either party may refer the matter to a single arbitrator to be agreed upon by the parties, with the arbitration to be carried out pursuant to the provisions of the *Arbitrations Act (Ontario)*.

**11. WITHDRAWAL AND TERMINATION**

11.1 Both parties waive the right to withdraw from or terminate this Agreement, until such time as the Facility has been closed and any post-closure care, monitoring, or other requirements have been concluded and accepted as such by the Ministry of the Environment and Energy.

**12. SEVERABILITY**

12.1 In the event that any provision of this agreement is deemed void or invalid by a court, the remaining provisions shall remain in full force and effect.

**13. APPLICABLE LAW**

13.1 This agreement shall be construed under the laws of the Province of Ontario.

**14. NOTICE**

14.1 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:

- a) County of Peterborough  
Attention: CAO/Clerk  
County Court House  
470 Water Street  
Peterborough, ON K9H 3M3
  
- b) City of Peterborough  
Attention: Clerk  
500 George Street North  
Peterborough, ON K9H 3R9

14.2 Where notice is served by registered mail, the notice shall be effective on the fifth (5<sup>th</sup>) day after the document is mailed.

**15. SUCCESSORS AND ASSIGNS**

15.1 This agreement shall enure to the benefit of, and be binding upon, the parties hereto, and their successors and assigns.

**16. PREPARATION OF AGREEMENT**

16.1 The terms and conditions of this agreement are the result of negotiations between the parties, and the parties agree that this agreement will not be construed in favour of, or against, either party by reason of the extent that either party or its professional advisors participated in the preparation of this agreement.

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

DATED this \_\_\_\_ day of July, 2002.

**THE CORPORATION OF THE COUNTY OF PETERBOROUGH**

\_\_\_\_\_  
Ronald Millen, Warden

\_\_\_\_\_  
Michael Rutter, CAO/Clerk

**THE CORPORATION OF THE CITY OF PETERBOROUGH**

\_\_\_\_\_  
Sylvia Sutherland, Mayor

\_\_\_\_\_  
Nancy Wright-Laking, Clerk

## SCHEDULE "A"

### PETERBOROUGH COUNTY/CITY WASTE MANAGEMENT FACILITY LIST OF PROPERTIES

ACQUIRED FROM	DESCRIPTION
ORIGINAL BENSFORT ROAD LANDFILL SITE	Acreage: 98.10 Part of the east half of Lot 14, Concession 14, Part 1 on Expropriation Plan 352614
STOLDT, Gunther	Acreage: 101.11 Part Lot 15, Concession 14, Part 1 on Expropriation Plan 593145
ALAN STEWART HOMES LIMITED	Acreage: 72 Part Lot 13, Concession 14 2389 Storell Road Instrument 592193 registered February 15, 1994
BURTON, Mary Laurine	Acreage: 50 West half of the south half of Lot 14, Concession 13 Instrument 566747 registered July 3, 1992
McCARRELL, Gary William and Lori Jean	Acreage: 101.77 Firstly: South west 3 of Lot 15, Concession 13 Secondly: North 2 of Lot 14, Concession 13 Instrument 591071 registered January 17, 1994
POWER BROADCASTING INC.	EASEMENT Acreage: Part 1 2.62 Part 2 34.72 Part Lots 14 and 15, Concession 13, being Parts 1 and 2, Plan 45R-9769 Instrument 592761 registered February 23, 1994  RIGHT OF FIRST REFUSAL AGREEMENT Acreage: 48.3 Term: None in favour of City - Parts 14 and 15, Concession 13, being Part 1, Plan 45R-4747 Instrument 592762 registered February 23, 1994

## Schedule B.1

### Assumptions Used

Ref	Description	Amount
	<b><u>Personnel Issues/Rates</u></b>	
1	Standard Benefit rate Full time	19.0%
2	Standard Benefit rate Part-time	10.0%
3	Public Works overhead rate	73.0%
4	Estimated annual salary increase Jan 1, 2003 & after	3.0%
5	Staff time allocations will be reviewed each year as part of the annual budget process	
6		
7	<b><u>Tonnages</u></b>	
8	Initial yearly decrease in City tonnage (2003 to 2008)	-4.0%
9	Initial yearly decrease in County tonnage (2003 to 2008)	-4.0%
10	Expected annual decrease in City Exempt tonnages (beginning in 2009)	-0.5%
11	Expected annual decrease in County Exempt tonnages (beginning in 2009)	-0.5%
12	Expected annual decrease in County Non-Exempt tonnages (beginning in 2009)	-0.5%
13	Expected annual decrease in City Non-Exempt tonnages (beginning in 2009)	-0.5%
14		
15	<b><u>Tipping Fees</u></b>	
16	Tipping fee rate per tonne (2001)	65
17	Tipping fee rate per tonne (beginning in 2002)	70
18	Contaminated Soil Effective Tipping Fee rate per tonne-\$40/T up to 2000T, \$5/T after (beg. in 2001)	40
19	Tipping fee dollar increase, including contaminated soil, 5 yr intervals (2007,2012,2017,2022)	5
20		
21	<b><u>Sharing Ratios</u></b>	
22	Start date that City/County Agreement will come into effect (no capital costs incurred until this date)	July 1, 2002
23	Capital Cost Split of South Fill Area - City/County	50.0%
24	Capital Cost Split - Excluding South Fill Area Expenditures City/County	50.0%
25	Operating Costs Split - City/County	50.0%
26	Tipping Fee Split - City/County	50.0%
27		
28	<b><u>Other</u></b>	
29	Otonabee Compensation per tonne	\$4.00
30	Discount factor (To match Rayner's rate)	7.0%
31	Estimated CPI Impact	3.0%
32	Estimated increase in Public Works labour cost in the year 2005	20.0%
33	Future Value of Steering Committee Site Selection Cost (to be paid over 15 yrs [2011-2026])	\$6,000,000
34	Corporate Administration Fee as a Percentage of Gross Operating Expenditures	3.00%
35	Initial Buy-in from the County	\$2,000,000

**Schedule B.2**  
**Summary of Revenue/  
Cost Sharing Estimates**  
**for Landfill Site**

Ref	Description	Straight Value 2002-2026	NPV 2002-2026	2003 Year
C1	C2	C3	C4	C5
<b>1.0 Tonnes by source</b>				
1.1	City TF Tonnes	917,467	440,962	39,900
1.2	City Ex Tonnes	398,340	192,360	19,800
		1,315,807	633,322	59,700
1.3	% of total tonnes	87.8%	87.7%	
1.4	County TF Tonnes	30,978	14,982	1,349
1.5	County Ex Tonnes	162,533	73,450	7,543
		183,511	88,432	8,892
1.6	% of total tonnes	12.2%	12.3%	13.0%
1.7	Total tonnes all types	1,499,318	721,754	68,592
<b>2.0 Tipping Fee Rates</b>				
2.1	Year 2000 - 2001	\$65	\$65	\$65
2.2	Year 2002 - 2006	\$70	\$70	\$70
2.3	Year 2007 - 2011	\$75	\$75	\$75
2.4	Year 2012 - 2016	\$80	\$80	\$80
2.5	Year 2017 - 2021	\$85	\$85	\$85
2.6	Year 2022 - 2026	\$90	\$90	\$90
<b>3.0 Operating cost</b>				
3.1	City	\$32,385,014	\$13,900,729	\$939,462
3.2	County	\$31,527,361	\$13,099,185	\$939,462
		\$63,912,375	\$26,999,914	\$1,878,924
3.3	City effective %	50.7%	51.5%	50.0%
3.4	County effective %	49.3%	48.5%	50.0%
<b>4.0 Share of Tipping fee revenues</b>				
4.1	City	\$36,660,621	\$16,999,143	\$1,443,715
4.2	County	\$35,520,078	\$15,933,214	\$1,443,715
		\$72,180,699	\$32,932,357	\$2,887,430
4.3	City effective %	50.8%	51.6%	50.0%
4.4	County effective %	49.2%	48.4%	50.0%
<b>5.0 Net operating surplus (deficit) before buy in or special adjustments</b>				
5.1	City	\$4,275,607	\$3,098,413	\$504,253
5.2	County	\$3,992,717	\$2,834,030	\$504,253
		\$8,268,324	\$5,932,443	\$1,008,506
<b>6.0 Capital</b>				
6.1	City	\$13,434,976	\$7,362,220	\$306,159
6.2	County	\$13,434,976	\$7,362,220	\$306,159
		\$26,869,952	\$14,724,440	\$612,318
6.3	City effective %	50.0%	50.0%	50.0%
6.4	County effective %	50.0%	50.0%	50.0%
<b>7.0 Cost per tonne</b>				
7.1	Total operating & capital cost	\$90,782,327	\$41,724,354	\$2,491,242
7.2	Cost per tonne	\$61	\$58	\$36
7.3	Net operating & capital cost after tipping fees	\$18,601,628	\$8,791,997	-\$396,188
7.4	Net cost per tonne	\$12	\$12	-\$6
<b>8.0 Net surplus (deficit) before buy-in or special adjustments</b>				
8.1	City	(9,159,369)	(4,263,807)	198,094
8.2	County	(9,442,259)	(4,528,190)	198,094
		(18,601,628)	(8,791,997)	396,188
<b>9.0 Special adjustments</b>				
9.1	County Buy In Lump Sum	\$2,000,000	\$1,869,159	\$0
<b>10.0 Net position</b>				
10.1	City	(7,159,369)	(2,394,648)	198,094
10.2	County	(11,442,259)	(6,397,349)	198,094
		(18,601,628)	(8,791,997)	396,188

## **SCHEDULE "C"**

### **PETERBOROUGH COUNTY/CITY WASTE MANAGEMENT FACILITY Operations and Development Advisory Committee Terms of Reference**

#### **Purpose:**

These Terms of Reference are intended to describe the role and make up of a staff based committee to support the activity of the Waste Management Committee.

#### **Background:**

It was recognized during the Waste Management Master Plan process that there was a need to establish a committee of staff to review technical information before this information was presented to the Waste Management Steering Committee and to participate in development and delivery of the public consultation process.

This realization led to the formation of the Technical Advisory Committee (TAC) in August of 1991. (see attached memo)

The TAC was made up of the City and County CAOs, City Director of Utility Services and County Manager of Environmental Services.

#### **Discussion and Committee Function:**

The County and City are about to become joint owners and operators of a landfill that will be in operation for a number of years and require post closure monitoring. The development of the landfill will be an ongoing exercise of progressive development and closure and continual site monitoring.

The landfill siting process was part of a Waste Management System Plan approach that tied the landfill to a number of planned diversion activities.

The County and City will therefore be, as part of the approvals process responsible for the development and operation of the Peterborough County/City Landfill and be required to ensure that there is a co-ordination of waste management activity.

It is therefore necessary to provide a vehicle for administrative and technical staff of the County and City to ensure that instruments and systems that have been approved by the WMC are put in place so that the landfill is operated properly. The function of an Operations and Development Advisory Committee will be the:

- Review of annual reports and other reports and technical documents to ensure approvals compliance and appropriate site development takes place;
- Review of draft budgets for submission to the Waste Management Committee (WMC);
- Preparation and recommendation of draft policies and procedures to the WMC;
- Review of workplan activity in accordance with the approved plan, and;
- Preparation of draft criteria and specifications related to tender and contract development as identified in the approved workplan. The preparation of tenders, proposals and quotations will be in accordance with the City Purchasing By-Law

### **Operations and Development Advisory Committee Composition**

The committee will be made up of:

- County and City CAOs
- County and City Treasurers
- Director of Utility Services, City of Peterborough
- Manager of Environmental Services, County of Peterborough

The Chair of the Operations and Development Advisory Committee will be the Director of Utility Services, City of Peterborough.

Meetings will be held at least quarterly or more often as deemed necessary for the proper operation of the landfill.

The Operations and Development Advisory Committee will, as needed seek additional technical and/or legal services from County/City staff or from the outside as directed and approved by the WMC.

### **Amending these Terms of Reference**

The Operations and Development Advisory Committee Terms of Reference may from time to time require amendment. The direction to amend the Terms of Reference of the committee will come from the WMC and both Councils will approve any amendments.