

ISLAND COUNTY COMMISSIONERS' WORK SESSION SCHEDULE
MARCH 13, 2024

Meetings are available remotely. Those interested in attending the meetings by computer, tablet, or smartphone may use the following link: <https://tinyurl.com/ICWorkSession>
or for voice only, **Dial by your location:** (253) 215-8782
Meeting ID: 957 0144 6335 **Passcode:** 969196

9:00 a.m.	Human Services
9:15 a.m.	Public Health
9:40 a.m.	Public Works/Emergency Management
10:00 a.m.	Planning & Community Development

The Board of County Commissioners meets routinely in Work Session the first three Wednesdays of each month. Work Sessions are held in the Annex Building, Board of County Commissioners' Hearing Room, #B102, 1 NE 6th Street, Coupeville, WA.

Work Sessions are public meetings that provide an informal workshop format opportunity for the Board to review ongoing items with departments or to meet with other agencies, committees, or groups to discuss specific topics of mutual interest. Items are typically reviewed at Work Session before being scheduled on the agenda for the Board's regular Tuesday business meetings.

While Work Sessions do not have time set aside for verbal public comment, written public comment is welcomed and can be directed to the Clerk of the Board by submitting comments to CommentBOCC@islandcountywa.gov. If you have questions regarding public comment, you may call (360) 679-7385. Written public comments are considered a public record.

Times for each department are approximate; a time slot scheduled for a specific department may be revised as the Work Session progresses. Because of the workshop format and time sensitivity, certain items, topics, and materials may be presented that are not included in the published agenda. **If you are interested in reviewing those documents, please contact the Clerk of the Board at (360) 679-7354.**

NOTE: Audio recordings are posted within 48 hours of the meeting date. To listen to the recording visit the [Agenda Center](#) on the Island County website.



ISLAND COUNTY HUMAN SERVICES

WORK SESSION AGENDA

MEETING DATE: 3/13/2024

To: Jill Johnson, Chair
Board of Island County Commissioners

From: Lynda Austin, Director

Amount of time requested for agenda discussion. 15 minutes

DIVISION: Housing Assistance

Agenda Item No.: 1

Subject: Recommendation for Affordable Housing Developer for County owned parcel

Description: On December 1, 2023 staff issued a Request for Qualifications for an experienced affordable housing developer to create affordable housing on a county owned 5.58 acre parcel located at 1215 SW Swantown Avenue in Oak Harbor, WA. Two applications were received. Members of the Housing staff, Housing Advisory Board, City of Oak Harbor Planning and Community Development, and a local retired Affordable Housing Developer reviewed and scored the proposals. Staff recommends for the BOCC to issue an Award Letter and Transfer Option agreement signed by the Chair to the selected developer. The agreement is contingent on financing, restrictive use for Affordable Housing, and includes termination language in case the development is not meeting specific deadlines. The actual land transfer will not take place until all financing is in place.

Attachments: Award Letter (draft), Transfer Option Agreement (draft)

Request: *(Check boxes that apply)*

- | | |
|---|--|
| <input type="checkbox"/> Move to Consent | <input type="checkbox"/> Move to Regular |
| <input type="checkbox"/> None/Informational | <input type="checkbox"/> Schedule a Public Hearing |
| <input checked="" type="checkbox"/> Signature Request | <input type="checkbox"/> Other: _____ |

IT Review: Not Applicable

Budget Review: Not Applicable

P.A. Review: In process



Island County

1 NE 7th Street, Coupeville, WA 98239

March 5, 2024

Jeremy Wilkening
Shelter Resources, Inc.
2223 112th Ave NE, Ste 102
Bellevue, WA 98004

RE: Island County-Affordable Housing Development

Dear Mr. Wilkening,

We are pleased to inform you that the Island County Board of County Commissioners has selected Shelter Resources, Inc. to develop mixed income affordable housing on county owned land, Parcel No. R13203-110-1730, located at 1215 SW Swantown Avenue Oak Harbor Street, Oak Harbor, WA.

In accordance with the goals and priorities of the Island County Board of County Commissioners to address housing affordability in Island County, the Board agrees to support this development by transfer of the land ownership from the County to Shelter Resources, Inc., as stipulated in the Transfer Option Agreement.

In order to complete acceptance of this award Shelter Resources, Inc. must commit in writing that it will achieve and/or abide by the following terms and conditions in performing all work related to this award:

1. To perform all activities defined in the Request for Qualifications for Affordable Housing Development Organizations in accordance with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal governments.
2. To develop the property transferred by Island County only as stated in section IV- Expected Development-of the Request for Qualifications for Affordable Housing Development Organizations as well as the Transfer Option Agreement.
3. To enter into a contract with Island County which specifies the scope of all phases of the development project, including pre-development project work, design, number of units, type of units, income limits, timeline, expected funding, completion schedule, and use of the property according to limitations stated in the Deed of Transfer.
4. To work closely with Oak Harbor Planning Department.
5. To create the greatest number of affordable units.
6. To ensure permanent affordability.
7. To create units with level of affordability, mixed income, not to exceed 80% area median income.



Island County

1 NE 7th Street, Coupeville, WA 98239

Shelter Resources, Inc.

Page 2 of 2

8. To create the greatest number of permanent supportive housing units while using a mixed-income model that facilitates community integration, social stability, and operating cash flow for sustainability of supportive services.
9. To create onsite amenities, such as community rooms, spaces for supportive services, classes, and recreation.
10. To create a robust on-site social service plan and an operating budget to deliver supportive services for those residents with more complex needs.
11. To leverage other funding sources or other types of capital resources and operating subsidies.
12. Maintain regular communication between the Shelter Resources, Inc. development team and identified county staff to review site plan, architectural designs, overall development schedule.

Please indicate your acceptance of this award letter, and your agreement to its terms in a written response within five business days. Congratulations to the whole team at Shelter Resources, Inc. We look forward to this partnership and the affordable housing that will be created for our community.

Sincerely,

Jill Johnson, Chair
Board of Island County Commissioners

Cc: Lynda Austin, Human Services

TRANSFER OPTION AGREEMENT

This TRANSFER OPTION AGREEMENT (this "Agreement") is entered into as of the ____ day of March 2024, by and between ISLAND COUNTY, (the "Grantor"), and SHELTER RESOURCES, INC. (the "Grantee").

RECITALS

A. Grantor is the owner of certain real property located at 1215 SW Swantown Avenue, Oak Harbor, WA Parcel # R13203-110-1730 described on Exhibit A hereto (the "Property").

B. Grantee desires to obtain, and Grantor desires to grant, an exclusive option to purchase the Property pursuant to the terms, covenants and conditions set forth in this Agreement.

C. The Grantee expects to develop the Property as an 82-unit affordable project to provide long term affordable rental housing (the "Project").

AGREEMENT

1. For good and valuable consideration, receipt of which is hereby acknowledged, the Grantor grants Grantee the exclusive and irrevocable option to purchase the Property conditioned upon all of the terms, covenants, and conditions set forth in this Agreement, but not before the date the Grantee receives notice from the Washington State Housing Finance Commission that the Project has qualified for an allocation of federal low-income housing tax credits. The Grantor will transfer the Grantor's interest in the Property consistent with RCW 39.33.015.

2. This Agreement will terminate in two years if the Grantee has either (a) not received the notice described in paragraph 1 above by that date, or (b) not received loans or grants that are adequate to fully fund the development of the Project and cause federal low-income housing tax credits to be available for the Project.

3. This Agreement is conditioned on the Grantee executing an affordable housing covenant, restrictive use agreement or other similar agreement to the County's satisfaction which will be recorded against the property to restrict the usage to a minimum of 80 apartments affordable to households with annual income equal or less than 80 percent of the area median income as determined by the WA State Housing Finance Commission, for a period of at least 40 years. This covenant shall be prepared prior to the exercise of the Transfer Option and recorded contemporaneously with the transfer of the Property. Exercise of the option granted by this Agreement is further conditioned on the Grantor and Shelter Resources, Inc. entering into a written memorandum of understanding setting forth their understanding of the terms and conditions for the development of the Property, including all terms described in the March 5, 2024, award letter.

4. The Grantor shall not, without the Grantee's written consent, grant any liens or encumbrances not in effect of the date of the Agreement during its term.

5. The Grantee shall not assign this Agreement without the Grantor's written consent.

FOR SHELTER RESOURCES, INC.:

Date _____

Jill Johnson
Board of County Commissioners
Island County, Washington

Date

EXHIBIT A
Abbreviated Legal
DESCRIPTION

SE SW BG NW CR SE SW S330' E462' S229' E327.5' N to SLN RD NWLY ALG RD TO NLN SE SW W332.2'
TPB ALSO BG NW CR SE SW S330' TPB S20' SWLY TO 85'S OF TPB N85' TO TPB EX PT TO IS CO FOR RD
FR 078-1950, 091-1940, 096-1500 & 117-1590

DRAFT



ISLAND COUNTY PUBLIC HEALTH

WORK SESSION AGENDA

MEETING DATE: 3/13/2024

To: Jill Johnson, Chair
Board of Island County Commissioners

From: Shawn Morris, Director

Amount of time requested for agenda discussion. 20 minutes

DIVISION: Dept of Natural Resources

Agenda Item No.: 1

Subject: Surface Water Quality Program Update

Description: Overview of 2023 sampling year and results; transition from fecal coliform to E.coli; SWQMP for 2024.

Attachment: Infographic Handout and Presentation

Request: *(Check boxes that apply)*

- | | |
|--|--|
| <input type="checkbox"/> Move to Consent | <input type="checkbox"/> Move to Regular |
| <input checked="" type="checkbox"/> None/Informational | <input type="checkbox"/> Schedule a Public Hearing |
| <input type="checkbox"/> Signature Request | <input type="checkbox"/> Other: _____ |

IT Review: Not Applicable

Budget Review: Not Applicable

P.A. Review: Not Applicable



Island County Department

Surface Water Quality Report



Introduction

Island County, with a population of around 87,000, highlights a rural lifestyle across its scenic shorelines and watersheds.

Whidbey & Camano
Island encompass
more than

200 
WATERSHEDS

ONLY

20% 

U.S. homes are
served decentralized
wastewater
(Ground Water 2022)

IN CONTRAST

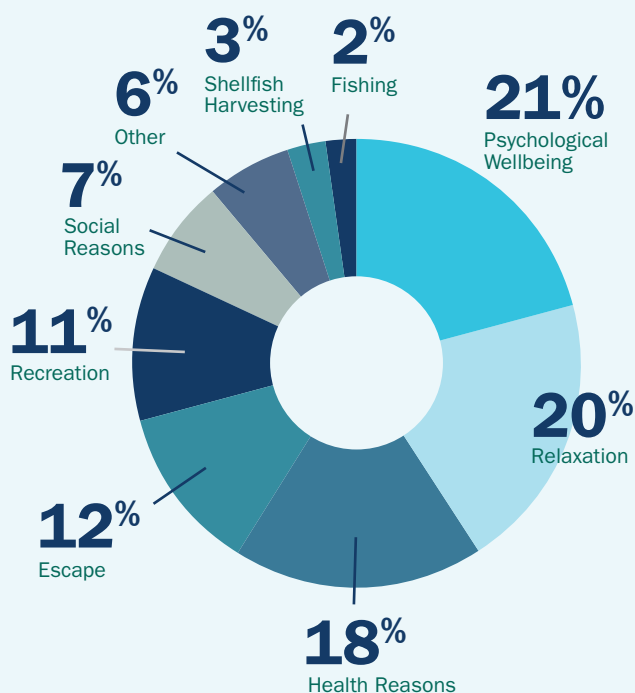
72% 

Island County
Residents utilizing
a septic system

Since 2006, the Island County Surface Water Quality Monitoring Program (SWQMP) has been dedicated to safeguarding human health and the environment by assessing water quality in over 200 watersheds within the Water Resources Inventory Area (WRIA) 6. In its 17th year, the SWQMP undertook extensive water quality monitoring in 16 watersheds, adjusting to new water quality standards and providing crucial data for the evaluation and planning of future development and environmental conservation projects.

Residents Visit Shorelines for a Range of Reasons

Surface Water in Island County pours into the shorelines, affecting how residents interact with the water.



Surface Water Quality Monitoring Program Highlights

**37/
200**

Watersheds monitored
across Island County,
up 150% from 2022



MORE THAN

4000

Staff hours logged



OVER

450

Water samples
analyzed



OVER

50

Source ID
samples analyzed

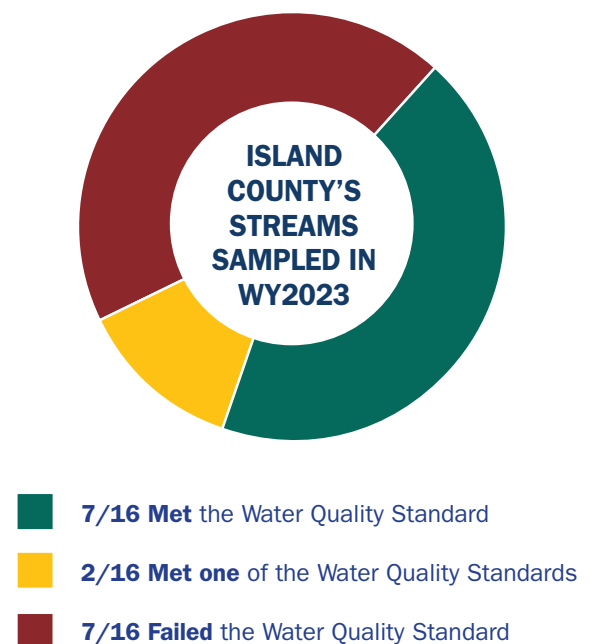


MORE THAN

10

Source ID investigations referred
to Adaptive Management

Results:





Island County Department

Surface Water Quality Report



Escherichia coli (E. coli) Results

Data for the most recent five years. Cells shaded light green meet the state standard for Primary Contact Recreation.

SITE NAME	SITE #	2018	2019	2020	2021	2022	2023	STATE STANDARD
S Whidbey State Park	119a	NA	NA	FC 4	NA	NA	7	100
Crescent Creek	13a	FC 42	FC 53	FC 8	384	57	119	100
Freeland Park	134a	FC 8	FC 34	NA	NA	19	6	100
Glendale Creek	149a	FC 80	FC 138	FC 116	35	88	31	100
Cultus Creek	150a	NA	NA	FC 98	NA	NA	210	100
Scatchet Creek	157a	FC 123	FC 113	FC 148	28	99	56	100
Carp Creek	55a	FC 20	FC 112	FC 30	17	28	50	100
Ebey's Reserve	58a	FC 91	FC 37	FC 54	43	77	218	100
Chapman Creek	69a	FC 33	FC 12	FC 15	25	49	29	100
Sunset W Camano*	70a	NA	NA	NA	NA	NA	14	100
Cavalero Creek	74a	FC 37	FC 28	FC 28	26	40	94	100
Bonnie Ln*	82a	NA	NA	NA	NA	NA	15	100
E Freeland Park*	Hhab	FC 16	FC 59	FC 85	177	121	35	100
Kristoferson Creek*	KC1	FC 22	FC 21	FC 23	14	37	32	100
Maxwelton Creek	MWA2	FC 41	FC 32	FC 48	23	86	98	100
Quade Creek	QCA	NA	NA	FC 15	NA	NA	29	100

*Less than 12 months sampling for WY2023. **FC = Fecal Coliform** | **NA = Not Assessed**

Temperature

Water temperature is a critical habitat component for fish (especially salmonids), amphibians, and invertebrates and extreme temperatures can stress aquatic species to the point of being lethal. Temperature also influences natural decomposition rates, the mobility of several pollutants, and the amount of dissolved oxygen in the water (as temperature increases, dissolved oxygen decreases). Streams with banks dominated by trees or tall shrubs tend to be cooler than those with banks covered in grass or short vegetation. Cooling can occur with shading, increased turbulence, or the influx of groundwater into the stream channel. With increased clearing due to development temperatures of our streams may increase.

SITE	SITE NAME	2018	2019	2020	2021	2022	2023	STATE STANDARD
13a	Crescent Creek	15.80	11.75	8.57	9.96	15.21	12.72	17.5
134a	Freeland Park	8.44	13.41			12.09	20.36	17.5
149a	Glendale Creek	13.71	13.83	13.27	14.28	14.48	14.88	17.5
157a	Scatchet Head Creek	14.37	14.44	13.40	14.27	15.43	15.85	17.5
55a	Carp Creek	12.84	13.10	10.43	11.29	15.41	21.31	17.5
58a	Ebey's Landing	12.81	16.49	8.52	8.49	12.80	17.61	17.5
69a	Chapman Creek	16.28	16.86	17.62	16.84	17.50	20.01	17.5
74a	Cavalero Creek	15.85	16.55	12.57	13.63	17.23	22.25	17.5
Hhab	E Freeland Park	18.31	18.41	14.96	6.25*	22.85	21.93	17.5
KC1	Kristoferson Creek	18.25	15.29	12.66	15.88	17.01	7.10	17.5
MWA2	Maxwelton Creek	18.01	15.98	15.78	16.64	17.13	17.31	17.5

Recorded from monthly sampling. Cells shaded light blue met the state standard for Salmonid spawning, rearing and migration.

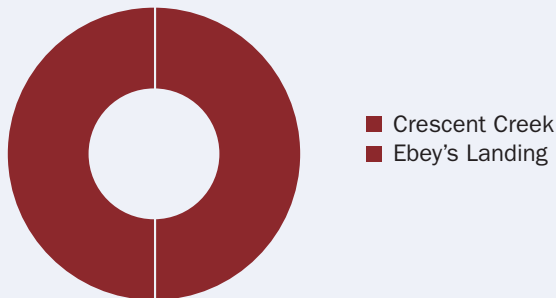


Island County Department

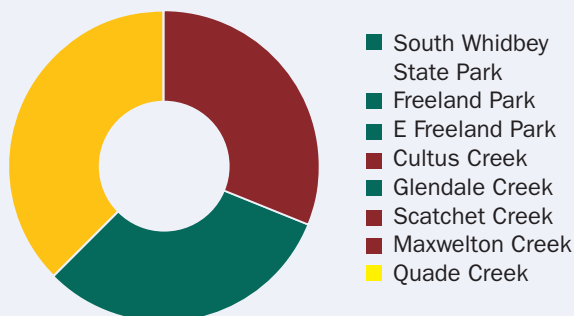
Surface Water Quality Report



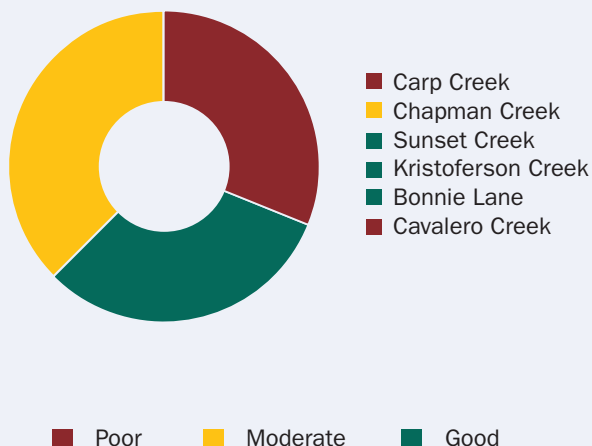
North Whidbey Area Results



South Whidbey Area Results



Camano Island Results



Reconnaissance Monitoring

LOCATIONS: Livingston Bay, South Region of Camano Island, Strawberry Point, Penn Cove, South Holmes Harbor, and Maxwelton Valley on Whidbey Island.

- **Monitoring revealed impairments** that were shared with and addressed by the Island County Onsite Septic (OSS) team.
- **Investigate complaints** of onsite septic failures on Camano and Whidbey Islands.
- **Monitoring in Race Lagoon area** in anticipation of salmon recovery efforts and restoration projects.

Source ID



Monitoring Intensification

Which involved increasing the number and locations of monitoring points upstream and downstream to pinpoint pollution sources.



Increasing frequency and timing of monitoring at sample point to pinpoint activity in that location that may be influencing samples.

Successes

The SWQ team has collaborated with the OSS team to investigate fecal pollution due to possible onsite septic failures on both Camano and Whidbey Islands. Bracketing as part of the Source ID process resulted in notification letters from the OSS team sent to homes in the area of Cultus Creek, Maxwelton Creek, and Maple Grove Boat Launch. Resources were shared amongst multiple departments to provide additional information and education to community members.





Island County Department

Surface Water Quality Report



Adaptive Management Action Team



**Public Health
EH & DNR**



**Planning &
Community
Development**



**Public
Works**



**Outside
Agencies**

WY2023:

- **Source ID bracketing** for sites with continued exceedances of water quality standards
- **Sharing of information** and data related to each site, with a plan for next steps
- **Sending out letters to residents** around sites to have septic systems inspected.
- **Educational materials sent out** to provide information on septic providers and Island County Code.
- **Investigating alternative source of pollution** not related to septic violations.

Outreach and Education

- ✓ **Penn Cove Water Festival**
- ✓ **Whidbey Island Fair**
- ✓ **Whidbey 101**
- ✓ **Camano 101**
- ✓ **Sno-Isle Library Nurture Nature Series**
- ✓ **Crescent Harbor Elementary**

Conclusion

Clean water and watershed health are fundamental for human, livestock, wildlife, and community help.



They are supported by initiatives like the Puget Sound Salmon Recovery Plan and local environmental ordinances.

WY2023's water quality decline is influenced by a number of factors.



This trend is attributed to factors such as increased development, reduced rainfall, higher temperatures, and failing septic systems. Surface water quality is subject to fluctuations influenced by climate change and population growth.

Future Initiatives

Enhance monitoring efforts, including storm event analysis to assess the impact of development and pollution on watersheds.



Introduction of new and continued programs focused on:

- **Pollution identification**
- **Benthic macroinvertebrate surveys**
- **Stream assessments**



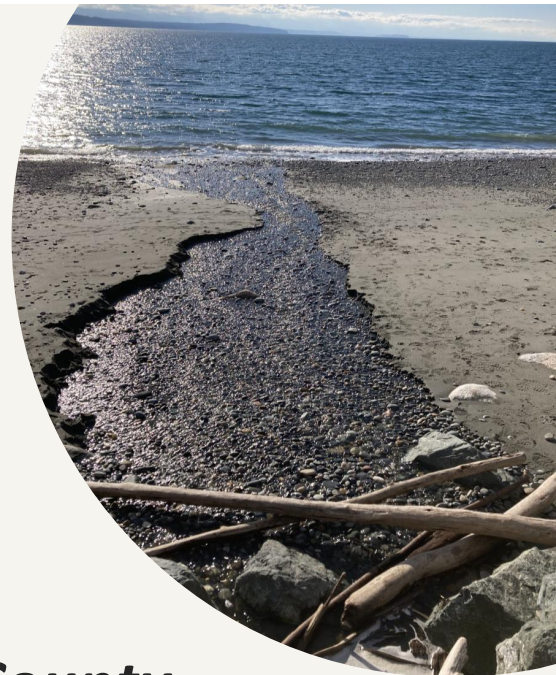
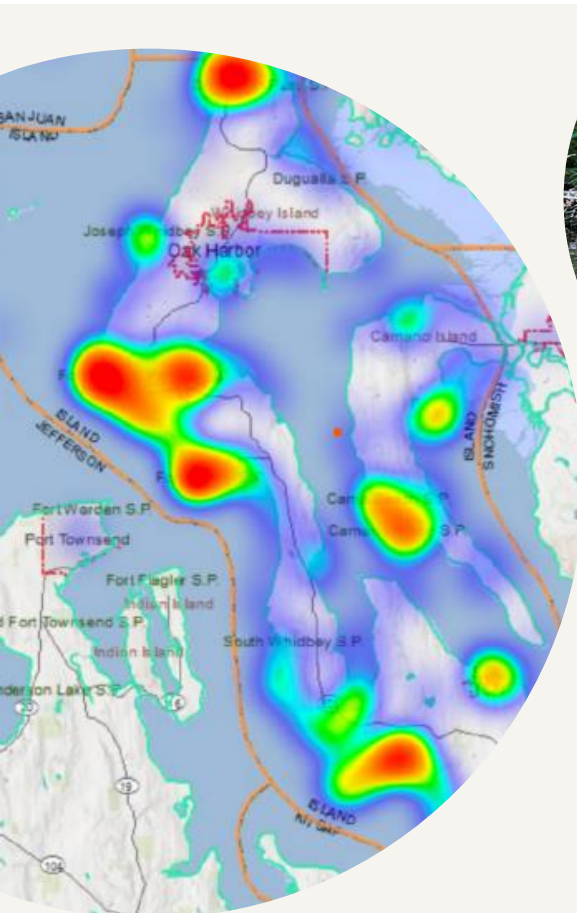


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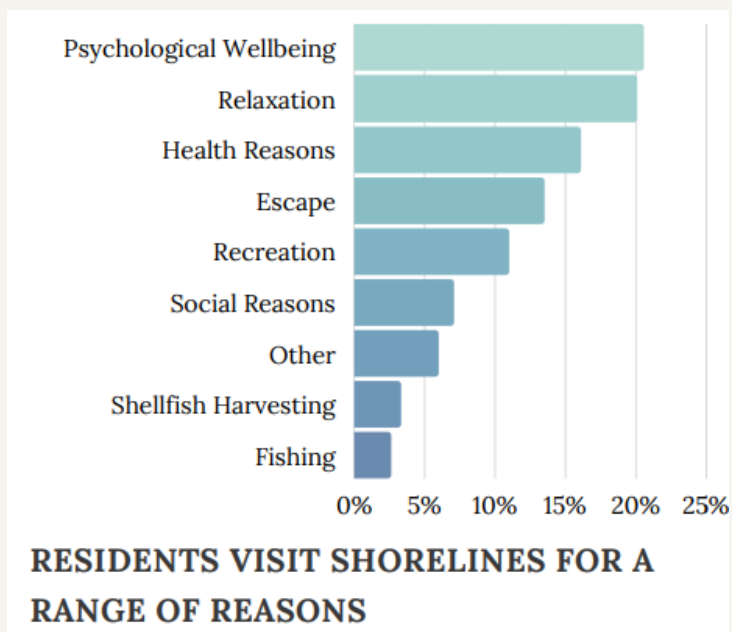
*Island County
Surface Water Quality
Monitoring Program*

*2022-2023
Annual Report*

Island County Natural Resources



***What do Island County
residents value?***



How can we ensure people have access to healthy and productive shorelines?

Regular and Consistent Surface Water Quality Monitoring





Data Collection

- Sage Ince, Natural Resource Specialist
- Carlie Miller, Natural Resource Specialist
- Jessica Reed, Natural Resource Specialist, Watershed Planner

Surface Water Quality Monitoring Program Highlights

**37/
200**

Watersheds monitored
across Island County,
up 150% from 2022



MORE THAN

4000

Staff hours logged



OVER

450

Water samples
analyzed



OVER

50

Source ID
samples analyzed



MORE THAN

10

Source ID investigations referred
to Adaptive Management



*Surface Water
Quality
Monitoring
Program
(SWQMP)
components:*

**Priority Watersheds, Core and
Rotational Site Sampling**

**Source Identification (SID)
Sampling**

Reconnaissance Sampling

Effectiveness Sampling

*Surface Water
Quality
Monitoring
Program
(SWQMP)
components:*

**Priority Watersheds, Core and
Rotational Site Sampling**

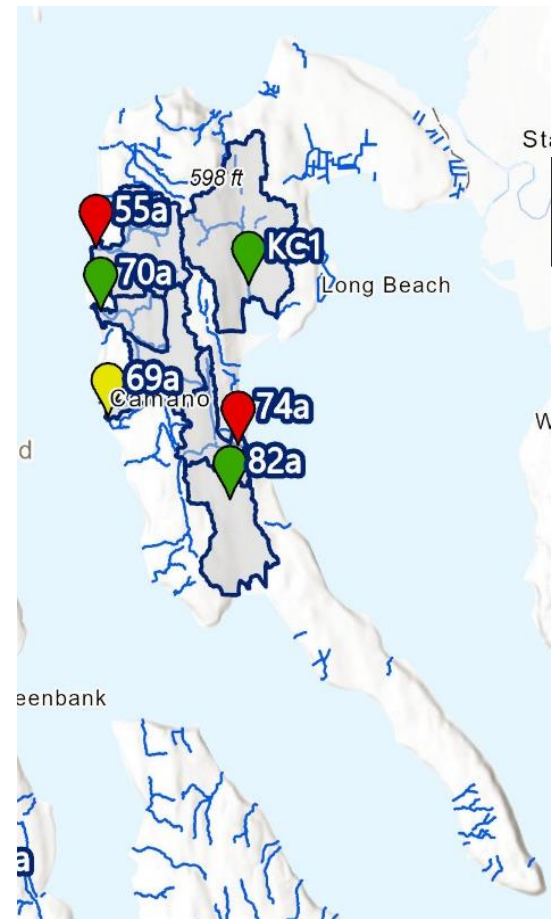
**Source Identification (SID)
Sampling**

Reconnaissance Sampling

Effectiveness Sampling

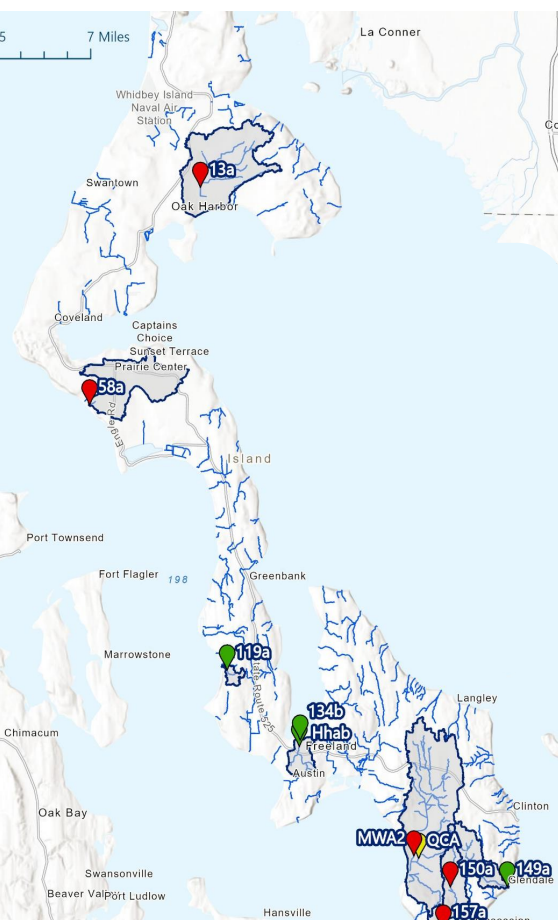
2023 Priority Watersheds - Camano Island

Camano Island	
Core	Rotational
55a - Carp Creek 69a - Chapman Creek 74a - Cavalero Creek KC1 - Kristoferson Creek	82a - Bonnie Ln 70a - Sunset W Camano



2023 Priority Watersheds - Whidbey Island

Whidbey Island	
Core	Rotational
13a - Crescent Creek 58a - Ebey's Reserve 134a - Freeland Park Hhab – East Freeland Marsh MWA2 - Maxwellton Creek 157a - Scatchet Creek 149a - Glendale Creek	119a - South Whidbey State Park 150a - Cultus Creek QCA - Quade Creek




Water Quality Standards for Surface Waters of the State as per Chapter 173-201A WAC

Salmonid spawning, rearing and migration	Temperature	7-day average of the daily maximum temperatures no greater than 17.5°C (63.5°F)
	Dissolved Oxygen (DO)	8.0 mg/L minimum*
	pH	Between 6.5 and 8.5
	Turbidity	Shall not exceed 5 NTU over background when background turbidity is 50 NTU or less
Primary Contact Recreation	<i>E. Coli</i> (Most Probable Number MPN)	<i>E. coli</i> organism levels within an averaging period must not exceed a geometric mean value of 100 CFU or MPN per 100 mL, with not more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained within the averaging period exceeding 320 CFU or MPN per 100 mL.

How were trends in SWQ data analyzed?

- Annual Geomeans of Fecal and *E. coli*, Maximum Temperatures, Dissolved Oxygen

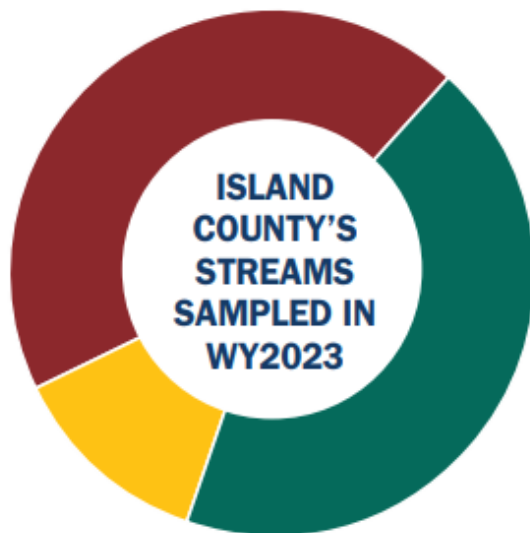
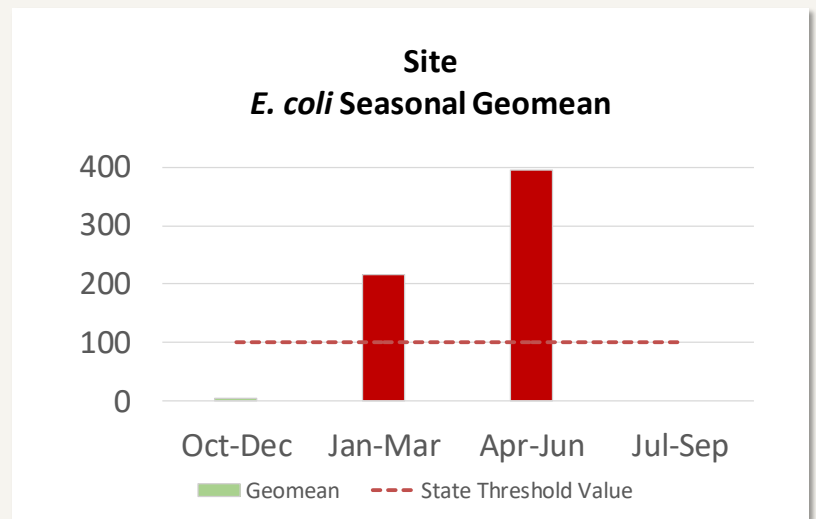


Site Name	2018 (WY12)	2019 (WY13)	2020 (WY14)	2021 (WY15)	2022 (WY16)	2023 (WY17)	State Standard
FC / <i>E. Coli</i>	FC 126	FC 113	FC 5	110	173	87	100
Temperature	15.5	17.8	16.8	18.2	17.3	18.6	17.5
Dissolved Oxygen	10.8	11.3	7.9	7.4	8.3	7.4	8.0

How was Stream Health Defined?

Streams were evaluated based on Part 1 and Part 2 of the state standard for *E. coli*:

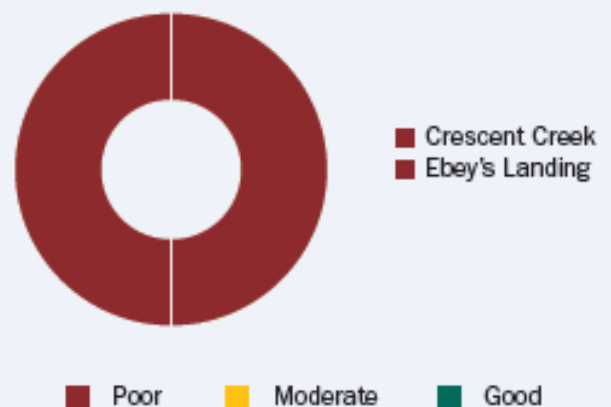
- Averaging Period
Geomeans < 100 MPN/100 mL
- Less than 10 percent of samples > 320



- 7/16 Met the Water Quality Standard
- 2/16 Met one of the Water Quality Standards
- 7/16 Failed the Water Quality Standard

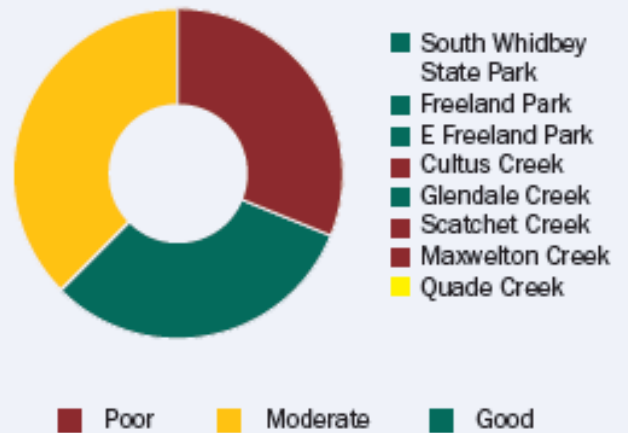
Water Quality Status of Island County Streams (2023)

North Whidbey Area Results



Water Quality Status of Island County Streams (2023)

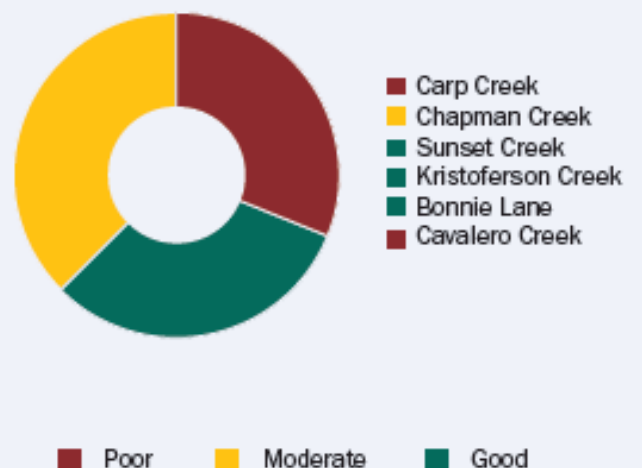
South Whidbey Area Results



- 7/16 Met the Water Quality Standard
- 2/16 Met one of the Water Quality Standards
- 7/16 Failed the Water Quality Standard

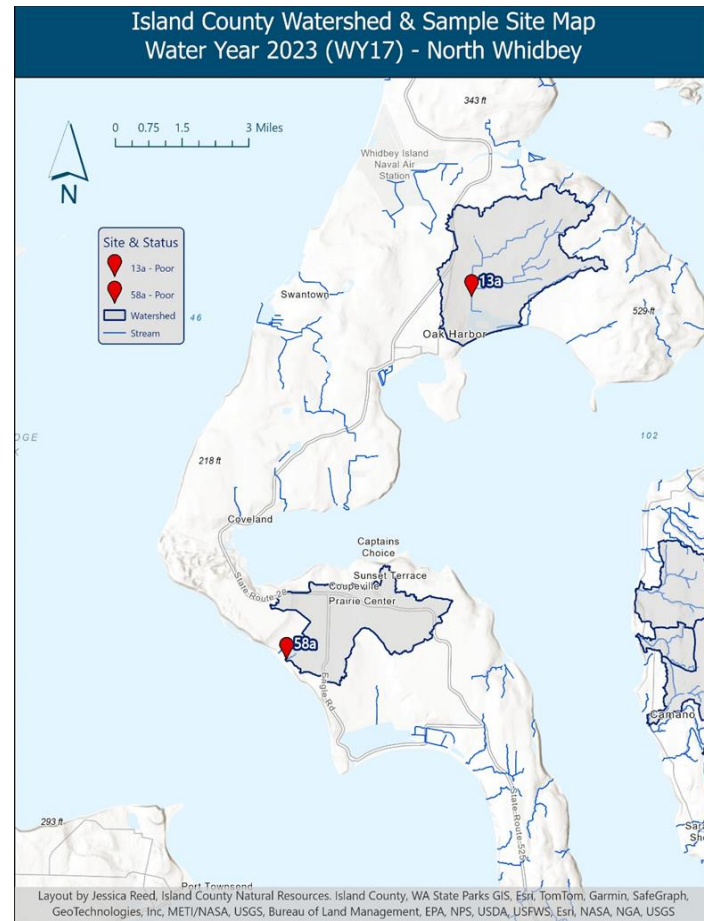
Water Quality Status of Island County Streams (2023)

Camano Island Results



- 7/16 Met the Water Quality Standard
- 2/16 Met one of the Water Quality Standards
- 7/16 Failed the Water Quality Standard

WY2023 North Whidbey Results



Crescent Creek

Water quality was **Poor** based on data collected in WY2023



Six Year Trends	2018	2019	2020	2021	2022	2023
Water Quality	Moderate	Moderate	Good	Moderate	Moderate	Poor
Annual FC / E. coli	FC 42	FC 53	FC 8	384	57	119
Temperature °	15.80	11.75	8.57	9.96	15.21	12.72
DO mg/L	9.86	11.38	10.28	11.44	10.02	9.70





E. coli

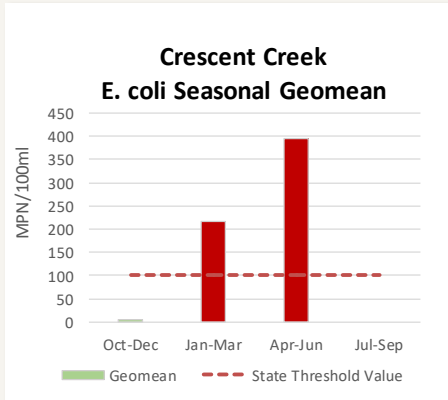
33% of samples exceeded 320
(5 out of 15 samples)

Crescent Creek



Flow

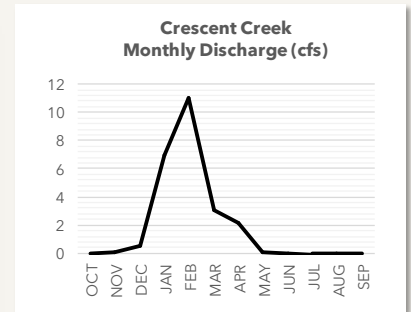
Stream Flow: 8 out of 12 months
Discharge Max: 11 cfs, Min: Dry



Levels high Jan - June; site failed
both parts of the state standard.



Photo: Northwest Treaty Tribes



Ebey's Landing

Water quality was **Poor** based on
data collected in WY2023



Six Year Trends	2018	2019	2020	2021	2022	2023
Water Quality	Poor	Poor	Moderate	Good	Poor	Poor
Annual FC / E. coli	FC 91	FC 37	FC 54	43	77	218
Temperature ° C	12.81	16.49	8.52	8.49	12.80	17.61
DO mg/L	11.30	12.77	12.29	12.82	11.50	10.62



E. coli

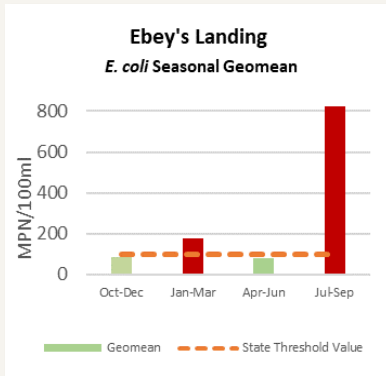
43% of samples exceeded
320
(10 of 23 samples)

Ebey's Landing

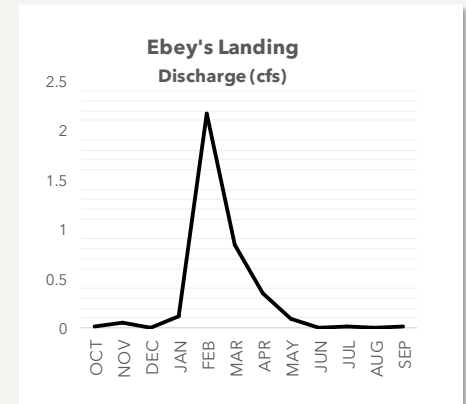
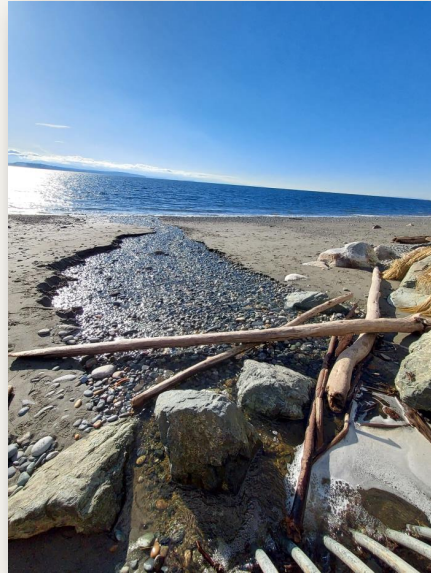


Flow

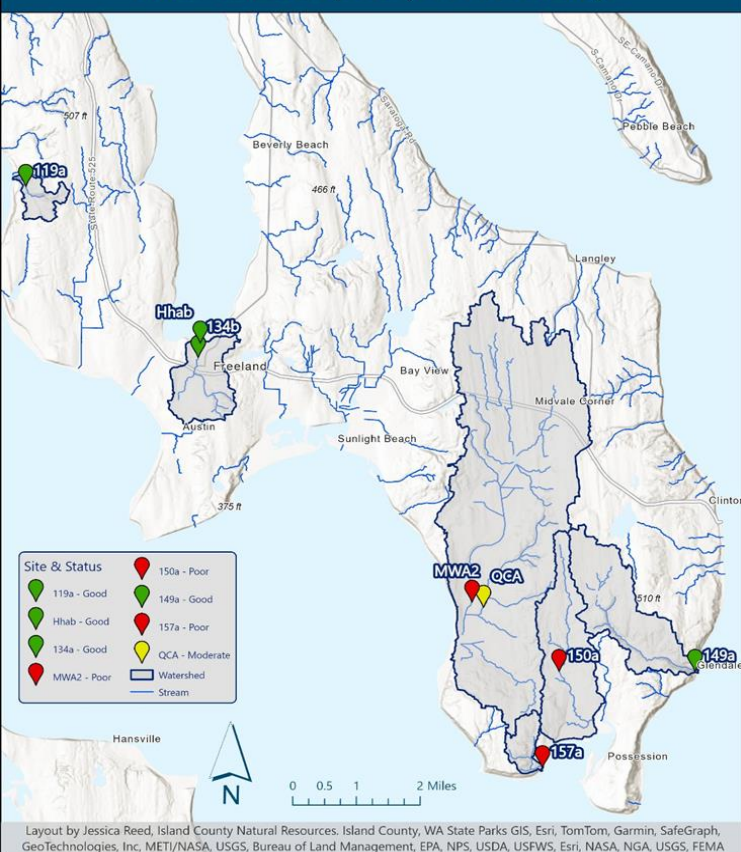
Stream Flow: Year-round
Discharge Max: 2.2 cfs, Min: 0.01



Levels high Jan - Mar and Jul - Sep;
site failed both parts of state
standard.



Island County Watershed & Sample Site Map
Water Year 2023 (WY17) - South Whidbey



WY2023 South Whidbey Results

Cultus Creek



Water quality was **Poor** based on data collected in WY2023



Trends	2020	2023
Water Quality	Moderate	Poor
FC / E. coli	15	210
Temperature ° C	14.00	18.7
DO mg/L	11.44	10.72



E. coli

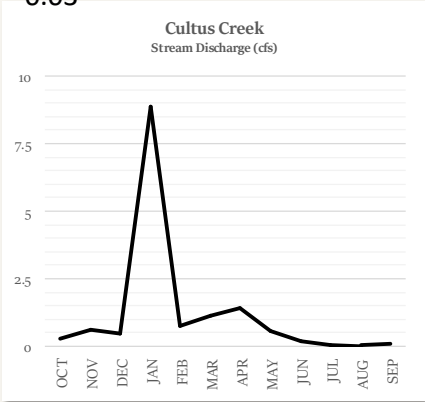
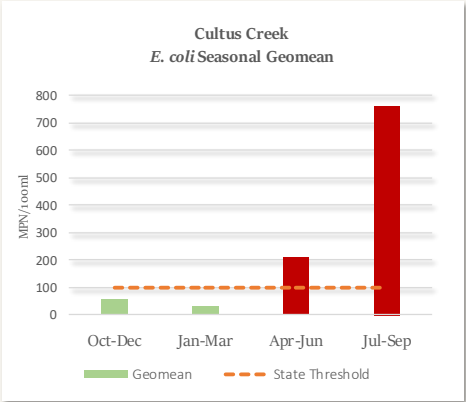
50% of samples exceeded 320
(12 of 24 samples)

Cultus Creek



Flow

Stream flow: Year-round
Discharge: Max 8.87 cfs, Min: 0.03



High hits Apr - Sep. Failed Part 1 and 2 of standard.



Maxwelton Creek



Water quality was **Poor** based on data collected in WY2023

Six Year Trends	2018	2019	2020	2021	2022	2023
Water Quality	Moderate	Moderate	Moderate	Moderate	Poor	Poor
E. coli	FC 41	FC 32	FC 48	23	86	98
Temperature ° C	18.01	15.98	15.78	16.64	17.13	17.31
DO mg/L	10.87	11.34	11.12	10.89	10.02	10.11



E. coli

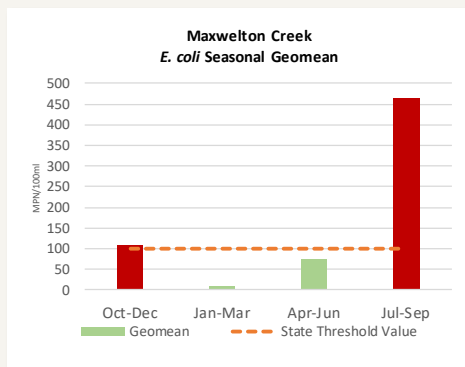
46% of samples exceeded 320 (12 of 26 samples)

Maxwelton Creek

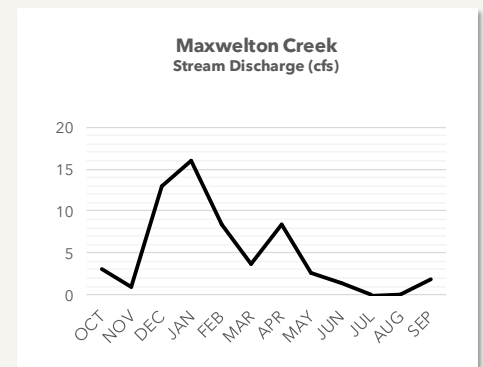


Flow

Stream Flow: Year-round
Discharge: Max 8.87 cfs, Min: 0.03



Levels high Oct - Dec and Jul - Sep; site failed both parts of the standard.



Scatchet Creek



Water quality was **Poor** based on data collected in WY2023

Six Year Trends	2018	2019	2020	2021	2022	2023
Water Quality	Moderate	Poor	Moderate	Good	Moderate	Poor
FC / E. coli	FC 123	FC 113	FC 148	28	99	56
Temperature ° C	14.37	14.44	13.40	14.27	15.43	15.85
DO mg/L	12.08	12.23	12.21	11.85	11.22	11.01



E. coli

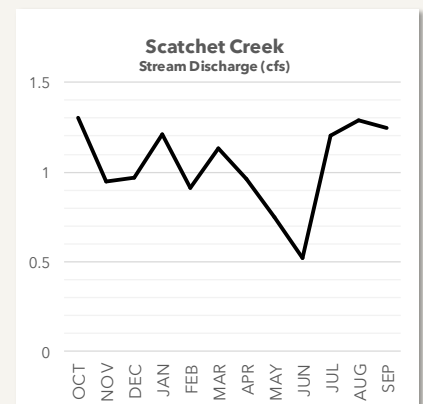
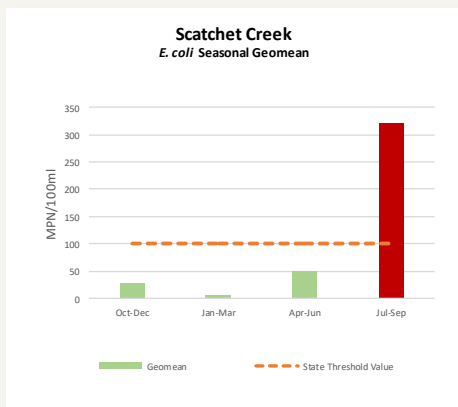
17% of samples exceeded 320 (3 out of 17 samples)

Scatchet Creek



Flow

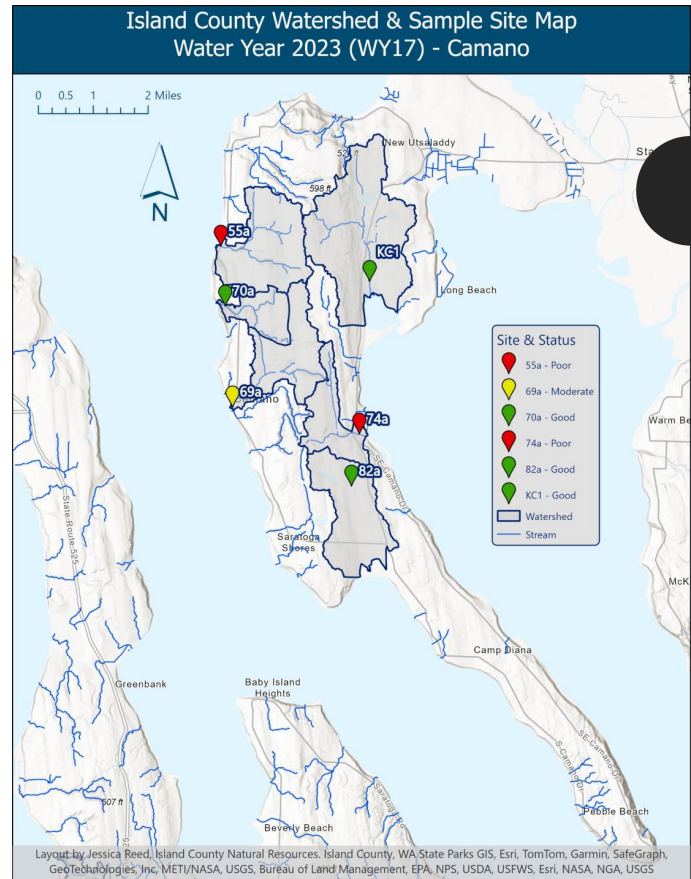
Stream flow: Year-round
Discharge: Max 1.3 cfs, Min: 0.52



Annual lower than WY2022, but High hits Jul - Sep. Failed Part 1 and 2 of standard.



WY2023 Camano Island Results



Carp Creek



Water quality was **Poor** based on data collected in WY2023

Six Year Trends	2018	2019	2020	2021	2022	2023
Water Quality	Moderate	Poor	Poor	Good	Good	Poor
FC/E. coli	FC 20	FC 111	FC 30	14	28	50
Temperature °C	12.84	13.10	10.43	11.29	15.41	21.31
DO mg/L	11.32	12.23	11.75	11.56	11.01	10.31





E. coli

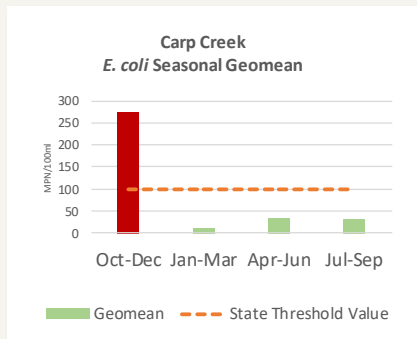
22% of samples exceeded 320 (4 out of 18 samples)

Carp Creek

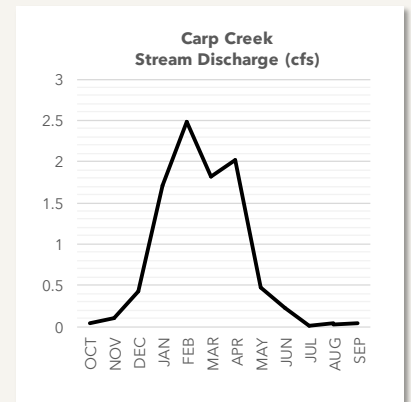


Flow

Stream flow: Year-round
Discharge: Max 2.49 cfs, Min: 0.01



High hits during Oct-Dec. Failed Parts 1 and 2 of standard.



Cavalero Creek



Water quality was **Poor** based on data collected in WY2023

Six Year Trends	2018	2019	2020	2021	2022	2023
Water Quality	Moderate	Moderate	Moderate	Good	Good	Poor
FC / E. coli	FC 37	FC 28	FC 28	14	40	94
Temperature °C	15.85	16.55	12.57	13.63	17.23	22.25
DO mg/L	11.78	12.01	12.15	12.19	10.80	10.75





E. coli

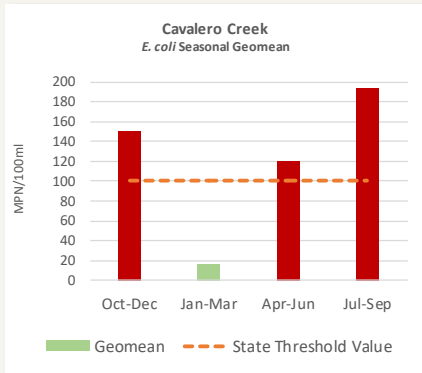
19% of samples exceeded
320 (5 out of 27 samples)

Cavalero Creek

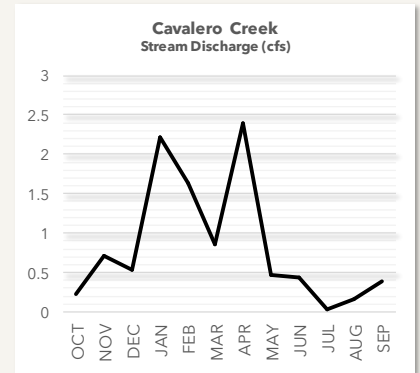


Flow

Stream flow: Year-round
Discharge: Max 2.39 cfs, Min:
0.03



High hits Oct – Dec and Apr – Sep.
Failed Parts 1 and 2 of standard.



*Surface Water
Quality
Monitoring
Program
(SWQMP)
components:*

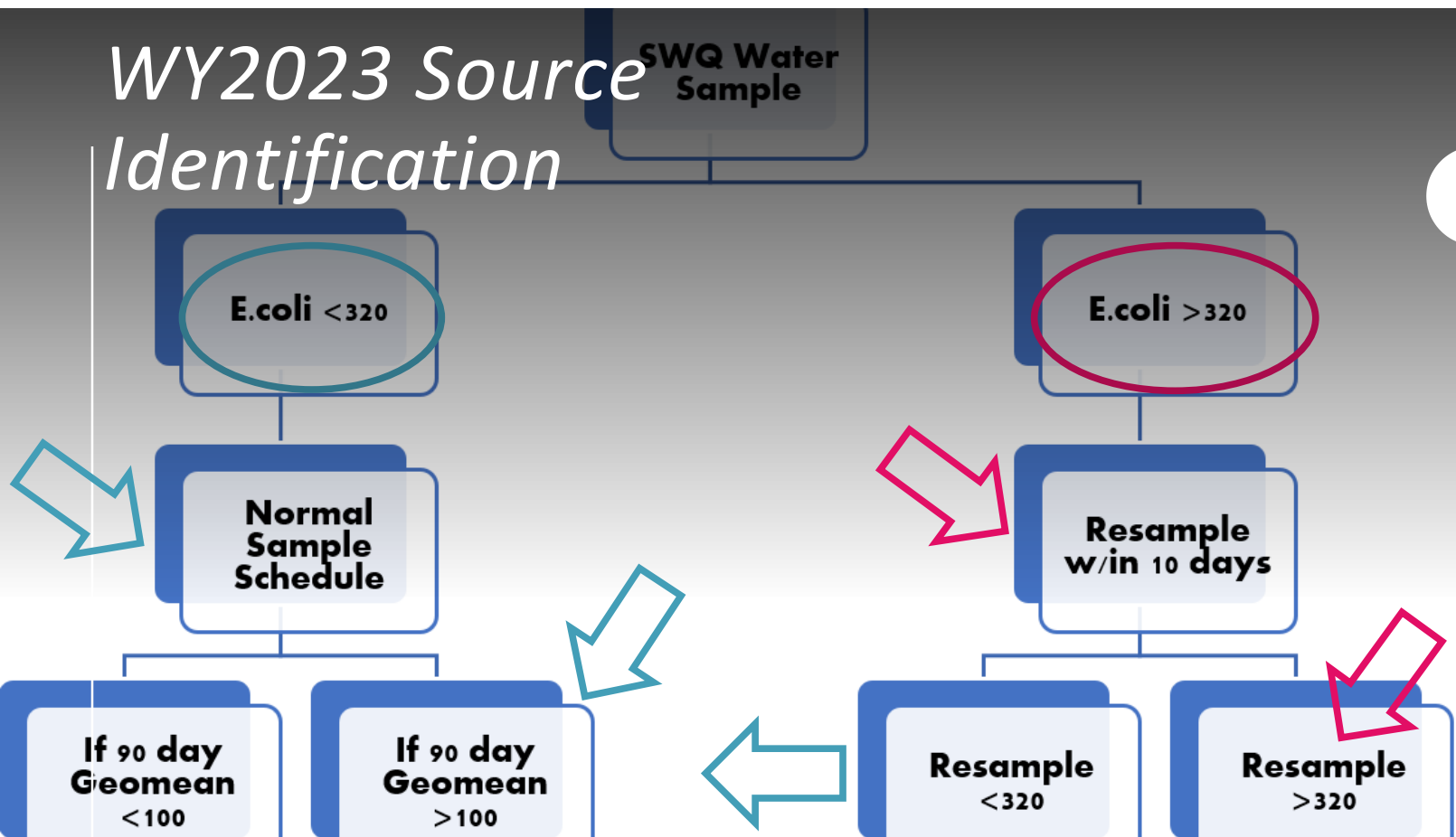
Priority Watersheds, Core and
Rotational Site Sampling

Source Identification (SID)
Sampling

Reconnaissance Sampling

Effectiveness Sampling

WY2023 Source Identification



Adaptive Management Action Team



PUBLIC HEALTH



PUBLIC WORKS



PLANNING &
COMMUNITY
DEVELOPMENT



OUTSIDE
AGENCIES

Source ID and AMAT Successes

- Strawberry Point
- Cultus Creek
- Maxwellton Creek
- Maple Grove



*Surface Water
Quality
Monitoring
Program
(SWQMP)
components:*

Priority Watersheds, Core and
Rotational Site Sampling

Source Identification (SID)
Sampling

Reconnaissance Sampling

Effectiveness Sampling



WY2023 Reconnaissance Sampling Activities

*Surface Water
Quality
Monitoring
Program
(SWQMP)
components:*

Priority Watersheds, Core and
Rotational Site Sampling

Source Identification (SID)
Sampling

Reconnaissance Sampling

Effectiveness Sampling



Effectiveness monitoring plan

Continued focus on...

- Culvert replacements
- Salmon Restoration Efforts
- 13a - Crescent Creek
- KC1 - Kristoferson Creek (upstream and downstream)
- 74a - Cavalero Creek
- 38a - Arrowhead Ave



Effectiveness monitoring plan

Future Plans

- Livingston Bay Estuary restoration
- Cavalero outfall
- Swantown restoration
- Race Road Salmon restoration
- Fish passage culverts
- Utsalady culvert replacements



WY2023 Education and Outreach Activities

Whidbey 101
Camano 101
Crescent Harbor Elementary
Whidbey Island Fair
Penn Cove Water Festival
Sno-Isle Library Nurture Nature
series



How can we
ensure people
have access to
healthy and
productive
shorelines?



Requires Regular and Consistent Surface Water Quality Monitoring



Important Areas of Focus

Continued SWQ Goals

For more information and details about surface water quality and our monitoring programs...

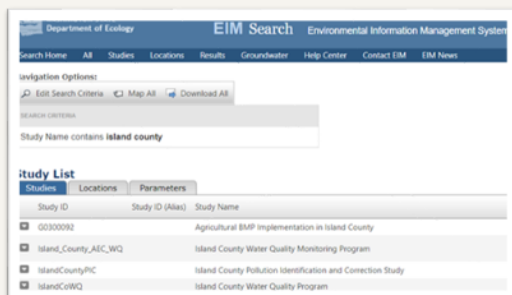
Island County ICGeo Maps



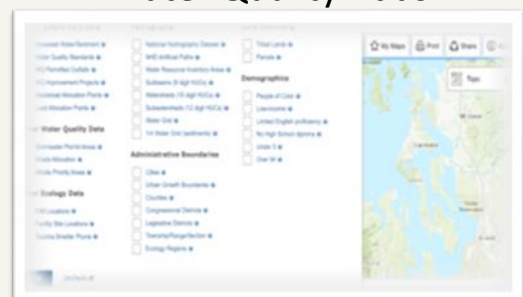
IC Surface Water Quality Report 2023



Washington State EIM Database



WA State Dept. of Ecology Water Quality Atlas





Thank you!

Questions?



ISLAND COUNTY PUBLIC WORKS

WORK SESSION AGENDA

MEETING DATE: 3/13/2024

To: Jill Johnson, Chair
Board of Island County Commissioners

From: Esco Bell, Director

Amount of time requested for agenda discussion. 20 minutes

DIVISION: Emergency Management

Agenda Item No.: 1

Subject: Grant Opportunities for Unmanned Aerial Systems

Description: This discussion is to inform the Board of County Commissioners of two potential grant opportunities to fund Unmanned Aerial Vehicles in support of the Island County Sheriff's anti-terrorism response and protection.

Attachment: Memorandum

Request: *(Check boxes that apply)*

- | | |
|--|--|
| <input type="checkbox"/> Move to Consent | <input type="checkbox"/> Move to Regular |
| <input checked="" type="checkbox"/> None/Informational | <input type="checkbox"/> Schedule a Public Hearing |
| <input type="checkbox"/> Signature Request | <input type="checkbox"/> Other: _____ |

IT Review: Not Applicable

Budget Review: Not Applicable

P.A. Review: Not Applicable

DIVISION: Solid Waste

Agenda Item No.: 2

Subject: Solid Waste Long Haul Transportation and Disposal Services

Description: Solicitation of proposals for solid waste transportation and disposal services, pending expiration of current 2006 contract for service provision, on December 31, 2024.

Attachment: Memorandum, Notice of Request for Proposals (RFP) for Solid Waste Long Haul Transportation and Disposal

Request: *(Check boxes that apply)*

- | | |
|---|---|
| <input type="checkbox"/> Move to Consent | <input type="checkbox"/> Move to Regular |
| <input type="checkbox"/> None/Informational | <input type="checkbox"/> Schedule a Public Hearing |
| <input type="checkbox"/> Signature Request | <input checked="" type="checkbox"/> Other: <u>Guidance from the Board</u> |

IT Review: Not Applicable

Budget Review: Complete

P.A. Review: Complete



Island County Emergency Management

Eric Brooks, MIPM, Director Emergency Management

1 NE 7th Street, Coupeville, WA 98239

Ph: 360-240-5572

Email: E.Brooks@islandcountywa.gov | www.islandcountywa.gov

MEMORANDUM

13 March, 2024

TO: Board of County Commissioners – Island County

FROM: Eric Brooks, MIPM, Director Island County Emergency Management

RE: Grant Opportunities for Unmanned Aerial Systems

The Department of Emergency Management will bring to the Board of County Commissioners Work Session for discussion information on grant opportunities for Small Unmanned Aerial Systems (sUAS) to support the Island County Sheriff's Office.

Unmanned aerial systems are certainly the most significant and life-saving technology to be used in anti-terror operations as they are equipped with electro-optic, infrared, and high-resolution video cameras to monitor Critical Infrastructure (CI), ID & track targets, and assist with damage assessments. Drones are a common-sense tool to inspect toughest to reach parts of infrastructure (i.e., under a bridge) and are safer, speedier, and more sustainable. This technology has the potential to save lives and help preserve essential infrastructure. Further, UASs are able to capture information from a top-down view and share data from scenes of violence.

The first grant opportunity is through the FY24 State Homeland Security Program (SHSP) National Priority Area. (NPA). Projects must support state and local efforts to prevent terrorism and targeted violence and prepare for the threats and hazards that pose the greatest risk to the security of the area. There is no required match for this grant.

The second grant opportunity is through the Emergency Management Performance Grant (EMPG) program reallocation. Funds that were not spent throughout Washington State will be reallocated to accepted projects. There is a 50% match for this grant opportunity that can be In-kind or monetary.

Both of these grant opportunities are competitive so there is no guarantee of funding. Both grants are for the same project so only one would be accepted if both were granted.



Island County Public Works

Fred Snoderly, Assistant Director

1 NE 7th Street, Coupeville, WA 98239

Ph: Whidbey 360-679-7331 | Camano 360-387-3443 | S Whidbey 360-321-5111

Email: f.snoderly@islandcountywa.gov | www.islandcountywa.gov

MEMORANDUM

March 13, 2024

TO: Board of County Commissioners

FROM: Fred Snoderly, Assistant Public Works Director

RE: **Request for Proposals (RFP) for Solid Waste Long Haul
Transportation and Disposal**

The County's 2006 contract with Republic Services for solid waste receiving, transportation, and disposal services, as subsequently amended, expires on December 31, 2024.

The Public Works Department (County) hereby requests approval to solicit proposals from qualified firms or individuals for solid waste transportation and disposal services. It is the purpose of this RFP solicitation to secure long-term transportation and disposal services for solid waste collected at Island County solid waste transfer stations (2) located on Whidbey Island, WA and Camano Island, WA. The County is seeking proposals from experienced entities that are operationally, technically, financially, and legally qualified to provide the required services.

Please find attached the RFP as proposed to be published for solicitation of proposals.

Thank you.

Exhibit 1
REQUEST FOR PROPOSALS (RFP)
SOLID WASTE LONG HAUL TRANSPORTATION & DISPOSAL
ISLAND COUNTY, WA
March 2024

PROJECT OVERVIEW

Island County, Washington, Public Works Department, Solid Waste Division (“County”) is soliciting proposals from qualified firms or individuals for solid waste transportation and disposal services. It is the purpose of this RFP solicitation to secure long-term transportation and disposal services for solid waste collected at Island County solid waste transfer stations (2) located on Whidbey Island, WA and Camano Island, WA. The County is seeking proposals from experienced entities that are operationally, technically, financially, and legally qualified to provide the required services.

The County’s current contract for solid waste receiving, transportation, and disposal services as subsequently amended expires on December 31, 2024.

APPENDICES TO RFP

All appendices to the RFP are attached and incorporated herein.

- A – Current Solid Waste Long Haul Transportation & Disposal Contract and Amendments
- B – Solid Waste System Interlocal Agreements
- C – Draft Contract Template
- D – Map of Receiving Facilities
- E – Statement of Organization
- F – Pricing Form

1. SCHEDULE (all estimates subject to change)

Public Announcement – March 14 & 28, 2024 (2 consecutive Thursdays)
Pre-proposal Conference – To be scheduled at mutually beneficial time
Questions Due – April 12, 2024
Proposals Due – June 14, 2024 (3 months after 1st publication date, no later than 4 pm PST)
Begin Evaluation of Proposals – June 17, 2024
Begin Interviews – June 24 (2 weeks after due date)
Begin Contract Finalization Discussions – July 5, 2024
End Contract Finalization Discussions – July 31, 2024
Written Findings & Public Hearing on Proposed Selection – August, 2024
Execute Contract – September, 2024

2. SUBMITTAL INSTRUCTIONS

Sealed written proposals (including complete submission of qualifications and all other information and materials specified in this RFP) shall be submitted to the Clerk of the Board at the Island County Commissioners Office located at 1 NE 7th Steet, Coupeville, WA 98239, no later than 4:00 pm on June 14, 2024 (“Proposal Due Date”).

3. FIRM OFFER

Submitted Proposals shall remain firm and unaltered after the time of the Proposal Due Date for one hundred eighty (180) calendar days from such date. The County and Proposer may mutually agree to additionally extend the evaluation period during which the proposal shall remain firm and unaltered.

4. WITHDRAWAL OF PROPOSALS

Written requests to withdraw a proposal received by the County prior to the scheduled Proposal Due Date will be accepted and the Proposal will be returned unopened. No oral requests to withdraw a proposal will be allowed. Requests to withdraw a proposal must be addressed and labeled in the same manner as the proposal and marked as WITHDRAWAL of the proposal. If the Proposer wishes to modify and resubmit the Proposal, it must be submitted prior to the Proposal Due Date. Requests for withdrawal after the time of closing on the Proposal Due Date (final date for submission) may only be allowed at the County's sole discretion.

5. EXAMINATION OF RFP BY PROPOSERS

The information, documents, and data contained in this RFP are provided for informational purposes only, without any representations or warranties. Each Proposer is responsible for conducting its own due diligence, and shall make its own examination, investigation and research regarding the proper method of doing the work under this RFP and Contract, all conditions affecting the work to be done, the necessary labor, equipment and materials, and the quantity of the work to be performed. The Proposer agrees that it has satisfied itself by Proposer's own investigation and research regarding all of such conditions, and that Proposer's conclusion to enter into the Contract and execution of the Contract is based upon such investigation and research, and that Proposer shall make no claim against the County because of any of the estimates, statements or interpretations made by any officer or agent of the County that may prove to be inaccurate in any respect.

6. BACKGROUND

County Information: Island County is located on Puget Sound, and is comprised of Whidbey Island and Camano Island. Island County's population is estimated at 86,625 people in 2022 (US Census). Island County Solid Waste Division information can be accessed at <https://islandcountywa.gov/217/Solid-Waste>. Island County Code 13.02A – *Solid Waste Disposal*, which includes a “flow control” regulation requiring solid waste generated and collected within Island County to be disposed of through the Island County solid waste system, is available at: https://library.municode.com/wa/island_county/codes/code_of_ordinances?nodeId=TTXIIIIPUWO_CH13.02A_SOWADI.

Current Transportation and Disposal Services: The Island County Comprehensive Solid and Moderate Risk Waste Management Plan (SWMP) describes the management of solid waste generated in the County. The SWMP is available at <https://www.islandcountywa.gov/DocumentCenter/View/3418/2020-Island-County-Solid-Waste-and-Moderate-Risk-Waste-Management-Plan-pdf?bidId=>. The cities/towns of Oak Harbor, Coupeville and Langley have signed Interlocal Cooperative Agreements with Island County (Appendix B).

The County operates two (2) transfer stations and two (2) drop box facilities. On Whidbey Island, solid waste generated and collected in unincorporated areas of the County, and from cities/towns, is delivered either 1) to one of two drop box facilities (self-haul delivery), and subsequently transferred by the County to the Coupeville transfer station, or 2) directly to the Coupeville transfer station (self-haul and route collection company delivery). On Camano Island, all solid waste is delivered directly to the transfer station (self-haul and route collection company delivery). These County locations are:

- **Whidbey Island Transfer Station:** 20018 SR 20, Coupeville, WA
- **Whidbey Island North Whidbey Drop Box Facility:** 3151 Oak Harbor Rd, Oak Harbor, WA
- **Whidbey Island Bayview Drop Box Facility:** 5790 South Kramer Rd, Langley, WA
- **Camano Island Transfer Station:** 75 East Camano Hill Rd, Camano Island, WA

The County compacts and transports all solid waste accepted at the County's solid waste sites at the Coupeville transfer station (hydraulic compaction for closed top containers, backhoe compaction for open top containers) and Camano Island transfer station (backhoe compaction for open top containers, no closed top containers utilized). The County delivered approximately 58,210 tons of solid waste in calendar year 2023 from the two transfer stations, with the Camano Island transfer station comprising approximately 19% of the total tonnage.

Table 1 summarizes the monthly quantity of solid waste generated by both County transfer stations for 2021 through 2023.

Table 1: 2021-2023 Solid Waste Tonnage at Island County Transfer Stations

Month	2021	2022	2023
January	4,590	4,852	4,741
February	4,137	4,269	4,148
March	5,206	5,277	4,849
April	5,312	4,964	4,353
May	5,254	5,304	5,363
June	5,404	5,288	5,258
July	5,675	5,389	5,389
August	5,573	5,513	5,605
September	5,281	5,179	4,971
October	4,926	4,635	4,779
November	4,886	4,422	4,609
December	4,084	4,132	4,145
Total	60,328	59,224	58,210

7. SCOPE OF SERVICES

The successful Proposer will be required to receive, transport, and dispose of all solid waste generated and collected by the County in accordance with the service Contract (Contract), substantially in the form of the service draft Contract Template attached hereto as Appendix C. Key terms used in this section are also defined and are more particularly described in the draft Contract Template, although the terms of the draft Contract Template shall prevail in the event of any inconsistency. The Contract will be subject to prevailing wage requirements in accordance with applicable law, including RCW 39.58.090(8) and RCW 39.12. The following is an overview of the scope of services:

A. Delivery of Acceptable Waste: The County requires that all Acceptable Waste generated in the County is directed to the County. The County agrees to use reasonable efforts to enter into, maintain, and enforce interlocal agreements with local governments in the County granting the County the right to designate the Disposal Sites for Acceptable Waste generated within the jurisdiction of such local governments.

B. Receiving Services: The successful Proposer will be required to utilize the Receiving Facility(s) (transfer stations) identified in the Contract throughout the term of the Contract unless an alternative Receiving Facility is approved in writing by the County Representative. The successful Proposer will be required to provide priority access at the Receiving Facility for County vehicles.

C. Transport Services: In addition to receiving services, the successful Proposer will be required to transport all Loaded Containers accepted at the Receiving Facility to the Disposal Site and return empty Containers from the Disposal Site to the Receiving Facility.

D. Disposal Services: For disposal services, the successful Proposer will be required to utilize the Disposal Site identified in the Contract throughout the term of the Contract unless an alternative Disposal Site is approved in writing by the County Representative. The Disposal Site must be in compliance with WAC 173-351-300 Design Criteria (2)(a) or CFR Title 40, Subpart D, Section 258.40 Design Criteria, (2)(b) and be compliant with all applicable Federal, State, and Local laws, regulations, and rules.

E. Alternative Operations Plan: If the successful Proposer is unable to utilize any Facility proposed, the successful Proposer will be solely responsible for procuring the alternative Facility and any and all increases in costs including, but not limited to, transportation costs, disposal costs, and County capital and operational costs, associated with the alternative Facility.

F. Capacity: The successful Proposer will be solely responsible for providing sufficient capacity to receive, transport, and dispose of Waste in accordance with this Contract.

G. Inspection of Loaded Containers and Unacceptable Waste: The successful Proposer may inspect the contents of a Loaded Container. If the successful Proposer discovers Unacceptable Waste in a Loaded Container, the successful Proposer shall comply with the procedures set forth in the Contract.

H. Average County Compacted Container Weight: Prior to delivery at the Receiving Facility, the County will 1) hydraulically compact the Acceptable Waste, excluding other Solid Waste as determined by the County, that is accepted at the County Transfer Stations, or 2) place Acceptable Waste into open top containers, with backhoe compaction. The County estimates an annual average County hydraulically compacted container weight of twenty-six (26) to twenty eight (28) tons per County Compacted Container, and open top backhoe compacted annual average weight of eighteen (18) to twenty two (22) tons.

I. Provision of Equipment: Excluding equipment explicitly stated in the Contract to be provided by the County, the successful Proposer, at its sole cost and expense, agrees to furnish all equipment necessary to provide the services in accordance with the Contract. The successful Proposer will provide sufficient Containers, Chassis, and Trailers to provide services in accordance with the Contract which shall not in any event be provided by the Proposer in quantities less than those specified in the Contract.

J. Appearance, Operation, and Maintenance of Equipment: The successful Proposer shall adhere to the requirements for appearance, operation and maintenance of equipment set forth in the Contract.

K. Hours of Operation: The Contract sets forth minimum hours of operation for the Receiving Facility. The Contractor shall, upon request of the County Representative and without notice, extend the hours of operation due to the need for emergency response support as determined by the County.

L. Record Keeping and Reporting: The successful Proposer will be required to keep accurate records of all transactions connected with this Contract including, but not limited to, all correspondence and invoices, transaction tickets or receipts issued at a Contractor Receiving Facility or a Disposal Site. All such records may be subject to public disclosure pursuant to applicable law, including RCW 42.56.

M. Fees, Credit for County Compacted Container Weight and Fee Adjustments: For each Loaded Container delivered by the County and other Customers and accepted by the successful Proposer at the Receiving Facility, transported to and disposed of at the Disposal Site, the County will pay the successful Proposer a Receiving Services and Transport Services Fee and a Disposal Services Fee as specified in the Contract. For each Loaded Container delivered by the County or other Customer directly to the Disposal Site and disposed at the Disposal Site, the County will pay the successful Proposer a Disposal Services Fee only.

8. CONTRACT TERM

The initial term of the Contract shall commence on **January 1, 2024** and shall expire on December 31, 2030, subject to the termination provisions and other terms of the Contract. The County shall have the option to renew the Contract for up to two (2) additional renewal terms of six (6) years, upon mutual agreement with the Proposer, in accordance with the substantial form of the Contract terms, as negotiated and agreed, as provided at Appendix C.

9. EVALUATION CRITERIA

Proposals will scored according to the criteria indicated in Table 2 below.

Table 2: Evaluation Criteria

Evaluation Criteria	Evaluation Factors	Criteria
Criteria 1: Letter of Intent and Method of Approach	<ul style="list-style-type: none"> – Letter of Intent/ Proposer’s understanding of project – Operations plan <ul style="list-style-type: none"> • Receiving Facility • Disposal Site • Transportation plan • Alternate operations plan • Equipment plan • Authorization to operate • Safety policies and procedures and safety record • Key personnel and staffing plan • Proposer representative and communications plan • Environmental protection plan – Transition and implementation plan – Emergency response plan 	Thirty percent (30%)
Criteria 2: Sustainability	<ul style="list-style-type: none"> – Transport Mode/Distance – Landfill Gas/Energy Recovery 	Five percent (5%)
Criteria 3: Similar Service Experience/ Technical Expertise/ References/ Community Involvement/ Financial Stability	<ul style="list-style-type: none"> – Service experience – Performance history for similar services – Breach of contract resolution – References for similar services – Community involvement – Compliance and continuity of service provision history – Litigation history – Claims history and regulatory compliance – Audited financial statements – Certificate of insurability – Proof of ability to acquire Performance Bond – Bankruptcy history 	Fifteen percent (15%)
Criteria 4: Pricing and County Operations Financial Impact	<ul style="list-style-type: none"> – Fees to be paid by County – Revenues to be paid to County – Estimated financial impact to County operations 	Fifty percent (50%)
Criteria 5: Ability to Contract with Proposer	<input type="checkbox"/> Acceptance of substantial form of Contract Template terms	Pass or Fail
Evaluation Factors		100%

10. PROPOSAL EVALUATION

The selection criteria may include, but are not limited to: the Proposer's prior experience; management capability; schedule availability; financial resources and stability; cost of services; nature of proposed facility; system reliability; performance standards for facility; compatibility with existing service facilities; project performance guarantees; technical expertise; enforcement provisions; environmental protection measures; consistency with comprehensive solid waste management plan; risk allocation; and as further described and provided per this RFP. Proposals will be evaluated based on the process described in the Revised Code of Washington (RCW) 36.58.090, including the following steps:

- A.** The County will complete an initial proposal review to determine completeness and responsiveness of all proposals received. The County will then interview each proposer whose proposal the County finds to be complete and responsive. In the event the County determines that a proposal is not complete or not responsive the County may at its sole discretion eliminate the proposal from further consideration.
- B.** The County will evaluate proposals found to be complete and responsive using the criteria set forth in this RFP. If deemed necessary, prior to ranking the proposals, the County may request written and/or oral clarifications of the proposals (and/or more detailed proposal information), conduct site visits to the proposed Receiving Facility and Disposal Site, and/or conduct other investigations to confirm the information provided in the proposals. Criteria ranking percentages are based upon "Unacceptable, Acceptable, Good, Better, or Best" determinations made by applicable County staff, at the County's sole judgment and discretion.
- C.** All information and elements of the submitted proposals may be topics for discussion during interviews. Interviews are intended to enhance the County's understanding of written proposals and will not be separately scored.
- D.** After the County has determined that the initial interview process has been completed, the County may then proceed with discussions with a Proposer recommended to the Board of County Commissioners. Such discussions shall include any necessary minor negotiation of final Contract terms, although such final contract terms shall be consistent with the terms of the substantial form of the Contract Template, and shall be in conformance with applicable federal, state and local laws, regulations and procedures. The objective of the negotiations will be to reach agreement on all provisions of the proposed Contract. In the event negotiations with the Proposer are not successful, the County may terminate the process and initiate negotiations with the next recommended preferred Proposer. This process may be repeated with other Proposers until an agreement is reached.
- E.** Prior to entering into the Contract with a recommended preferred Proposer (vendor), the Board of Island County Commissioners (Board) shall make written findings after holding a public hearing as required per RCW 36.58.090(6).

The Board hereby designates the Island County Public Works Director (or their designee), in consultation with the Island County Prosecuting Attorney's Office, to be the Board's representative for purposes of proposal evaluation and recommendation.

11. PROPOSAL SUBMITTAL REQUIREMENTS

Proposals shall be concise and address the required content requested in this section. Proposals are requested to be in 11 point font or greater and printed on 8.5" x 11" paper with no less than 1/2" margins. For page limitations specified herein, one side of a piece of paper constitutes one page.

All required signatures shall be made by an authorized representative of the Proposer who has legal authority to bind the Proposer to contractual obligations. Proposals by corporations must be executed in the corporate name by the President or Vice President (or other documented duly authorized corporate representative). The corporate address and state of incorporation shall be shown below the signature. Erasures, interlineations or other modifications in the submitted proposal shall be initialed and dated by the person authorized to sign the proposal.

The proposals shall be divided into sections, subsections, and appendices as shown in Table 3.

Table 3: Proposal Format

Section	Section Title	Pages
A.	Letter of Intent and Transmittal Page	2
B.	Method of Approach	50
C.	Sustainability	2
D.	Similar Service Experience/Technical Expertise/References/Community Involvement/Financial Stability	50
E.	Pricing and County Operations Financial Impact	2
F.	Acceptance of Contract terms	2

Proposals shall include, at a minimum, the following:

A. Letter of Intent and Statement of Organization:

1. **Letter of Intent:** Recommended length two (2) pages. The letter of intent must be signed in accordance with the signature requirements stated above. The letter of intent should at a minimum include the following information:
 - i. The Proposer's understanding of the work, including a brief overview of the Proposer's method of approach.
 - ii. Statement that the proposal is a firm offer valid for one hundred eighty (180) days from the Proposal due date.
 - iii. Statement that the Proposer acknowledges all addenda.
 - iv. Statement that the Proposer acknowledges and agrees to be willing and ready to commence services on the Commencement Date as described in Section IV above.
2. **Statement of Organization:** Proposer must complete and submit Statement of Organization (Appendix E). All subcontractors must be identified in Statement of Organization.

B. Method of Approach: Recommended length (50) pages, excluding the following that shall be included in a proposal appendix: facility drawings, equipment photos, manufacturer equipment drawings and literature, information relevant to authorization to operate, and key personnel resumes.

1. Operations Plan:

i. Receiving Facility:

- **General Information:** Name, owner, operator, and description of the Receiving Facilities.
- **Container Delivery:** Description of operating procedures for acceptance of loaded Containers at each Receiving Facility.

ii. Disposal Site:

- **General Information:** Name, owners, operators, and description of the Disposal Site.
- **Location:** Location of the proposed Disposal Site.
- **General Arrangement Drawings:** Show full extent of all facilities, details of bottom liner and

permanent closure construction plans, location and details of groundwater and landfill monitoring system, pavement, rail lines, and other features within the property boundaries. Include details of permitted and expected future permitted landfill footprint.

- **Landfill Gas Management Plan:** Provide description of the facilities and systems employed for capturing and managing landfill gas generated at the Disposal Site. Include system performance information, including capture rates, percent methane in the landfill gas, gas uses and other explanation to describe the functioning of the landfill gas management system. This information will be used by the County for assessing the sustainability evaluation criteria points.
- **Landfill Groundwater Monitoring Plan:** Provide detailed description of the current groundwater monitoring network. Include drawings and system performance information.
- **Acquisition/Construction/Renovation Plan:** Description of the timeline, key milestones, and other requirements to acquire, construct, and/or renovate the proposed Disposal Site.
- **Capacity:** Description of the total daily capacity, available daily capacity, and remaining capacity of Disposal Site through the initial Term of the Contract (December 31, 2030). Total daily capacity means the average current capacity of the Disposal Site on a weekday. For example, “the Disposal Site has the capacity to dispose of X tons per weekday”. Available daily capacity means the total daily capacity less the average capacity that is utilized by other customers. Available daily capacity is capacity that can be used to serve the County. Remaining capacity means the capacity currently available prior to closure of the Disposal Site. Total daily capacity and available daily capacity shall be stated in tons per day. Provide evidence supporting the available daily capacity and remaining capacity of the Disposal Site.
- **Gate House Procedures:** Description of gate house procedures at Disposal Site including daily gate house record keeping and record sharing with the County (in compliance with applicable law, including RCW 42.56).

iii. **Transportation Plan:** Description of transportation services including:

- **General Information:** Overview of transportation services approach for each Receiving Facility. In addition, name(s) of owner of firm or firms providing transportation services.
- **Teaming Experience of Proposer and Transportation Service Firm(s):** Description of current and prior projects for which Proposer has teamed with firm providing transportation services. Provide evidence of the transportation services firms’ commitments to fulfill their role in the services for the term of the Contract including any and all renewal terms.
- **Transportation Distances:** Provide distances, measured to the nearest mile, for each leg of the transportation route that will be employed, and include a description of the mode of transportation used for each leg of the route. This information will be used by the County for assessing the sustainability evaluation criteria points.

iv. **Alternate Operations Plan:** Description of procedures and facilities Proposer will use to address short term (five [5] days or less) and long term (greater than five [5] days) difficulties and/or inability to provide services using Proposer’s procedures and proposed Facilities. Identify an alternative Receiving Facility, alternative transportation services, and alternative Disposal Site.

v. **Equipment Plan:** Proposer shall meet the equipment requirements as set forth in the draft Contract Template in Appendix C. The equipment description must include the make, model, and age of each proposed type of equipment. Equipment photos and manufacturers’ drawings and literature should be included in an Appendix. Proposer shall describe the following:

- All equipment that will be needed or employed at the Receiving Facility.

- Primary mobile-portable equipment used for waste transportation, including but not limited to closed and open top containers, chassis, and trailers.
 - Excluding equipment at the Disposal Site, the total number of equipment units including spare units that will be available to perform each service under the Contract.
 - Excluding equipment at the Disposal Site, any equipment to be acquired in the future, and a timeline for acquisition of such new equipment.
 - Excluding equipment at the Disposal Site, preventive and unscheduled maintenance program for all Proposer-furnished equipment used to perform services under the Contract, including the proposed frequency of cleaning waste containers. Identify parties who will be responsible for maintenance and cleaning of the equipment.
- vi. **Authorization to Operate:** For existing facilities, copies of all current facility operating permits, financial assurances, and the past five (5) years of health district or other public oversight inspection reports for the Disposal Site. Provide the last two annual landfill monitoring reports for the proposed Disposal Site.
- vii. **Safety Policies and Procedures and Safety Record:** Description of safety policies and procedures that will be in effect at the Receiving Facility and the Disposal Site to ensure the safety of Proposer's personnel, County staff, and other third parties. Provide the Proposer's documented safety record over the past five (5) years for its operations in Washington, Oregon and Idaho, including a summary of all accidents that involved injury, death, property damage and/or lost work time.
- viii. **Key Personnel and Staffing Plan:** Proposer shall describe the following:
- Proposed staffing levels by function/labor classification within each element of the services (i.e., at the Disposal Site, and in the transportation element but not including the rail leg if used).
 - Key members of the Proposer's team including job descriptions, resumes, references, and their proposed role and responsibilities for each team member.
 - Subcontractors that are proposed to perform any portion of the work and their respective roles.
 - Labor management/relations provisions of existing agreements to which the Proposer or a relevant subcontractor are parties and the Proposer's plan for dealing with any labor disruptions that could impact operations and services.
 - Compliance with payment of prevailing wages. The Contract will be subject to prevailing wage requirements in accordance with applicable law, including RCW 39.58.090(8) and RCW 39.12.
- ix. **Proposer Representative and Communications Plan:** Identification of Proposer representative(s) who will be responsible for Contract matters and for day-to-day operations. Description of communications plan between Proposer and County including expected frequency of in-person coordination meetings and other forms of regular communications.
- x. **Environmental Protection Plan:** Provide a description of all measures that will be taken to prevent, minimize and/or respond to spills, releases, and/or environmental damage that could occur as a result of the Proposer's acceptance of Containers at the Receiving Facility, during waste transport and at the Disposal Site. Environmental damage includes, but is not limited to, spills of solid waste or leachate, or oil spills from equipment.
2. **Transition and Implementation Plan:** Description of strategies to ensure a smooth transition from the current service provider to the successful Proposer. Proposer shall describe the following:

- i. Individual who will oversee the execution of the transition plan.
 - ii. Proposed approach, including equipment acquisition and personnel hiring, assignment and training.
 - iii. Schedule for the transition period that identifies all key transition activities.
3. **Emergency Response Plan:** Description of Proposer's strategies to ensure proper management of materials due to unplanned or unexpected increased quantities of material. This should include a discussion of how the Proposer would extend hours of operations when necessary to cope with emergency conditions within the County. Such emergency conditions could arise due to natural disasters such as floods, seismic events, severe storms, pandemic, conflagrations or large explosion events.
 4. **Sustainability:** Description of Proposer's national and local sustainability initiatives and practices including any documented results of these initiatives and practices over the past five (5) years.
 5. **Comments Regarding Contract Template:** List all proposed questions or comments regarding the Contract Template terms. Although the final Contract terms must be substantively consistent with the terms of the Contract Template, proposers may provide a summary discussion, questions, and/or comments regarding the Contract Template terms for consideration by the County. The Contract Template shall include indemnification, insurance, and bonding terms as required by the County.

C. Sustainability: Recommended length two (2) pages.

1. Sustainability shall be ranked in the following way (based upon Low, Medium, High, and Highest determinations made by applicable County staff, at the County's sole judgment and discretion):

Category	Evaluation Factor	Factor Range	Ranking
Transport Mode/Distance			
	Truck	> 200 miles R/T	Low
	Truck	50-200miles R/T	Medium
	Train	> 300miles One Way	High
	Train	< 300miles One Way	Highest
		Total	
Energy Recovery			
	Recovery of energy from landfill gas	Beginning with start of service	High
	Recovery of energy from landfill gas	Beginning 5 years after start of service	Medium
	No energy recovery from landfill gas	During Contract term	Low
		Ranking Determination	

D. Similar Service Experience / Technical Expertise / References / Community Involvement / Financial Stability: Recommended length fifty (50) pages.

1. Service Experience:

- i. Identify the number of years the Proposer has been in business, and any previous or additional names under which the Proposer has conducted or is conducting business.
- ii. Identify the number of years of Proposer's experience providing solid waste transportation and disposal services including a description of those services, and the names of the businesses under which the services were provided.
- iii. Identify the agencies and parties for whom those services have been provided.

2. Performance History for Similar Services: Identify any solid waste long haul transportation and disposal services contract providing services in the Pacific Northwest (i.e., Washington, Oregon, Idaho) during the past five (5) years to which the Proposer was a party and for which the Proposer's services under the contract ended prior to the contract expiration date due to assignment of the contract to another vendor, mutual agreement with the customer to discontinue Proposer's services, or any other reason. Provide a brief explanation of the reason(s) for the termination.

3. Breach of Contract Resolution: Identify any solid waste long haul transportation and disposal services contract in the past five (5) years for which a breach of contract claim was made against Proposer and/or its subcontractor(s). Describe the nature of the claim of breach and the measures taken to resolve the claim.

4. References for Similar Services: Provide four (4) customer references, for which Proposer has provided similar solid waste transportation and disposal services within the last ten (10) years. Briefly describe each service contract including annual tons of waste managed and nature of the service provided. For each reference service contract provide a current customer contact name, email address and phone number. Referenced service contracts should demonstrate experience transporting large quantities of solid waste long distances and disposing of such materials. For the listed reference service contracts, describe those instances, if any, where the customer claimed that the Proposer was in breach of any requirement(s) of the contract and describe how the claim of breach was resolved.

5. Community Involvement: Provide a description of any community involvement activities by Proposer including development and/or expansion of solid waste management programs, and a description of awards/recognitions received associated with contracts discussed in Section D.4. Recommended length four (4) pages.

6. Compliance History:

- i. Identify any formal enforcement actions commenced by state or federal agencies within the past five (5) years for violations relating to Proposer's or Proposer's affiliates' operations for waste receiving, transportation, and disposal in Washington or any other state where Proposer proposes to provide waste receiving, transport or disposal services under the contract.
- ii. Identify all fines, penalties, settlements, or damages of any kind paid by Proposer, Proposer's proposed subcontractor(s), Proposer's parent company and/or any of the parent company's subsidiaries as a result of the enforcement actions identified in (i.) above.

7. Litigation History: Description of any litigation with a federal, local, or state government entity or agency in the past five (5) years. Include the name of the entity, type of services provided, date of litigation, description of claim, and resolution of litigation.

8. Audited Financial Statements: Audited financial statements for years 2019, 2020, and 2021.

9. Certificate of Insurability. Statement that the Proposer agrees to comply with the insurance requirements set forth in the draft Contract in Appendix C.

10. Proof of Ability to Acquire Performance Bond: Proof that the Proposer agrees to and is capable of complying with the performance bond requirements set forth in the draft Contract in Appendix C.

11. Bankruptcy History: Identification whether Proposer and/or any applicable parent, subsidiary, and/or affiliate company has ever been declared insolvent, filed for bankruptcy, or consented to or acquiesced in the appointment of a receiver or trustee for management of its assets or business.

E. Pricing and County Operations Financial Impact: Proposer must complete Pricing Form (Appendix F).

1. The lowest total cost proposal will receive significant consideration and potentially higher evaluation based on this criterion. Proposals that are not the lowest cost may be considered based on overall rating and a percentage of the lowest cost proposal.

12. RFP QUESTIONS/CLARIFICATIONS

Questions shall be submitted to the Solid Waste Division Manager by email to: j.hegedus@islandcountywa.gov, no later than 4:00 pm, Friday, April 12, 2024.

A. Oral questions will not be accepted or answered. Questions must be in written form, by letter or email. An addendum to this RFP will be issued to all plan holders by the County as a result of any questions generated under this competitive solicitation.

B. A Silent Period established between the time the County publishes notice of the RFP and the time that the County recommends award of the RFP (prior to the public hearing on the proposed Contract). The Silent Period includes the issuance, submittal receipt, and evaluation of the RFP. All proposers, consultants, or individuals acting on their behalf are hereby prohibited from contacting or lobbying any County employee, official, or representative regarding this RFP during the Silent Period other than the County's designated representative (the Island County Solid Waste Division Manager, or their designee). Failure to observe the Silent Period may disqualify the proposer and/or delay or void the RFP.

13. ADDENDA

If at any time, the County changes, revises, deletes, clarifies, increases, or otherwise modifies the RFP, the County will issue a written addendum to the RFP. Proposer must register for this RFP to be notified of any addenda and/or new documents on this RFP. It is the Proposer's responsibility to register for notification and to otherwise check for addenda and other new documents on-line.

14. INSURANCE REQUIREMENTS, PERFORMANCE BOND, AND INDEMNIFICATION

See terms included per the Contract Template at Appendix C.

15. FEDERAL SUSPENSION AND DEBARMENT CERTIFICATION

Federal Executive Order 12549 prohibits federal, state, and local public agencies receiving grant funding from contracting with individuals, organizations, or companies who have been excluded from participating in federal contracts or grants.

The purpose of this certification is for the contractor/vendor to advise Island County, in writing, of any current Federal Suspension and Debarment.

Debarment Certification. By signing and submitting a response to this competitive solicitation (RFP), I certify that this firm and its principals are not currently suspended or debarred by any Federal Department or Agency from

participating in Federal Funded Contracts.

16. PUBLIC RECORDS

Submittals received by Island County in response to this RFP solicitation become public records upon receipt and are subject to public disclosure pursuant to Chapter 42.56 RCW, the Public Records Act. Unless privileged, or otherwise exempt from public disclosure pursuant to applicable law, the County shall have the right to use and distribute any and all documents, writings, programs, data, public records or other materials prepared by any party in connection with performance of this Agreement. The Proposer recognizes and agrees that any documents and/or materials arising from and/or related to this Agreement may be subject to public disclosure pursuant to applicable law (including RCW 42.56). The Proposer should clearly identify and label in its proposal any specific information that it believes to be exempt from public disclosure, with an explanation as to what specific exemption(s) it believes to apply. If Island County receives a Public Records Act request for such information so marked in the Proposer's submitted proposal, and the County determines that it may need to produce that information in response to the Public Records Act request, the County's sole obligation to the Proposer shall be to reasonably attempt to notify the Proposer: (1) of the request, and (2) of the date that such information will be released to the requester, unless the Proposer obtains a court order to enjoin that disclosure (at the Proposer's sole cost and expense). If the Proposer fails to timely obtain a court order enjoining disclosure, Island County will release the requested information on the date specified. While the County may take such above-described reasonable steps to attempt to prevent the disclosure of such documents and information, the County cannot and does not represent and/or guarantee that any specific drawings, documents, data, plans, materials and/or information will not be released, even if the release of such drawings, documents, data, materials, plans, and/or information may be (or may arguably be) exempt or otherwise preventable by law. The Proposer expressly waives any and all claims against the County for any harm, liability, costs, and/or damages (direct and/or consequential) incurred by Proposer arising from and/or directly or indirectly related to the release of any and all drawings, plans, documents, data, materials, and/or information provided by Proposer.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

**IN THE MATTER OF APPROVING
SOLICITATION OF PROPOSALS FOR
SOLID WASTE SERVICES**

**) RESOLUTION NO. C- -24
)
)
)**

WHEREAS, in 2006 Island County entered into a contract with Rabanco, Ltd., now Republic Services, Inc., for provision of solid waste long haul transportation and disposal services.; and

WHEREAS, the initial term of agreement was for a six year period, with the option to renew for up to four additional three year terms; and

WHEREAS, following the initial term of agreement, and four subsequent three year renewals of the agreement, the contract expires on December 31, 2024; and

WHEREAS, solid waste long haul transportation and disposal services are an essential component of solid waste management infrastructure implemented to protect public health, safety and the environment, and are included in current approved plans and budgets; and

WHEREAS, RCW 36.58.090 requires formal solicitation and evaluation of proposals from qualified service providers of such services; ***NOW THEREFORE***,

BE IT HEREBY ORDAINED that the Board of County Commissioners of Island County, Washington, hereby approves formal publication of the proposed RFP, in Exhibit 1, to solicit proposals from qualified service providers to continue provision of essential solid waste long haul transportation and disposal services.

ADOPTED this _____, 2024.

**BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY WASHINGTON**

Jill Johnson, Chair

Melanie Bacon, Member

Janet St. Clair, Member

ATTEST:

Jennifer Roll, Clerk of the Board

APPENDIX A

CURRENT CONTRACT AND AMENDMENTS

**SOLID WASTE LONG HAUL
TRANSPORTATION AND DISPOSAL**

ISLAND COUNTY, WASHINGTON

2700 2700 2700
10/25/2006

CONTRACT

REGARDING SOLID WASTE

TRANSPORT AND DISPOSAL

FOR

ISLAND COUNTY, WASHINGTON

DATED OCT. 9, 2006

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EXHIBITS

- A Contractor Authorizing Resolution
- B County Bid Award Recommendation
- C Specifications
- D Form of Initial Letter of Credit and Form of Any Construction Bond

CONTRACT

This Contract is made and entered into this ____ day of _____, 2006, by and between Island County, a political subdivision of the State of Washington (the "County"), and Rabanco Ltd., a Washington corporation (the "Contractor").

RECITALS

(a) The County has selected the Contractor to design, construct, own, provide, performance test and operate for the Term of the Contract, Facilities to accept Acceptable Waste in Loaded Containers at the County Transfer Stations on Whidbey and Camano Islands and other sites that may be later designated by the County, and to Transport to and Dispose of that Acceptable Waste at the Disposal Site.

(b) The Contractor's authorization to enter into this Contract is evidenced by a corporate resolution of the Contractor duly adopted by the Board of Directors of the Contractor and certified by the Secretary of the Contractor, a certified copy of which is set forth as Exhibit A to this Agreement.

(c) The County's authorization to enter into this Agreement is evidenced by the Bid Award Recommendation duly adopted by the Board of Commissioners on, a copy of which is set forth as Exhibit B to this Contract.

ARTICLE 1

Definitions

For the purposes of this Contract, the following terms shall have the following meanings:

"AAA" means the American Arbitration Association.

"Acceptable Waste" means all putrescible and nonputrescible waste including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard; plant and grass clippings and leaves; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; septage screenings; vehicle tires; discarded home and industrial appliances; manure, vegetable or animal solid and semisolid wastes and dead animals; and Medical Waste. The term includes other materials and substances that may in the future be included in the definition of "solid waste", or any successor term, in Chapter 70.95 RCW and regulations promulgated thereunder, but the term does not include Unacceptable Waste as defined in this Contract.

"Applicable Law" means all applicable federal, state or local statutes, rules, codes, regulations, permits and ordinances that apply to the Facilities or any of Contractor's operations or obligations under this Contract.

"Bale" means a log of compacted Waste measuring approximately six feet by seven feet by the length of the Contractor's Containers.

"Change in Law" means any of the following that occurs after the date this Contract is executed:

(a) The enactment, adoption, promulgation, modification, repeal or change in interpretation of any federal, state, city, county or other local law, ordinance, code, rule, requirement, regulation or similar legislation;

(b) The issuance of an order, decree or judgment of any federal, state or local court, administrative agency or governmental officer or body, if that order, decree or judgment is not also the result of negligent or willful action or failure to act of the party relying thereon, provided that contesting in good faith any order, decree or judgment shall not constitute or be construed as a willful or negligent action of that party; or

(c) The imposition of any material conditions on the renewal of any official permit, license or approval which establishes requirements making the construction or operation costs of the Facilities financially more burdensome than the most stringent requirements in effect on the date this Contract is executed.

For purposes of clause (c), an increase in Contractor's cost shall not include any impairment of the tax position of the Contractor or any lessor of the Facilities under federal, state, local or any other tax law. Notwithstanding the foregoing, the following shall not constitute a Change of Law for purposes of this Contract: (a) the adoption of or change, amendment or modification to any federal, state, local or any other tax law or any county (except Island County) or city law, ordinance, code, rule, requirement, regulation or similar legislation applicable only to the Contractor, Contractor's performance under this Contract or the solid waste management industry; (b) any application of or change in interpretation of the provisions of RCW 36.58.090(8), or its successor or the statutes referred to therein (i.e. chapters 39.12, 39.19 and 39.25 RCW); and (c) any prohibition or restriction of or imposition or increase in fees for the importation of Waste into any jurisdiction.

"Chassis" means a Tractor-drawn trailer that conforms to Section 5.0 of the Specifications and is designed for over-the-road Transport of a Loaded or empty demountable shipping Container.

"City" or "Cities" means (1) one or more of the incorporated cities or towns in Island County that participate in the Comprehensive Solid Waste Management Plan and authorize the County to designate disposal sites for Waste originating in those cities or towns and/or (2) a city or town that by agreement is entitled to dispose of Waste at the Transfer Station or through the Transportation and Disposal system established in this Contract.

"Closed Container" means a receptacle that is enclosed on all sides, that can be locked and sealed and that conforms to Section 4.0 of the Specifications; the term includes but is not limited to demountable intermodal shipping Containers and Transfer Trailers

"Comprehensive Solid Waste Management Plan" means the County's Comprehensive Solid Waste Management Plan adopted in accordance with Chapter 70.95 RCW, as amended.

"Consumer Price Index" or "CPI" means the nationwide Consumer Price Index for All Urban Consumers – U.S. City Average Consolidated Metropolitan Statistical Area, standard reference base period 1982-1984 = 100, as prepared by the United States Department of Labor, Bureau of Labor Statistics or such other appropriate index as may be mutually agreed upon by the parties.

"Container" means a Closed or Open-top receptacle that conforms to Section 4.0 of the Specifications; the term includes but is not limited to demountable intermodal shipping Containers and Transfer Trailers.

"Contract" means this Contract Regarding Solid Waste Transport and Disposal for Island County, Washington and the bond, letters of credit or other financial guarantees required under Section 6.4, the Specifications, any and all addenda to the Contract provided by the County unless designated for informational or bid evaluation purposes only, and any and all appendices, attachments, amendments, change orders or modifications of the foregoing documents agreed to by the parties in writing unless otherwise designated for informational or bid evaluation purposes only.

"Contractor" means Rabanco Ltd., a Washington corporation, selected by the County to provide solid waste Transportation and Disposal services in accordance with this Contract, its successors or assigns and, as applicable, the Contractor's officers, employees, agents and subcontractors.

"County" means Island County, a political subdivision of the State of Washington, its successors or assigns.

"Dispose" or "Disposal" means all work, services or operations performed by the Contractor pursuant to this Contract when Waste enters the boundaries of a Disposal Site pursuant to this Contract.

"Disposal Site" means the landfill or other disposal site or Facility used by the Contractor for the final treatment, utilization, processing and/or deposit of any Acceptable Waste received under this Contract including all personal property used at that site for purposes of this Contract.

"Facility" or "Facilities" means the primary and/or alternate Transportation and/or Disposal Site facilities and/or any real or personal property provided in accordance with the Specifications and owned, leased, provided, operated or used by the Contractor to carry out the provisions of this Contract.

"Hazardous Waste" means any waste, material or substance the processing or disposing of which would subject Contractor or the owner of any transfer station or disposal site to which the waste might be delivered under this Contract to liability under or would otherwise contravene:

(a) Subtitle C of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 et seq.,

(b) The Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.,

(c) The Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq.,

(d) Chapters 70.105 or 70.105D RCW, or

(e) any other federal or state law or regulation governing the treatment, storage, handling or disposal of solid waste or hazardous or dangerous waste, materials or substances or requiring that waste, material or substance to be handled under special procedures similar to the required under subsection (a), above.

Certain waste that is not as of the effective date of this Contract included in this definition may after that date come within its scope as determined by a government entity with jurisdiction; certain other waste that is within the definition may cease to be so included. Accordingly, any waste, material or substance shall be deemed Hazardous Waste at the time, but only so long as and to the extent that, it is included in the definition of Hazardous Waste set forth above.

“Instructions to Proposers” means the instructions issued by the County as part of the County’s RFP documents for services under this Contract.

“Load” or “Loaded” means the process by which and status of a Container after Waste is discharged from the compactor into or otherwise enters that Container at the Transfer Station.

“Medical Waste” means noninfectious and/or noninjurious Waste or treated and properly packaged infectious and/or injurious Waste originating in a medical, veterinary or intermediate care facility that may be deposited in the general solid waste stream under federal, state and local laws and regulations including, but not limited to, the regulations of the Island County Health Department; the term does not include infectious Waste originating in a medical, veterinary or intermediate care facility that has not been treated and may not be deposited in the general solid waste stream under applicable federal, state or local laws or regulations, including but not limited to, the County’s Health Department regulations.

“Open-top Container” means a Container supplied by the Contractor that has an Open-top for loading Waste without compaction, and that is supplied with a tarp to keep the load secure during transport.

“Person” or “Persons” means, without limitation, any individual, firm, corporation, association, partnership, consortium, joint venture, entity, government agency or unit of government.

“Project” means any and all services, matters and things that the Contract requires to be done, kept, performed and furnished by the Contractor and by the County, respectively.

“Proposal” means a potential Contractor’s offer or proposal submitted to the County in response to the County’s RFP to provide services for this Contract.

“RCW” means Revised Code of Washington.

“Representative” means, depending on the context, the authorized representative of the County or the Contractor designated in accordance with Article 5.

“RFP” means Request for Proposals for this Contract.

“Security Seal” means a device that conforms to Section 8.0 of the Specifications that once installed on a Loaded Container, must be broken to open that Container.

“Specifications” means the technical specifications issued by the County as part of the County’s bid documents for services under this Contract which are attached to this Contract as Exhibit C and incorporated herein by this reference.

“State/Local Solid Waste Handling Fee” means a fee, tax, surcharge or similar charge on solid waste handling services, including but not limited to Transportation and Disposal services, imposed by any state, regional or local government or government agency; the term does not include federally-imposed fees, taxes, surcharges or other charges levied equally on solid waste handling in all states.

“Term” or “Term of Contract” means the term of this Contract set forth in Article 21, including any extensions thereof.

“Tipping Fee” or “Tipping Fees” means the per ton fee paid by the County to the Contractor for accepting Waste in Loaded Containers at a Transfer Station, calculated as the sum of the Transportation and Disposal Tipping Fee components, as set forth in Article 8.

“Tipping Fee component” or “component of Tipping Fees” means the price per ton for Transport and the price per ton for Disposal, respectively, as set forth in Article 8.

“Tractor” means a vehicle used to move Containers.

“Transfer Station” means a County-owned and operated facility at which Waste is received, compacted, or processed, and/or Loaded into Containers.

“Transfer Trailer” means a Tractor-drawn trailer that conforms to Section 5.0 of the Specifications.

“Transport” or “Transportation” means but is not limited to the Transportation of Containers to and from the Transfer Station and the Disposal Site and includes but is not limited to the storage and handling of Containers at any transfer facility or other Facilities used by the Contractor to deliver Waste to the Disposal Site.

“Unacceptable Waste” means:

- (a) Waste that may not be disposed at the Disposal Site and at any alternate Disposal Facility under Applicable Law;
- (b) Hazardous Waste; or

- (c) any other Waste expressly excluded from Acceptable Waste.

Unacceptable Waste shall not include any residential waste unless this exclusion of residential waste is prohibited by a change in law that becomes effective after the effective date of this Contract.

"Unbaled Waste" means uncompacted Waste that is loaded into either Closed or Open-top containers.

"Uncontrollable Circumstance" means any act or event that has had or may reasonably be expected to have a material adverse effect on the rights or obligations of a party to this Contract, or a material adverse effect on any one or more of the Facilities or the acquisition, construction, start-up, testing, operation, ownership or possession of the Facilities, if that act or event is beyond the reasonable control of the party relying thereon as justification for not performing an obligation or complying with any condition required of that party under this Contract. Those acts or events shall include, but are not limited to, the following:

- (a) An act of God (except normal weather conditions for the geographic area of the Facilities), hurricanes, tornadoes, epidemic, landslide, lightning, earthquake, volcano eruption, nuclear radiation, fire or explosion, flood or similar occurrence, an act of public enemy, war, terrorist act, blockade, insurrection, riot, general arrest, or restraint of government and people, civil disturbance or similar occurrence;

- (b) The failure of any appropriate federal, state or local agency or public or private utility having operation jurisdiction in the area of location of any of the Facilities, to provide, maintain and assure the maintenance of any necessary utility which failure is not caused by Contractor's failure to pay for those utilities or Contractor's failure to comply with Applicable Law;

- (c) An increase in or imposition of State/Local Solid Waste Handling Fees that in total exceed twenty-five percent of the Tipping Fee not including such State/Local Solid Waste Handling Fees;

- (d) For Contractor, a non-Contractor strike;

- (e) For the County, any strike or labor dispute; or

- (f) A Change in Law.

It is expressly understood and agreed that, notwithstanding any other provision of this definition, the following events or conditions, in and of themselves, shall not constitute an Uncontrollable Circumstance:

- (i) adverse changes in the financial ability of any party to this Contract to perform its obligations under this Contract;

(ii) the consequences of errors of design, construction, start-up, operation or maintenance on the part of the Contractor or any of its employees, agents or subcontractors;

(iii) the failure of the Contractor to secure patents or licenses in connection with the technology necessary to design, construct, operate or maintain the Facilities;

(iv) the lack of fitness for use, or the failure to comply with the Specifications or the design of any materials, equipment or parts constituting any part of the Facilities;

(v) the failure of any technology to perform;

(vi) with respect to the County, a change in law by the County or any political subdivision of the County (other than the Cities), except as expressly mandated by state or federal law;

(vii) as to the Contractor, any act or event the occurrence against which the Contractor is obligated to carry insurance under this Contract, to the extent the Contractor is so obligated; and

(viii) any subsurface condition encountered during the construction or expansion of any of the Facilities.

(ix) the failure of the Contractor to have in place and employ a back-up delivery system to supply the County with empty Containers, despite the unavailability of the primary delivery system (e.g., rail) due to uncontrollable circumstance affecting the primary empty container delivery system.

“USC” means United States Code.

“WAC” means Washington Administrative Code.

“Waste” means any Acceptable Waste that is Loaded into a Container at the Transfer Station.

ARTICLE 2

General Provisions

2.1 Applicable Law. This Contract is made in and shall be construed under the laws of the State of Washington, and any litigation involving this Agreement shall be brought in the Superior Court of Washington for Island County.

2.2 Law Incorporated by Reference. Chapter 70.95 RCW, RCW 36.32.250 and 36.58.040, as amended or superseded, including the latest additions and revisions and including regulations promulgated thereunder, and the applicable provisions of the Island County Code, as amended or superseded, are incorporated by reference in the Contract.

2.3 Entire and Complete Agreement. This Contract constitutes the entire and complete agreement and final expression of the parties with respect to the subject matter it contains, and supersedes all prior or contemporaneous agreements, understandings, arrangements, commitments and representations, whether oral or written. In the event, of any conflict between the language set forth in this Contract, any of the exhibits hereto or the Specifications, the language in the Contract shall prevail and this Contract shall be interpreted as if that conflicting language was not a part of the agreement between the parties. The Contractor immediately shall bring to the County's attention for decision and mutual revision any observed conflicts between or duplications of any Contract provisions or any material omissions from the Contract. The Contractor shall obtain written instructions from the County's Representative before proceeding with services affected by omissions or discrepancies in the Contract. In the event of a discrepancy in the provisions of the Contract, the most stringent provision shall apply.

2.4 Severability. If any Contract provision is for any reason determined to be invalid, illegal or unenforceable under any Applicable Law, the remaining provisions of the Contract shall remain in effect and bind the parties; however, the parties shall negotiate in good faith to amend the Contract to effectuate the intent of any invalid, illegal or unenforceable provision, if permissible under Applicable Law.

2.5 Time of the Essence. Time is of the essence of this Contract. The County's or Contractor's failure to object to a breach of any Contract provision is not and shall not be construed as a waiver of that provision. The payment or acceptance of compensation subsequent to any breach is not and shall not be deemed an acceptance of that breach. Any waiver must be in writing and supported by consideration.

2.6 Construction of Terms. Unless otherwise specified in the Contract, words describing material or work that have a well-known technical or trade meaning shall be construed in accordance with the well-known meaning generally recognized by solid waste professionals, engineers and trades.

2.7 Access. The County shall have the right and unlimited access to inspect any or all of the Contractor's and subcontractor's operations, Facilities or records related to this Contract; however, the County's access shall not unreasonably interfere with such operations and the County's access to records under this Section shall be subject to the confidentiality provisions of Section 6.6. The County shall have access to operations and Facilities under this Section at any and all times during normal business hours of or when there is activity of any kind at those operations or Facilities.

2.8 No Third Party Beneficiaries. This Contract is not intended to nor does it create any third party beneficiary or rights in any public or private Person.

2.9 Personal Liability. This Contract is not intended to create or result in any personal liability for any public official or County employee or agent or any Contractor employee or agent, nor shall the Contract be construed to create that liability.

2.10 Comprehensive Contract. All services that are necessary to complete and carry out the Project as described in the Contract shall be considered part of the Project and the

Contractor shall perform or provide for the services without extra compensation unless otherwise expressly stated in the Contract.

2.11 Subsidiary Contracts. No contract between the Contractor and its subcontractors, officers, employees or agents including all contracts relating to the use, lease, operation or ownership of the Disposal Site and other Facilities shall prevent, expressly or in effect, the Contractor from performing its obligations under this Contract.

2.12 Notices.

(a) Except as may otherwise be expressly provided, all approvals, requests, reports, notices, communications or other materials or information required or permitted to be made or given by a party to the other party hereunder shall be deemed to have been given or made only if the same is reduced to writing and delivered, either personally or by means of the United States Postal Service (registered or certified mail, postage prepaid), to the County Representative or the Contractor Representative, as the case may be, at their respective addresses as set forth below.

(b) For all purposes of this Contract, any such approval, request, report, notice, communication or other material or information which is delivered by means of the United States Postal Service as aforesaid shall be deemed to have been delivered as of the fifth business day next following the date of the postmark thereof.

(c) All notices, requests and other communications to either party hereunder shall be in writing and shall be given to such party at the following address, or such other address as such party may hereafter specify for the purpose by notice to the other party:

If to the County:

Island County Solid Waste Dept.
Island County Courthouse, Annex
Sixth and Main
P.O. Box 5000
Coupeville, Washington 98239

Attention: David A. Bonvouloir, Manager

If to the Contractor:

Rabanco, Ltd.
54 S. Dawson Street
Seattle, WA 98134
Attn. Pete Keller, Vice President

2.13 Article, Section and Subsection References. Any Articles, Sections or subsections mentioned in this Contract by number only without reference to another document refer to those Articles, Sections or subsections contained in this Contract.

2.14 Amendment or Waiver. Neither this Contract nor any provision hereof may be changed, modified, amended or waived except by written instrument signed by the parties.

2.15 Contract Execution. Except with respect to Contractor's obligations to provide required documents within thirty days of receiving the notice of award from the County, for purposes of this Contract, Contract execution shall be the date the County executes the Contract.

2.16 Approvals and Acceptance. Any approval, consent or satisfaction required of either party under this Contract shall not unreasonably be withheld, delayed or conditioned, except where such approval, consent or satisfaction may be given in the sole discretion of the approving or consenting party under an express provision of this Contract.

ARTICLE 3

Independent Contractor

3.1 Contractor as Independent Contractor. The Contractor shall perform all work under this Contract as an independent contractor. The Contractor is not and shall not be considered an employee, agent, subagent or servant of the County for this Contract or otherwise; the Contractor's subcontractors, employees or agents are not and shall not be considered employees, agents, subagents or servants of the County for this Contract or otherwise.

3.2 Contractor's Control of Project. The Contractor shall have the exclusive right to control the services and work performed under this Contract and the Persons performing those services and work. The Contractor shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors. Nothing in the Contract shall be construed as creating a partnership or joint venture between the County and the Contractor or giving the County a duty to supervise or control the acts or omissions of any Person performing services or work under the Contract.

ARTICLE 4

Subcontractors

4.1 Approval of Suppliers and Subcontractors.

(a) During the Term of this Contract the County shall have the right to reject any or all subcontracts of all or part of Contractor's obligations to perform the Project or provide any of the Facilities if the County in its reasonable discretion believes that the subcontractors concerned either have not or will not adequately perform the tasks assigned to them. Contractor shall inform the County of all proposed subcontracts no later than ninety days prior to the date on which the proposed subcontract is to take effect. The County reserves the right in its reasonable discretion to reject any subcontract no later than thirty days prior to the date on which the proposed subcontract is to take effect, if the County in its reasonable discretion believes that the subcontractor concerned either has not or will not adequately perform the tasks to be assigned to it.

(b) In no event shall the Contractor's subcontracting, or the County's failure to reject Contractor's subcontracting of its obligations to operate the Facilities, in any way relieve the Contractor of its responsibilities under this Contract.

(c) If at any time the County, in its reasonable discretion, believes that a subcontractor performing services or work under the Contract either has not or will not adequately perform the tasks assigned to it, the Contractor shall terminate the subcontract within 60 days of written notice to do so by the County. All subcontracts the Contractor enters into to perform work under this contract shall include a provision that puts the subcontractor on notice of this provision and in which the subcontractor agrees to cease its subcontract services in accordance with the notice from the County to the Contractor.

4.2 Assignment of Subcontracts. All contracts between the Contractor and its subcontractors for services and work under this Contract shall contain a clause that if the Contractor defaults in performance of the Contract and the County accepts assignment of the subcontract under Article 18, the subcontractor shall recognize the County or its assignee as the Contractor and the County or its assignee shall have all the rights, remedies and responsibilities of the Contractor under that subcontract.

ARTICLE 5

Contractor and County Representatives

5.1 Representatives. The Contractor and the County shall each designate and provide for the Term of this Contract the services of a competent representative to serve as its agent for the Contract. The County and Contractor, respectively, shall keep each other informed of the identity of their respective Representative and shall provide each other with a telephone number and other means by which that Representative may be reached twenty-four hours every day.

5.2 Contractor Representative. The Contractor's Representative shall be the Contractor's agent and shall represent the Contractor for all purposes of this Contract. All written or oral directions, instructions or notices given by the County to that Representative and related to the subject matter of the Contract shall bind the Contractor to the extent they would have bound the Contractor if delivered to the Contractor personally. The Contractor's Representative shall be in charge of the Project at all times and shall have authority to act on behalf of the Contractor; the Contractor's Representative's statements, representations, actions and commitments shall fully bind the Contractor, subject to the requirements of Section 2.14. The Contractor's Representative shall be located within a reasonable proximity of the County and be accessible at all times during the Term of the Contract.

5.3 County Representative. Unless the County notifies the Contractor otherwise in writing, the County's Representative shall be the County's representative for all purposes of this Contract and that Representative's statements, representations, actions and commitments shall fully bind the County to the extent permitted by Applicable Law subject to the requirements of Section 2.14.

5.4 Change in Representative. The parties may change their respective representatives on five days' written notice to the other party.

ARTICLE 6

Contractor Responsibilities, Representations and Warranties

6.1 General. The Contractor's responsibilities under this Contract include, but are not limited to:

(a) Acceptance, storage, handling, unloading, Transportation and Disposal of either baled Waste or Unbaled Waste, in sealed or Open-top Containers delivered to the Contractor at the Transfer Stations;

(b) Ownership, operation and/or leasing of Facilities necessary to perform its obligations under this Contract; Ownership or leasing of both Closed and Open-top Containers in sufficient number to always have a ready supply of both types of empty Containers at Transfer Stations at all times to accept any amount of Waste; Contractor shall at all times have an alternate means of delivering empty Containers to County transfer stations, so that if the primary means of delivery of empty Containers (e.g., by rail) is blocked by Uncontrollable Circumstances, then the alternate means of delivery will still be available.

(c) Procurement and maintenance of the letter of credit required under Section 6.4;

(d) Compliance with all Applicable Laws in accordance with Section 6.6; obtaining any permit, license, certificate or governmental approval required for the Project in accordance with Section 6.7; and the payment of all applicable taxes and fees in accordance with Section 6.8;

(e) Procurement and maintenance of insurance in accordance with Article 12;

(f) Maintenance of a closure and post-closure trust fund in accordance with Section 6.10;

(g) Maintenance of an alternative operations plan and an emergency operations plan in accordance with Section 11 of the Specifications and alternate facilities in accordance with Section 6.5 of this Contract;

(h) Provide the County with expertise for making its transfer station operations more efficient and for increasing the tonnage weight of each Container load (within the limits of Applicable Law); provided, however, that the Contractor shall have no liability to the County if, for whatever reason, the County is not able to make its transfer station operations more efficient or is not able to increase the tonnage weight of each Container load. Contractor shall provide on-site advice at both the Coupeville and Camano transfer stations at least once a year during the contract at a time previously scheduled with the County's Solid Waste Manager and shall provide telephone or written consultation to the County at the County's request throughout the contract period; and

- (i) Performance of all other obligations required under this Contract,

6.2 Commencement of Service. Commencing on January 1, 2007, the Contractor shall accept, Transport and Dispose of all Waste delivered by the County to the Contractor in Closed or Open-top Containers at the Transfer Stations in accordance with this Contract. The Contractor shall accept and remove all Waste so delivered to the Contractor on any given day. The Contractor shall accept Waste regardless of its composition and despite fluctuations in the volume of Waste and shall not cause a delay of operations as defined in Section 9.2 of the Specifications.

6.3 Facilities; Replacement or Repair.

(a) Facilities. The Contractor shall construct, own, lease or otherwise provide, maintain and operate in a quantity sufficient to perform the services under this Contract in a timely manner throughout the Term of the Contract in accordance with the Specifications, Transport Facilities, Disposal Facilities and alternate facilities. Subject to Section 6.5, the Contractor may add to, delete, improve or replace Facilities during the term of the Contract so long as such additions, deletions, improvements or replacements are carried out and operate in accordance with Applicable Law. All Facilities provided by the Contractor shall meet or exceed the requirements in the Specifications and any and all requirements of any Applicable Law.

(b) Replacement or Repair. The Contractor at its sole expense shall keep all Facilities in good working order and repair. The Contractor shall be liable for all costs reasonably incurred by the County to repair or replace the Facilities owned, operated and/or used by the Contractor or provided to the County for its use under this Contract, including, but not limited to, the Containers, Chassis, Transfer Trailers, Tractors, Transport Facilities and Disposal Facilities; however, the County shall be liable for, but only to the extent that, the repair or replacement of Facilities is caused by the negligence of the County.

6.4 Letter of Credit.

(a) Letter of Credit. Contractor shall provide and maintain for the Term of the Contract an irrevocable standby letter of credit from a financial institution whose long-term debt is rated in one of the three highest categories by a nationally recognized rating agency (e.g. Standard & Poor's rating of AAA, AA or A), or any other financial guarantee or type of bond or letter of credit that is approved by the County in its sole discretion. The amount of the letter of credit or other financial guarantee initially provided under this subsection shall be \$1,000,000.00 however, within 30 days of the date the Contractor receives from the County a notice to proceed with operations or service under the Contract, the letter of credit or other financial guarantee shall be increased to a minimum amount of \$2,000,000.00. The letter of credit or other financial guarantee shall be issued for a term of not less than one year; the Contractor shall provide a new letter of credit or other financial guarantee, or evidence satisfactory to the County of the renewability of the current letter of credit or other financial guarantee, at least ninety days before the expiration date of the letter of credit or other financial guarantee then in effect. The letter of credit or other financial guarantee shall provide that the County may draw upon it upon a County determination of a default under Section 16.3. Any letter of credit or other financial guarantee provided under this Section shall provide that notwithstanding the termination or expiration of

the Contract, at any time within 180 days of the date the Contract terminates or expires, the County may make a claim against the letter of credit or other financial guarantee for Contractor's failure to perform its obligations under the Contract. However, Contractor shall be liable for its obligations under this Contract notwithstanding the termination of the letter of credit or other financial guarantee.

(b) Date Letter of Credit Required. The Contractor shall provide to the County the letter of credit or other financial guarantee described in this Section 6.4, within thirty days of receiving from the County the notice of award of this Contract or at the time the Contractor provides to the County the executed Contract.

6.5 Alternate Transportation and Disposal Facilities.

(a) In the event the services required under this Contract cannot for any reason be provided with the primary Transportation and/or Disposal Facilities, or if the Contractor's Transportation and/or Disposal Facilities are inadequate or unavailable to provide service under this Contract, the Contractor shall provide in accordance with the alternate operations plan required under Section 11 of the Specifications an alternate Facility that operates in compliance with the requirements of this Contract and meets or exceeds the requirements of all Applicable Laws. The alternate Facilities required under this Section shall be available for use on the day service is commenced under this Contract. Except as otherwise expressly provided under this Contract, the Contractor shall provide the alternate Facilities at no additional cost to the County.

(b) The Contractor may, at its option, subject to written approval of the County, use facilities, sites or processes different from the primary or alternate Facilities to carry out the Contractor's obligations under this Contract, so long as the construction, acquisition and operation of such alternate facilities, sites or processes comply with Applicable Law. In the event alternative Facilities are used under this paragraph, the County may adjust the Tipping Fee in accordance with Article 8 of the Contract.

(c) The County, at its option, may at any time upon 30 days' written notice direct the Contractor to use facilities, sites or processes different from the primary or alternate Facilities to carry out the Contractor's obligations under this Contract, so long as the construction, acquisition and operation of such alternate facilities, sites or processes comply with Applicable Law. In the event alternative Facilities are used under this paragraph, the County may adjust the Tipping Fee in accordance with Article 8 of the Contract.

6.6 Compliance With Law; Documentation; Confidential Business Records.

(a) Contractor Compliance With Law; County Verification. The Contractor, its officers, employees, agents and subcontractors shall comply with all Applicable Laws and the requirements of this Contract in performing its obligations under this Contract. Except for documents and correspondence covered by the attorney-client or other applicable privilege, the County shall have the right and be given access to inspect copies of all correspondence or any other documents sent to or received from the Contractor or its subcontractors related to the Contractor's compliance with any Applicable Law or the requirements of this Contract.

(b) Confidential Business Records.

(1) The Contractor may designate documents as confidential business records; documents reasonably designated as such shall remain the exclusive property of the Contractor. For purposes of this Section, "confidential business records" means all trade secrets, proprietary plans, financial data and the ideas and information contained therein, that Contractor makes available to the County for purposes of this Contract.

(2) If documents are designated as confidential business records, they shall be inspected by an independent accountant or other third party designated by the County and approved by the Contractor (which approval shall not be unreasonably withheld); the third party selected shall determine whether the documents are relevant to the Contractor's compliance with Applicable Law. If the third party determines that the documents are relevant, then the County may inspect the documents. For documents that contain both relevant and irrelevant information, the third party may delete any irrelevant information.

(3) The County shall not disclose to others information designated by the Contractor as confidential business records unless the County, on advice of legal counsel, reasonably determines that the information concerned or any portion thereof is subject to disclosure under Chapter 42.17 RCW or any other Applicable Law. The Contractor recognizes and agrees that even if the County determines that the information is properly withheld from public disclosure, a court may order the disclosure of that information; in such an event of disclosure, the County shall have no liability to the Contractor for any loss resulting therefrom. Notwithstanding the foregoing, the County may disclose all information to employees, consultants, attorneys or other agents of the County examining those documents for purposes of this Contract. If required by law or a court order to disclose documents designated as confidential business records, the County shall, to the extent possible, notify the Contractor before that disclosure occurs.

(c) Applicability. All agreements between the Contractor and Persons employed for this Contract shall contain this Section's requirements. The requirements of this Section shall survive the termination or expiration of the Contract. All unresolved disputes arising under this Section shall be resolved by arbitration under Article 17.

6.7 Permits, Licenses, Royalties.

(a) The Contractor shall obtain, maintain and pay for, at Contractor's sole expense, all permits required under any Applicable Law for its acquisition, construction, installation and operation of the Facilities and all other permits necessary to fulfill all its obligations under this Contract. Without limiting the generality of the foregoing, the Contractor shall, at its sole expense, prepare any environmental impact statement required under Applicable law. Within thirty days of receiving the notice of award of the Contract from the County, the Contractor shall, with respect to the Facilities the Contractor then expects to use to carry out its responsibilities under this Contract, provide to the County a list of all permits required for the performance of its obligations under this Contract designating the issuing agency and the dates of issuance and expiration of those permits, a copy of all current permits and the Contractor's schedule for obtaining or renewing all permits required during the Term of the Contract. As

Facilities are significantly changed, modified or replaced during the term of this Contract, the Contractor shall provide copies of new permits relevant to the acquisition, construction, installation and operation of those facilities. To the extent permitted by Applicable Law, the County shall provide the Contractor with any information or documents in its control that the Contractor reasonably requests in order to obtain or maintain all required permits. For purposes of this Section, the term "permits" means any temporary and/or permanent permits, approvals, licenses, certificates, inspection fees, surcharges and other approvals required for the performance of the Project.

(b) The Contractor shall be liable for all fines or civil penalties that may be imposed by any regulatory agency for Contractor-caused violations of permits, regulations or any other Applicable Laws; the County shall not be liable for and shall not reimburse Contractor for payment of those fines or civil penalties. The Contractor reserves the right to contest in good faith any fine in an administrative proceeding or in court prior to its payment.

(c) The Contractor shall pay all royalties, fees and license payments, shall defend all suits and hold the County harmless from any loss resulting therefrom in accordance with Article 11.

6.8 Taxes and Fees. Only as between the County and the Contractor, the Contractor shall be responsible and liable for payment of all federal, state and local taxes and fees, and surcharges of every form, that apply to any and all Persons, property, income, equipment, materials, supplies, structures or activities that are involved in the performance of the Contract, including but not limited to, any income taxes, real property, excise, sales and use taxes and fees that arise in connection with the Contract; however, the Contractor shall not be responsible or liable for payment of any tax or fee for which the County is ordinarily responsible without regard to the services provided by the Contractor under this Contract. The extent to which the Contractor is permitted to adjust the Tipping Fee(s) for cost increases in the rates of taxes, fees or surcharges, if at all, is set forth in Articles 8 and 9.

6.9 Property Rights; Liens. The Contractor has or will acquire sufficient property rights in the Facilities to satisfy its obligations under the Contract. The Contractor agrees to remove or have removed promptly any liens or encumbrances that, because of any act or default of Contractor, its officers, employees or agents or of Contractor's subcontractors or sub-subcontractors, or material suppliers, or Facility owners, are filed against a Facility or any real or personal property required to fully perform under this Contract. At all times during the Term of the Contract, the property shall be free of all liens or encumbrances that would prevent or substantially impair the Contractor from using the property to satisfy its obligations under this Contract.

6.10 Closure and Post-Closure Fund.

(a) The Contractor shall be responsible for all closure and post-closure costs relating to the Facilities. The Contractor shall establish and maintain at its sole expense any closure and post-closure trust fund now or hereafter required under any Applicable Law.

(b) The Contractor shall use the money in the closure and post-closure trust fund, including interest earnings thereon, to guarantee proper closure of the Facilities used in connection with this Contract as required by Applicable Law. Money in the trust fund shall be spent in accordance with laws and regulations of the state of Washington and any other Applicable Law.

6.11 Records; Monthly Report. The Contractor shall keep accurate records of all transactions connected with this Contract including, but not limited to, all correspondence and invoices, transaction tickets or receipts issued at the Transfer Station or the Disposal Site. The Contractor shall at all times maintain an accounting system that uses generally accepted accounting principles consistently applied for all services rendered and materials supplied, including additional and deleted work, in connection with this Contract.

The Contractor shall provide to the County by the fifteenth day of each month a report for the preceding month summarizing routine and extraordinary activities during the prior month and plans and schedules for future activities. The report shall include, but not be limited to:

- (a) The tonnage accepted from the Transfer Station;
- (b) The condition of the Facilities;
- (c) Any complaints submitted to the Contractor relating to the services rendered under this Contract and the Contractor's response, if any;
- (d) Any extraordinary occurrences affecting the Contractor's performance including but not limited to occurrences affecting the Facilities;
- (e) Copies of the transaction tickets, invoices and/or receipts for the month;
- (f) Changes in the status and readiness of alternate Facilities and emergency Facilities;
- (g) Documentation regarding Unacceptable Waste, if any, gathered, produced and/or retained as required in Article 10;
- (h) Maintenance reports of the Facilities as required in Section 5.2 of the Specifications; and
- (i) Statements documenting the amount deposited in the closure and post-closure trust fund required under Section 6.10.

In addition to the monthly report required under Section 6.11, Contractor shall provide to the County within thirty days of the end of any year of operations under the Contract an annual report summarizing and consolidating the information contained in the monthly reports provided for the preceding year.

6.12 Accidents; Complaints.

(a) Accidents; Reporting. The Contractor shall report by telephone or messenger any accidents resulting from the performance of this Contract to the County as soon as practicable. For purposes of this Section, "accident" shall include the death of any person, any personal injury resulting in inpatient hospitalization or outpatient treatment by a physician or damage to any real or personal property exceeding \$5,000. The Contractor shall report in writing to the County within seven days of that accident complete details of the accident including witness statements.

(b) Response to Complaints; Report. The Contractor shall respond in a reasonable and courteous manner to complaints, charges and allegations related to Contractor's performance under the Contract within thirty days of receipt of that complaint, charge or allegation, including but not limited to those complaints made or actions brought by citizens, citizen groups and public agencies. The Contractor shall deliver to the County as part of the monthly report required under Section 6.11 a report of all significant complaints submitted that shall include but not be limited to the name and address of the complainant, the substance of the complaint including the activity or service at issue, the action, if any, the Contractor has taken to investigate or remedy the problem or an explanation of why no action has been taken.

6.13 Payment of Subcontractors and Laborers. Unless a reasonable dispute exists concerning payment, the Contractor shall promptly pay all subcontractors, materialmen, suppliers or laborers engaged for purposes of this Contract in accordance with the contract or agreement between that Person and the Contractor.

6.14 Employment.

(a) No Discrimination. The Contractor shall not discriminate against any employee or applicant for employment because of race, religion, creed, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin or the presence of any sensory, mental or physical handicap, unless based on a bona fide occupational qualification. The Contractor's action under this Section shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and other applicants for employment, notices setting forth the provisions of this non-discrimination Section.

(b) Women and Minority Business Enterprises Opportunity. Contractor shall make every effort to encourage and shall give equal opportunity to women and minority business enterprises to provide service contracts relating to Contractor's performance of the Contract.

6.15 Scheduling; Management; Quality of Performance. The Contractor shall coordinate, schedule in an orderly manner and manage all work done by Contractor's officers, employees, subcontractors and agents under this Contract. The Contractor and subcontractors shall perform every act or service under this Contract in a skillful and competent manner in accordance with the standards of the solid waste transportation and disposal industries. The Contractor shall be financially liable and otherwise responsible to the County for any errors, efficiencies or failures to perform under this Contract. All workers and subcontractors shall be skilled in their trades. All operators shall be licensed or otherwise qualified as required by law. The Contractor shall furnish evidence of the skill and licenses of its officers, employees, subcontractors, agents and operators on the request of the County. The Contractor shall at all times enforce strict discipline and good order among its employees and all subcontractors.

6.16 Subsidiary Use of Facilities. The Contractor may use the Transportation Facilities for its own purposes during the transportation of empty Containers from the Disposal Site to a Transfer Station or designated facility, if used in accordance with all Applicable Laws. If the Facilities are so used, the Contractor shall be solely responsible for all losses, damages, costs, charges, expenses, judgments or any liabilities whatsoever resulting from that use and shall indemnify the County for any liability it incurs as a result of that use.

6.17 Other Obligations. The Contractor shall carry out any and all of its other obligations under this Contract.

6.18 Representations and Warranties of the Contractor. The Contractor hereby makes the following representations and warranties to and for the benefit of the County:

(a) The Contractor is duly organized and validly existing as a corporation in good standing under the laws of the State of Washington, and it is duly qualified to do business in the State of Washington.

(b) The Contractor has full legal right, power and authority to execute and deliver, and perform its obligations under this Contract, and has duly authorized the execution and delivery of this Contract by proper action of its Board of Directors. This Contract has been duly executed and delivered by the Contractor in accordance with the authorization of its Board of Directors and constitutes a legal, valid and binding obligation of the Contractor enforceable against the Contractor in accordance with its terms.

(c) Neither the execution or delivery by the Contractor of this Contract, the performance by the Contractor of its obligations hereunder, nor the fulfillment by the Contractor of the terms and conditions hereof: (i) conflicts with, violates or results in a breach of any Applicable Law; or (ii) conflicts with, violates or results in a breach of any term or condition of any judgment, order or decree of any court, administrative agency or other governmental authority, or any agreement or instrument, to which the Contractor is a party or by which the Contractor or any of its properties or assets are bound, or constitutes a default thereunder.

(d) No approval, authorization, license, permit, order or consent of, or declaration, registration or filing with, any governmental or administrative authority, commission, board, agency or instrumentality is required for the valid execution and delivery of

this Contract by the Contractor, except such as has been duly obtained or made or such as the Contractor has given the County adequate assurance, in the County's sole discretion, that it will be obtained or made before the commencement of services by the Contractor under this Contract.

(e) Unless otherwise approved by the County in writing, as of the date the Contractor provides Waste Transportation and Disposal services under this Contract there shall not be any action, suit, proceeding or, to the best of the Contractor's knowledge, investigation, at law or in equity, before or by any court or governmental authority, commission, board, agency or instrumentality pending or, to the best of the Contractor's knowledge, threatened, against the Contractor, wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance by the Contractor of its obligations hereunder or in connection with the transactions contemplated hereby, or which, in any way, would adversely affect the validity or enforceability of this Contract or any other agreement or instrument entered into by the Contractor in connection with the transactions contemplated hereby.

(f) The Contractor holds, or is expressly licensed to use, all patent rights, licenses and franchises necessary or appropriate to construct, operate and maintain the Facilities pursuant to and in accordance with the terms of the Contract.

(g) There has been no material adverse change in the Contractor's financial condition since the date of the financial statement submitted by the Contractor to the County in response to the County's request for bids.

ARTICLE 7

County Responsibilities, Representations and Warranties

7.1 General. The County's responsibilities under this Contract include but are not limited to:

(a) Payment of Tipping Fees to the Contractor in accordance with Article 8;

(b) Ownership and/or operation of one County Transfer Station on Whidbey Island and one County Transfer Station on Camano Island, and, in the County's sole discretion, one or more additional Transfer Stations at locations to be determined by the County;

(c) Delivery of Waste to the Contractor in Closed or Open-top Containers Loaded with Waste, baled in accordance with the Specifications or with Unbaled Waste in Open-top Containers.

(d) Preparation of estimates in accordance with Section 7.3 for the succeeding four quarters of the Contract of the range of Waste the County expects to deliver during those quarters, unless otherwise agreed to in writing;

(e) Provide, operate and maintain compaction equipment and yard tractors;
and

(f) Operate and use Containers, Chassis and/or Transfer Trailers that are provided by the Contractor in accordance with the Specifications.

7.2 Waste Flow; Flow Control.

(a) Subject to the provisions of this Section, the County shall direct ninety-five percent of the Acceptable Waste originating in unincorporated areas of Whidbey Island and in the Cities which have entered into an agreement with the County for transfer and disposal services (not including Waste diverted by legal self-disposal, or other processing/diversion permitted by law, reuse, recycling or composting, moderate risk waste of household origin, as defined in RCW 70.105.010(17), wood waste and, plant and grass clippings, leaves and other yard waste) to be delivered to a Transfer Station. The County shall enact and shall maintain and enforce appropriate laws to carry out the requirements of this Section with respect to unincorporated areas of the County. The County also shall use its best efforts to enter into, maintain and enforce an intergovernmental agreement or agreements with the Cities under which the Cities will grant the County authority to designate Disposal Sites for waste collected in those Cities and will agree to enact and enforce appropriate laws to carry out the requirements of this Section.

(b) The County in its sole discretion may accept Waste originating on Camano Island or outside the County and deliver that waste to the Contractor at a Transfer Station or other County-designated facilities.

(c) The County reserves the right to contract separately for recycling services, or other diversions permitted by law, in the County and to recycle or divert as much of the Waste and other material delivered to its transfer stations as can be accomplished. The County also reserves the right to contract for the hauling of such recyclable and diverted material collected at its Transfer Stations with any entity.

7.3 Payment; Estimates. As long as the Contractor's Facilities are operationally available to accept, Transport and Dispose of Acceptable Waste in a quantity commensurate with the amount of Acceptable Waste delivered to the Contractor pursuant to this Contract during the Term of this Contract, the Contractor is providing the Transportation and Disposal services in accordance with the requirements of this Contract and the Contractor is otherwise materially in compliance with the terms of this Contract, the County shall pay the Contractor a Tipping Fee in accordance with Article 8.

For planning purposes only, the County, unless otherwise agreed, shall provide to the Contractor at the beginning of the Contract Term and thirty days before the end of each quarter thereafter, an estimated range of the amount of Waste the County anticipates delivering to the Contractor each quarter during the succeeding four quarters of the Contract Term. The estimates given are not and shall not be construed as waste flow guarantees and shall not be binding on the County.

7.4 Minimum and Maximum Container Weights and Weight Dispersal.

(a) Minimum Weight of Containers: The minimum weight of a Closed Container delivered by the County to the Contractor for transport and disposal shall be 22 tons,

and the minimum weight of an Open-top Container delivered by the County to the Contractor for transport and disposal shall be 20 tons. Should any Closed or Open-top Container weigh less than 22 or 20 tons, respectively, at the time it is delivered to the Contractor, the County shall pay for that transport of that Container as if it weighed 22 or 20 tons, respectively, but pay for disposal of the Container's contents at its actual weight.

(b) Maximum Weight of Containers: The maximum weight of either a Closed or Open-top Container delivered by the County to the Contractor for transport and disposal shall be 30 tons. Should any Closed or Open-top Container weigh more than 30 tons at the time it is delivered to the Contractor, the County shall remove sufficient Waste from the Container with its own work force and equipment until the Container weighs 30 tons or less.

(c) Weight Dispersal: Contractor shall be required to have chassis equipment that can accept any weight dispersal of the Waste in either a Closed or Open-top Container, so long as the Container complies with the maximum 30 ton weight limit. Any removal or rearrangement of the Waste in either a Closed or an Open-top Container weighing 30 tons or less that is required by the Contractor shall be accomplished solely at the Contractor's expense, and if the Contractor requires assistance of County employees or equipment, the County shall be reimbursed by the Contractor at the County's fully-loaded labor and equipment costs. Further, if the removal or rearrangement of Waste results in removing weight from the Container, that amount of weight shall be subtracted from the actual, final weight of the Container for purposes of calculating the payment of transportation of that Container, but payment for disposal of the contents shall be at its actual weight.

7.5 Cooperation with Contractor. The County shall use reasonable efforts to cooperate with the Contractor and to respond to the Contractor's reasonable requests for information and assistance, consistent with the provisions of this Contract. However, it is not the County's responsibility to notify the Contractor when to begin, cease or resume the Project, nor to give early notice of rejection of faulty work, nor in any way to supervise the Project so as to relieve the Contractor of any liability, responsibility or consequence for neglect, negligence, carelessness, substandard or defective work, or for the use of substandard or defective materials or equipment, by the Contractor, its officers, employees, subcontractors or agents. The County does not assume any liability as a result of inspections conducted of the Project and instructions, directions or suggestions given by the inspector shall not relieve the Contractor of any responsibility or liability associated with Contractor's operations.

7.6 Disputes. All disputes under this Article shall be resolved in accordance with Article 17.

7.7 Rejection of Facilities. The County may require the Contractor at its sole expense to replace or repair any Facility constituting personal property, including, but not limited to, Containers, Chassis or Transfer Trailers, that it reasonably believes is not roadworthy or otherwise does not conform to the Specifications.

7.8 Days and Hours of Operation. Except for Thanksgiving, Christmas, and New Year's, during which the Transfer Stations will be Closed, or the occurrence of an Uncontrollable Circumstance that requires the closure of the Transfer Stations, the Transfer

Stations will be open between 9:30 a.m. and 4:30 p.m. daily. The County in its sole discretion may adjust the operating hours and days of operation per year of any of its Transfer Stations. By arrangement with the County, the Contractor may have 24-hour, 7-day a week access to a Transfer Station or designated facility for purposes of this Contract.

7.9 Delay of Services. If, after giving the Contractor notice to proceed with services under this Contract, the County delays the date the Contractor first accepts Waste under this Contract, the County shall pay liquidated damages to the Contractor in accordance with Section 8.4(d).

7.10 Representations and Warranties of County. The County hereby makes the following representations and warranties to and for the benefit of the Contractor:

(a) The County is a political subdivision of the State of Washington duly organized and validly existing under the Constitution and laws of the State of Washington, with full legal right, power and authority to enter into and perform its obligations under this Contract.

(b) The County has duly authorized the execution and delivery of this Contract and this Contract has been duly executed and delivered by it and constitutes a legal, valid and binding obligation of the County enforceable against the County in accordance with its terms.

(c) Neither the execution and delivery by the County of this Contract, the County's performance of its obligations hereunder nor its fulfillment of the terms or conditions hereof: (i) conflicts with, violates or results in a breach of any Applicable Law; (ii) conflicts with, violates or results in a breach of any term or condition of any judgment, order or decree of any court, administrative agency or other governmental authority, or to the best of the County's knowledge, any agreement or instrument to which the County is a party or by which the County or any of its properties or assets are bound, or constitutes a default thereunder.

(d) No approval, authorization, license, permit, order or consent of, or declaration, registration or filing with, any governmental or administrative authority, commission, board, agency or instrumentality is required for the valid execution and delivery by the County of this Contract except those that have been duly obtained or made.

(e) There is no action, suit, proceeding or, to the best of the County's knowledge, investigation, at law or in equity, before or by any court or governmental or administrative authority, commission, board, agency or instrumentality pending or, to the best of the County's knowledge, threatened, against the County, wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance of the County's obligations hereunder or in connection with the other transactions contemplated hereby or which, in any way, would adversely affect the validity or enforceability of this Contract or any agreement or instrument entered into by the County in connection with the transactions contemplated herein.

ARTICLE 8

Tipping Fees and Contractor Compensation

8.1 Calculation of Tipping Fee.

(a) Base Tipping Fee. The County shall pay the Contractor a Tipping Fee to compensate the Contractor for all costs incurred in providing Transport and Disposal services under this Contract, including but not limited to the cost of all applicable taxes, governmental permits (as "permits" is defined in Section 6.7), labor expenses, equipment, materials, supplies, utility expenses, environmental protection, landfill depletion and pre-funded closure and post-closure expenses and all other costs associated with the services provided under this Contract. Except as expressly allowed under this Contract, the Contractor shall not be entitled to any other compensation under this Contract. The Tipping Fee paid by the County to the Contractor shall include Transportation and Disposal Tipping Fee components and shall be calculated as follows:

For Waste accepted by the Contractor at the Transfer Station, a Tipping Fee equal to the sum of the following Tipping Fee components as shown:

Disposal: \$20.40/ton

Transportation:

Origin	Destination	Transportation per Container
Coupeville	Burlington	\$910
Coupeville	Everett	\$1040
Camano	Everett	\$830

Provided that, a minimum of four Containers per day transported from Coupeville shall be charged at the Coupeville-to-Burlington rate, regardless of whether any Containers on that day are actually delivered to Burlington. If less than four Containers are transported from Coupeville on any one day, they all shall be charged at the Coupeville-to-Burlington rate.

In addition, should expanded capacity at Burlington become available, Contractor shall deliver all Containers transported from Coupeville to Burlington rather than Everett, unless circumstances require that they be delivered to Everett.

Prompt payment discount:

The County shall subtract \$0.30 per ton for each ton billed for disposal on the Contractor's monthly invoice, provided the County pays within 20 days of receipt of Contractor's invoice.

(b) CPI Adjustment for Tipping Fee Components. The price escalation adjustment for each component shall be as follows:

Transportation component	95 percent
Disposal component	70 percent
Prompt payment discount	70 percent

The CPI adjustments include all changes in fuel cost. There shall be no separate fuel cost adjustment, and changes in fuel cost shall not be considered an Uncontrollable Circumstance.

The Tipping Fee components for the Project shall be adjusted annually on January 1 (except in a year in which a new base Tipping Fee component goes into effect) and paid in accordance with the following formula:

$$ATFC_{x/y} = TFC_x [1 + (CPI_y / CPI_o - 1) Z_x / 100]$$

ATFC _{x/y}	=	Adjusted Tipping Fee for component x for the given calendar year
TFC _x	=	Tipping Fee component x
Z _x	=	Price escalation adjustment for TFC _x , in percent
CPI _y	=	The June CPI released in July of the year preceding the given calendar year
CPI _o	=	The June CPI released in July of the year preceding the year for which the Tipping Fee component and the price escalation adjustment being used were bid.

Provided, that there shall be no escalation adjustment for any calendar year in which a new Tipping Fee component goes into effect.

New Tipping Fee component amounts and new CPI adjustments shall go into effect on January 1 in the second year of the contract and on January 1 of each succeeding year.

In the event of a correction to a CPI_y by the United States Department of Labor, Bureau of Labor Statistics, the adjusted Tipping Fee component shall be recalculated using the corrected CPI_y; however, there will be no recalculation of adjusted Tipping Fee component for corrections to CPI_y that occur after the period during which the annual adjustment based on CPI_y is in effect. The difference between the payments calculated on the basis of CPI_y and the payments calculated on the basis of the corrected CPI_y shall be reimbursed to the appropriate party as follows:

1. If CPI_y is increased, the County shall pay the Contractor the difference in twelve equal monthly installments; or
2. If CPI_y is decreased, the County shall deduct the difference in equal monthly amounts from Payments made to the Contractor during the next twelve months.

In the event the standard reference base period of the CPI is changed, the annual adjustment shall reflect the new base period in the first calendar year the new base period is available. Any unresolved dispute regarding any other change in the definition or calculation of

the CPI that materially affects the Tipping Fee under this Article shall be resolved by arbitration in accordance with Article 17 of the Contract.

8.2 Tipping Fee Increases.

(a) Acceptable Increases. The County shall after receiving a request from Contractor to do so (which request shall be substantiated to the County's reasonable satisfaction in accordance with this Section) increase Tipping Fees by one hundred percent of the Contractor's reasonable actual increased costs of performing the Project due to the events described below:

(1) Uncontrollable Circumstances. Tipping Fee components shall be increased to remedy Uncontrollable Circumstances only to the extent permitted under Article 9.

(2) Change in Certain Laws. Tipping Fee components shall be increased to reflect the reasonable actual cost of Contractor's compliance with a Change in Law.

(3) Additional Work. Tipping Fee components may be increased for additional work performed in accordance with Article 15.

(b) General Conditions and Limitations on Tipping Fee Increases. The County shall increase Tipping Fees under Section 8.2(a)(1) and (2) only for costs incurred that are the least costly means of remedying the effects of an Uncontrollable Circumstance in accordance with Article 9 or for ensuring full compliance with a relevant change in law including changes in fees or surcharges and, in accordance with Article 15, for additional work. No Tipping Fee increases shall be allowed for any cost increases that are in any way attributable to conditions, structures, operations or activities at the Facilities caused by the Contractor or its subcontractors, employees, agents, or servants or are otherwise within Contractor's control. The Contractor must fully demonstrate, document and substantiate the need for the requested Tipping Fee increase to the County's satisfaction and approval as a condition precedent to the Contractor's right to the Tipping Fee increase under this Section.

(c) Cancellation of Tipping Fee Increases. On the County's request, Contractor shall immediately provide the County with all documents, information or other evidence in the Contractor's possession or control that the County requests to determine whether there is a continuing need for the Tipping Fee increase. In the event the County determines that a Tipping Fee increase under this Section is no longer necessary, the County may cancel that Tipping Fee increase upon thirty days' notice to the Contractor. If the Contractor objects to that cancellation within that thirty-day period, the matter shall be resolved by arbitration in accordance with Article 17. Until that resolution, the Tipping Fee shall not be reduced; however, the Contractor shall deposit the disputed portion of the Tipping Fee into an interest bearing account acceptable to the County until the matter is resolved and the amount on deposit is awarded or allocated to the parties. The Contractor shall at all times keep the County informed as to whether any Tipping Fee increase remains necessary.

8.3 Tipping Fee Decreases.

(a) Acceptable Reductions; Notice. Subject to the provisions of this Article, the County shall reduce the Tipping Fee one hundred percent of the reduced costs of Contractor's performance under the Contract if the reduced costs are attributable to a condition or event for which Contractor is entitled to reimbursement of increased costs under this Article. The County shall serve the Contractor with notice and explanation of the County's request that the Tipping Fees be reduced. Within thirty days of service of that notice, the Contractor shall respond in writing to the County. The written response shall state whether or not the Contractor believes that any reduction in the Tipping Fee is justified and shall itemize the reduction in cost of performing the Contract. The Contractor shall fully document and otherwise support its response to the County's notice under this Section. In the event the County and Contractor are unable to agree on whether a reduced Tipping Fee is appropriate, the matter shall be resolved by arbitration in accordance with Article 17. During that resolution the Tipping Fee shall not be reduced; however, the Contractor shall deposit the disputed portion of the Tipping Fee into an interest-bearing account acceptable to the County until the matter is resolved and the amount on deposit is awarded to or allocated to the parties.

Upon petition of the Contractor, the County may at any time cancel reductions made under this Section if the County determines that the need for the reduction has expired or that a reduction was made in error. The Contractor shall at all times keep the County informed as to when any reduction due to change in law is appropriate and when any reduction is no longer appropriate.

(b) Most Favored Customer. The Contractor may transport and/or dispose of Acceptable Waste of a substantially similar character to the County's Waste, in a substantially similar manner, for any other customer. However, if after the day this Contract is executed, the Contractor provides a disposal charge to any public agency, other than Klickitat County, with a population less than Thurston County the disposal fee charged to the other customer for that disposal service may not be lower than the disposal fee charged to the County as adjusted in accordance with the Contract. If the disposal fee charged to that customer is lower, the Tipping Fee or the relevant Tipping Fee component charged to the County under this Contract shall be reduced as to equal the lower disposal fee, retroactive to the date that lower disposal fee became effective.

8.4 Other Tipping Fee Adjustments or Charges.

(a) Alternate Facilities. The County shall adjust the applicable Tipping Fee component to reflect the cost of handling waste at alternative Facilities in accordance with Section 6.5(b) or 6.5(c) of the Contract or at a Washington Disposal Site or alternate Facility in accordance with Article 13 of the Contract. If the County chooses to require that waste originating in the County be disposed at a Washington Disposal Site, the County shall adjust applicable Tipping Fee components to reflect reasonable adjustments in the Contractor's costs of Transportation to and Disposal at the Washington Disposal Site. In no event shall the Tipping Fee component exceed the fees charged other customers of the Contractor delivering waste of a substantially similar character and in substantially similar volumes to the Washington Disposal

Site; however, this sentence shall not apply to fees paid by customers handling waste originating in the county in which the Disposal Site is located.

(b) Liens. The County may deduct from the Tipping Fee due the Contractor under Article 8 of this Contract the amount necessary to pay any lien filed against any one or more of the Facilities (including any real or personal property) required to fully perform the Contract including without limitation any federal or State tax lien, creditor's lien, mechanics or materialmens lien, and the County may pay any such lien.

(c) County Delay of Service. The County shall pay to the Contractor \$1,000/day if the County delays the commencement of services under Section 7.9.

(d) Unacceptable Waste. The County shall reimburse the Contractor in accordance with Section 10 for the cost of testing, inspecting, handling and/or Disposing of Unacceptable Waste.

(e) Mutually Agreed Adjustments. Nothing in this Section prohibits nor shall it be construed to prohibit the adjustment of Tipping Fees or any other payment or fee at any time by mutual consent of the Parties, to reflect changes in load weights, equipment, routes or for any other reason mutually agreed upon.

(f) Insurance. The Contractor shall reduce the Tipping Fee by an amount sufficient to reimburse the County for any insurance obtained by the County in accordance with Section 12.2 of the Contract.

(g) Additional Work. Tipping Fee components may, subject to the County's prior written approval, be increased for additional work or services performed in accordance with Article 15 of the Contract by an amount equal to the Contractor's actual reasonable cost of performing that work or services plus ten percent of those costs.

8.5 Payment.

(a) Invoice. The Contractor shall provide to the County by the fifteenth day of each month an invoice in a format reasonably acceptable to the County and accompanied by supporting documentation as reasonably required by the County for services performed by the Contractor under this Contract in the preceding month. The County shall pay the Contractor by check, draft or warrant for the previous month's service within forty-five days of receiving the invoice. If any amount is disputed, the County may withhold payment of that disputed amount until the dispute is settled in accordance with Section 8.5(b) and Article 17.

(b) Disputes. All unresolved disputes concerning the calculation of or adjustment to payments based on Tipping Fees or Tipping Fee components shall be resolved by arbitration in accordance with Article 17. However, the undisputed portion of the adjustment shall be made effective promptly; further adjustment shall be made effective on the resolution of the dispute under Article 17. In addition to any portion of the disputed adjustment ultimately awarded, the arbitrator(s) may also award to the Contractor interest on the disputed amount from the date the Tipping Fee component or payment adjustment was effective. The interest rate shall be determined by the arbitrator(s) and interest award paid within a period determined by the

arbitrator(s) , but in no event later than twelve months from the effective date of the Tipping Fee component or payment adjustment. The interest award may be made by means of a further increase or decrease in the payment made to the Contractor.

ARTICLE 9

Allocation of Risk; Uncontrollable Circumstances

9.1 Contractor Reliance. The Contractor warrants that prior to submitting its response to the request for bids, it has examined carefully and acquainted itself with the Contract, the Project, the Facilities, the difficulties that may be encountering in performing the Project, all Applicable Laws and any and all other matters necessary to the performance of this Contract.

9.2 County Disclaimer. The County does not warrant or admit the correctness of any investigation, interpretation, deduction or conclusion by the Contractor relative to the request for bids for solid waste export services issued by the County in connection with this Contract or to the condition or conditions of the Transfer Station or other Facilities. The Contractor has made and shall make its own deductions and conclusions as to any and all problems that may arise from facility site conditions and shall accept full legal responsibility and liability for those conditions.

9.3 Uncontrollable Circumstances.

(a) Uncontrollable Circumstances Limited. The Contractor's obligations to provide Transport and Disposal services under this Contract are subject to Uncontrollable Circumstances that may necessarily and unavoidably prevent or substantially increase the cost of Contractor's performance of the Project. No other events shall excuse nonperformance of the obligations of the parties, including but not limited to, delays in or discontinuation of ferry service.

(b) Notification; Reconstruction; Tipping Fee Increases. As soon as possible after the occurrence of an Uncontrollable Circumstance but in no event later than seventy-two hours following the time the Contractor should have known about the occurrence of the Uncontrollable Circumstance, the knowledgeable party shall notify the other of the event. If the occurrence of the Uncontrollable Circumstance damages, destroys or otherwise incapacitates the Facilities, the Contractor shall, at the earliest practicable time, activate the plan prepared in accordance with the Specifications for correcting, repairing or reconstructing the affected Facilities. If the Uncontrollable Circumstance or the damage to the Facilities is not provided for in that plan, the Contractor shall submit to the County as soon as practicable a plan for correcting, repairing or reconstructing the affected Facilities. In either event, the County at its sole discretion may require the Contractor to replace, repair or reconstruct the Facilities. If the County directs the Contractor in writing to so act, the County shall increase Tipping Fees in accordance with Section 8.2(a) by one hundred percent of the Contractor's reasonable actual increased costs of correcting, repairing or reconstructing the affected Facilities net of insurance proceeds or any other recoveries obtained by the Contractor, which costs must be documented and substantiated to the reasonable satisfaction of the County.

(c) Obligation to Provide Alternate Facilities. If the Contractor on the occurrence of an Uncontrollable Circumstance, cannot or fails to provide services under this Contract with the primary Facilities, the Contractor shall make available to the County alternate Transport and/or Disposal Facilities at the prevailing charges or fees in effect at the primary Facility when the event occurs.

(d) Termination. If the reasonable actual increased cost of remedying the effects of any Uncontrollable Circumstance will or is estimated to increase the Tipping Fee more than twenty-five percent, or, in the event of an increase in or imposition of a State/Local Solid Waste Handling Fee that exceeds twenty five percent of the Tipping Fee not including that State/Local Solid Waste Handling Fee, the County may, in its sole discretion and as an alternative to a Tipping Fee component increase for the correction, repair or reconstruction of affected Facilities under subsection 9.3(b), terminate the Contract in accordance with Section 9.3(e). Notwithstanding the foregoing, the County may not terminate the Contract as a result of the County's own imposition of a State/Local Solid Waste Handling Fee that causes a twenty five percent or greater increase in the Tipping Fee.

(e) Termination of Contract Due to Uncontrollable Circumstances. Upon the occurrence of an Uncontrollable Circumstance after the date the Contractor commences Transportation and Disposal services under this Contract, the County shall calculate any increase in the Tipping Fee as a result of that event. The County shall compare the Tipping Fee as increased by a result of that event to the Tipping Fee which would have been in effect if that event had not occurred. The comparison shall be computed on a per month basis after adjustment for other increases provided for in Article 16 and in Article 8. For purposes of this Section the County shall take into account the aggregate of any increases in the Tipping Fee occurring after the date Transportation and Disposal services commence under this Contract.

The County may, at its option, terminate this Agreement effective thirty days after the County gives the Contractor written notice of termination upon the occurrence of any Uncontrollable Circumstance which:

(1) prevents the Contractor from Transporting and Disposing of Acceptable Waste for a period of thirty consecutive days or thirty days (whether or not consecutive) out of any one hundred eighty day period; or

(2) If the cumulative increase in the Tipping Fee as a result of any and all Uncontrollable Circumstances is greater than twenty five percent, excluding all adjustments to the Tipping Fee otherwise authorized by this Contract (including without limitation CPI adjustments); or

(3) If the Uncontrollable Circumstance and its expected effect on any one or more of the Facilities would prevent operation of the Facilities at least at seventy five percent of the normal operational standard for eighteen months or more.

Notwithstanding anything to the contrary in this Section, if the County provides the Contractor with written notice of its intention to terminate this Contract pursuant to (b), above,

then, if the Contractor elects to forego that portion of the increase that causes the Tipping Fee to increase more than twenty five percent, the County's right of termination may not be exercised.

(f) Disputes. Unresolved disputes concerning the calculation of the cost of remedying the effects of an Uncontrollable Circumstance shall be resolved by arbitration in accordance with Article 17.

9.4 Insurable Uncontrollable Circumstances. If any of the Facilities are damaged or destroyed due to explosion, floods, fire, or other events for which the Contractor is obligated to carry insurance, the Contractor shall act diligently to promptly collect and apply insurance proceeds to the correction or reconstruction of those Facilities.

ARTICLE 10

Ownership; Inspection of Waste; Unacceptable Waste

10.1 Ownership. Subject to the limitations and conditions of this Article, title to Acceptable Waste and Unacceptable Waste that is Loaded and sealed into a Container, shall pass to the Contractor when the Contractor verifies that the Security Seal is intact and signs the County transaction ticket but in no event later than the moment the Loaded Container is removed from the boundaries of the Transfer Station. The Contractor shall have the right to recycle or reuse any Waste to which it receives title under this Contract and to retain any payments it receives for the sale of recycled or reused materials. Title to Unacceptable Waste shall in no event pass to the Contractor.

10.2 Transfer Station Inspection Program. The County shall establish and maintain a program of operating and monitoring procedures for the Transfer Station to prevent the Loading of Unacceptable Waste into Containers. Transfer Station operators shall be instructed and trained to implement the program. With prior agreement of the Contractor, otherwise Unacceptable Waste (such as a small number of tires) may be loaded into the Containers.

10.3 Waste Inspection at Disposal Site; Handling of Suspected Unacceptable Waste. The Contractor may inspect the contents of all Loaded Containers delivered to the Disposal Site under this Contract. The County may be present to observe any inspection conducted under this Article and may at its sole discretion and cost inspect any Waste or Unacceptable Waste delivered to the Disposal Site under this Contract.

If the Contractor discovers Unacceptable Waste or Waste that the Contractor suspects is Unacceptable Waste in a Loaded Container, and about which the Contractor has not been notified, the Contractor shall:

(a) notify the County of the discovery of the Unacceptable Waste within one hour of that discovery, unless that discovery occurs after 4 p.m. in which event notification shall be given by 9 a.m. of the next day the County Solid Waste Department is open for business;

(b) gather, preserve, maintain and make available to the County all evidence demonstrating that the Unacceptable Waste was delivered to the Contractor pursuant to this Contract including without limitation the time the Loaded Container was sealed at the Transfer

Station, the transportation route and schedule of the transportation of the Loaded Container to the Disposal Site, the time the Loaded Container was delivered to the Disposal Site, the Security Seal number on that Loaded Container, any photographs of the Unacceptable Waste or sealed Container or otherwise that might establish that the waste is Unacceptable Waste and/or was delivered pursuant to this Contract, samples of Acceptable Waste from the Loaded Container that may demonstrate that the Loaded Container was delivered to the Disposal Site under this Contract and/or may demonstrate the origin of the Unacceptable Waste, laboratory results (if any), any statements or documentation provided by federal, state or local authorities regarding the character of the Waste and any other relevant material or documentation the Contractor has in its possession.

(c) test or arrange to have tested at the Contractor's own expense the Unacceptable Waste to ascertain whether that waste is Unacceptable Waste;

(d) permit the County to inspect that Unacceptable Waste within seventy two hours of notice by the Contractor to the County of the existence of that Unacceptable Waste, test the Unacceptable Waste within a reasonable period of time and examine all other evidence gathered by the Contractor under Section 10.3(b), above, at any time after the discovery of that Unacceptable Waste. For purposes of any inspection conducted pursuant to this Section, the County shall have unrestricted access to the Disposal Site and/or any other site or facility at which the Unacceptable Waste is located. Notwithstanding the foregoing, however, no notice shall be required by the Contractor to the County and no waiting period for inspection shall be required for the Contractor to dispose of Unacceptable Waste in emergency situations where in the Contractor's reasonable judgment a delay in such disposal could constitute a hazard to the Disposal Site or any Person on, about or near the premises; and

(e) dispose of the Unacceptable Waste and seek reimbursement from the County for the actual reasonable cost of that disposal in accordance with Section 10.4.

10.4 Liability for Testing, Inspecting, Handling and/or Disposing of Unacceptable Waste.

(a) Absence of Unacceptable Waste. If, after inspecting and/or testing the Waste the Contractor discovers no Unacceptable Waste, or discovers that the Unacceptable Waste was not delivered to the Disposal Site under this Contract, the Contractor shall dispose of that Waste at no additional cost to the County and shall reimburse the County for the County's costs, if any, of inspecting and/or testing that Waste including but not limited to laboratory fees, transportation and handling costs and the inspector's food, transportation, lodging and labor costs.

(b) Procedures After Unacceptable Waste Discovered. Notwithstanding the transfer of ownership of Unacceptable Waste under Section 10.1, if Unacceptable Waste is discovered at the Disposal Site and the Unacceptable Waste was delivered to the Disposal Site under this Contract, and the Contractor complies with all the requirements of this Article, the County shall pay or reimburse the Contractor for the actual reasonable cost of the inspection, testing, identification, handling and disposal of that Unacceptable Waste, subject to the

limitations and conditions of this Article. Payment or reimbursement by the County will only be made if the Contractor:

(1) complies with the requirements of this Article including but not limited to subsections 10.3(a) through (e), above;

(2) assists the County, to the extent Contractor can reasonably make information available, to ascertain the Person previously owning or responsible for the delivery of the Unacceptable Waste to the Transfer Station; and

(3) documents its actual costs, the reasonableness of those costs.

(c) Payments to Contractor. Any payment or reimbursement made by the County to the Contractor under this Section shall be paid in four consecutive quarterly installments or a single lump sum payment at the County's sole discretion. The first installment or the lump sum payment shall be paid on the fifteenth day of January, April, July or October, whichever date first occurs thirty days after the Unacceptable Waste was discovered at the Disposal Site pursuant to this Article. The County shall also pay to the Contractor interest accruing on any payment due under this Article from the date the costs are incurred to handle and Dispose of the Unacceptable Waste to the date payment for that handling and Disposal is made. Any unresolved disputes arising under this Article relating to the Contractor's actual reasonable costs shall be resolved by arbitration in accordance with Article 17.

ARTICLE 11

Indemnification

11.1 Contractor's Indemnification of County.

(a) Subject only to the limitations hereinafter set forth in Section 11.3, the Contractor covenants and agrees that, to the maximum extent permitted by Applicable Law, it will indemnify the County against and hold the County harmless from any and all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits and actions, including but not limited to attorneys' fees and expenses at trial and on appeal, relating to or resulting from:

(1) any injury to or death of any person or persons, or loss of or damage to property caused or alleged to be caused by the Contractor or any of its officers, agents, employees, subcontractors (or any officer, agent or employee of any subcontractor), or any person under the control of or alleged to be under the control of or acting at the direction of the Contractor or any subcontractor, to the extent arising in connection with or as a result of:

(A) the negligent performance by the Contractor of its obligations hereunder;

(B) the negligent use or operation of the Facilities by the Contractor; or

(C) the condition of the Facilities or the Disposal Site under the management of the Contractor between the execution of this Contract and the termination of the Contract;

(2) any condition of the Facilities, now existing or arising during the Term of this Contract, relating to hazardous or toxic substances or any other condition that is adverse to the public health and/or environmental impact of the Facilities, now existing or arising during the Term of this Contract which, under any Applicable Law in appropriate administrative or judicial proceedings, is determined to be unsafe or adverse to the public health or the environment and which was not caused by the County providing Unacceptable Waste; or

(3) an actual or allegation of infringement, violation or conversion of any patent, license, proprietary right, trade secret or other similar interest, in connection with the operation of the Facilities by the Contractor or the design, technology, processes, machinery or equipment used at the Facilities by the Contractor.

(b) Notwithstanding anything express or implied herein to the contrary and in addition to the indemnity and hold harmless agreements of the Contractor set forth above but without regard to any express or implied limits on the Contractor's indemnity and hold harmless agreement as set forth above, the Contractor shall indemnify the County against and hold the County harmless from any and all penalties, fines and charges of any federal, state or local government having jurisdiction over the Facilities, or operations at the Facilities, and any and all liabilities, actions, damages, claims, demands, judgments, losses, costs, expense, suits and actions, including but not limited to attorneys' fees and expenses at trial and on appeal arising from any violation or alleged violation of any Applicable Law by the Contractor in connection with or as a result of the operations at the Facilities or otherwise relating to this Contract or Contractor's performance of its obligations hereunder, provided that the same were not caused by the County providing Unacceptable Waste.

11.2 County's Indemnification of Contractor. Subject only to the limitations hereinafter set forth in Section 11.3, the County covenants that to the maximum extent permitted by law, it will indemnify the Contractor against and hold the Contractor harmless from any and all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits and actions, including but not limited to attorneys' fees and expenses at trial and on appeal, relating to or resulting from any injury to or death of any person or persons, or loss of or damage to property caused by the County or any of its officers, agents, employees, or any person under the control of or alleged to be under the control of or acting at the direction of the County, arising in connection with or as a result of the performance by the County of its obligations hereunder. However, the County's liability pursuant to the foregoing indemnity and hold harmless provision shall be secondary to any insurance proceeds that may be recovered by Contractor from any insurance coverage maintained by the Contractor, or under which the Contractor is insured in connection with this Contract.

11.3 No Indemnification for Negligent Acts. Neither party hereto shall be required to indemnify the other or hold the other harmless pursuant to the provisions of this Article with respect to any loss, damage or claim due to the negligence of such other party.

11.4 Contribution for Joint or Concurrent Negligence. In case of joint or concurring negligence of the parties giving rise to a loss or claim against either or both of them, each party shall have full rights of contribution against the other.

11.5 Notice of Claims; Defenses; Settlement.

(a) Any party entitled to indemnification hereunder (the "Notifying Party") shall notify the indemnifying party (the "Responding Party") within ten days of the Notifying Party's receipt of written notice from any third party of any act, omission or occurrence with respect to which the Notifying Party intends to seek indemnification in accordance with this Contract and, if requested by the Responding Party, shall also supply to the Responding Party all records, data, contracts and documents reasonably related to such third party claims to enable the Responding Party to evaluate such claim for purposes hereof. If the Responding Party replies in writing to the Notifying Party within twenty days from the date of such notice that it will undertake the defense of the Notifying Party and will hold the Notifying Party harmless with respect to such claims, then no additional attorneys' fees incurred by the Notifying Party in its own defense shall be compensable as a claim entitled to indemnity, unless (1) the Responding Party has agreed to pay such fees and expenses, (2) the Responding Party shall have failed to assume the defense of such claim or has failed to employ counsel reasonably satisfactory to the Notifying Party, or (3) the named parties in any action or proceeding relating to such claim (including any impleaded parties) include both the Responding Party and the Notifying Party, and such Notifying Party has been advised by its counsel that the Notifying Party has a conflicting interest from the Responding Party or that there may be one or more legal defenses available to the Notifying Party which are different from or additional to those available to the Responding Party. The Notifying Party will reasonably cooperate in providing information and testimony to assist in the defense of the matter, but all out of pocket costs thereof shall be a part of the indemnified amounts for which the Responding Party shall hold the Notifying Party harmless. Control of the defense of the claims shall be the right and responsibility in this case of the Responding Party, which shall have authority to contest, compromise or settle the matter in its sole discretion.

(b) In the event the Responding Party replies in writing within the twenty day period that it accepts responsibility for the indemnified claim regarding the matter in question but does not desire to take an active role in the defense of said matter then, alternatively, the Responding Party may consent to the Notifying Party's selecting an attorney to defend the matter who is satisfactory to the Responding Party, that consent and satisfaction with the selection of that attorney to be evidenced in writing. In that case, however, no matter will be settled or compromised without the written consent of the Responding Party; further, at any time the Responding Party may elect to assume the active control of the matter, including the replacement of the selected counsel by other counsel satisfactory solely to it, and thereafter may consent, settle or compromise the case in its sole discretion.

(c) If, on the other hand, the Responding Party replies to the Notifying Party within twenty days from the date of the notice, but denies its responsibility to indemnify and hold the Notifying Party harmless with respect to the claim, both parties shall attempt to agree upon a mutually satisfactory attorney to represent them and agree on who shall control the defense of the claim and has the authority to approve any proposal, settlement or compromise. If

no agreement can be reached, or if the Responding Party does not reply to the Notifying Party within twenty days from the date of the notice, each party may designate its own attorney, whose reasonable fees shall be compensable as an indemnified claim to the Notifying Party. Whether or not any such agreement can be reached or the Responding Party does or does not reply, each party shall reasonably cooperate in providing information and testimony to assist in the defense of the matter, and the costs thereof (including out of pocket expenses) shall be a part of the claims which shall be paid by the party who is later determined to be responsible therefor under the assumptions of liability and other provisions for indemnification under this Contract. Any indemnification in this Contract shall include an indemnification of the respective officers, directors, employees, agents, shareholders and successors and assigns of the Notifying Party.

11.6 Beneficiaries of Indemnification Provisions. The foregoing indemnification and hold harmless provisions are for the sole and exclusive benefit and protection of the County, the Contractor, and any affiliates of the Contractor, and their respective officers, officials, agents and employees, and are not intended, nor shall they be construed, to confer any rights on or liabilities to any person or persons other than the County and the Contractor and their respective officers, officials, agents and employees.

11.7 Unacceptable Waste Liability. Notwithstanding Section 11.1, above, the County shall be liable for losses incurred during Transportation or Disposal caused by the presence of Unacceptable Waste in a Loaded Container for which Contractor has not been notified and has not agreed to accept, and all losses related to the handling and disposal of Unacceptable Waste after the Contractor has properly notified the County of the discovery of Unacceptable Waste attributable to this Contract and otherwise complied with Article 10.

11.8 Applicability of RCW 4.24.115. If a court of competent jurisdiction determines that this Contract is subject to RCW 4.24.115, then the Contractor's liability to indemnify the County for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from concurrent negligence of the Contractor and the County shall be limited to the Contractor's negligence.

11.9 Waiver of Industrial Insurance Immunity. It is further specifically and expressly understood that the indemnification provided in this Article constitutes the Contractor's waiver of immunity under industrial insurance and Title 41 RCW solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

11.10 Royalties; License Fees; Patents. The Contractor shall pay all royalties fees and license payments, shall defend all suits or claims for patent infringements that may occur in the performance of this Contract and shall hold the County harmless from any loss on account thereof.

11.11 No Waiver. Except as otherwise expressly stated herein, the parties do not under this Article waive or surrender indemnity available under any federal, state, regional or local law. This Article shall survive termination or expiration of the Contract.

(*) Should be 51, not 41.
Disc. w/ Atty. will follow
at Foster Rep/Rep - to see if
4 yrs does not matter - in fact
is clear. Also "and" is operative.

ARTICLE 12

Contractor and County Liability Insurance

12.1 General.

(a) The Contractor shall obtain, maintain and pay for the insurance coverage designated in this Article from generally recognized and financial responsible insurers that are licensed or admitted in the State of Washington and whose claims paying ability is rated not less than "A" by A.M. Best Company, Inc. at all times during the Term of the Contract. Each policy must provide for forty five calendar days prior written notice of any cancellation in coverage to be given by the insurer to the County.

(b) The Contractor may, as an alternative and subject to the County's prior written approval, in its sole discretion, engage in a program of self insurance with reasonable reserves set aside by the Contractor to satisfy all or a part of its obligations under this Article.

12.2 Replacement Insurance. In the event the Contractor breaches any provision of this Article, the County in its sole discretion may procure and maintain, at the Contractor's sole expense, insurance to the extent the County deems proper; provided, however, that the County shall be required to give the Contractor at least thirty calendar days prior written notice of its intent to acquire replacement insurance and an opportunity to cure such breach. In the event the County obtains such insurance, the Contractor shall reimburse the County for the cost of that insurance within fifteen days of receiving written notice from the County to do so or, in the County's sole discretion, the County may reduce the Tipping Fee due the Contractor in accordance with Section 8.4(h).

12.3 Required Coverage. Within thirty days of receiving from the County the notice of award of this Contract at the time the Contractor provides to the County the executed Contract, the Contractor at its sole expense shall file with the County certificates of insurance evidencing the coverage required under this Article which coverage shall take effect on the date operations under the Contract commence.

The insurance policies must provide the following:

(a) Coverages:

- Extended Bodily Injury
- Employees as Additional Insured
- Premises/Operations Liability (M&C)
- Products and Completed Operations Liability through guarantee period
- Blanket Contractual Liability
- Broad Form Property Damage Liability (including completed operations)
- Personal Injury, including A, B, C, with no employee exclusion
- Stop Gap or Employers Contingent Liability
- Automobile Liability, including coverage for owned, non owned, leased or hired vehicles
- Explosion, Collapse, Underground damage (referred to as "X.C.U.")

Owners and Contractors Protective Liability

Pollution Liability (same as Marine Operations, see Section 12.4)

(b) Minimum Limits for all Coverages:

\$5,000,000 per occurrence;
\$10,000,000 annual aggregate.

Providing insurance coverage under this Article shall not be construed to relieve the Contractor from liability in excess of these limits.

(c) Additional Insured

All insurance policies provided under this Contract shall state:

“The County is an additional insured for all coverages provided by this policy of insurance under a Contract between Island County, Washington, and Rabanco, Ltd., entitled Contract Regarding Solid Waste Transport and Disposal for Island County, Washington, and dated _____, 2006.”

(d) Separation of Insureds

The insurance shall be endorsed to include a “cross liability,” “severability of interests,” or “separation of insureds” indicating essentially that

“except with respect to the limits of insurance, and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured and separately to each insured against whom claim is made or suit is brought.”

(e) Cancellation of Coverage

All policies of insurance provided under this Contract shall state:

“The coverages provided by this policy to the County shall not be cancelled without providing at least forty five calendar days prior written notice to the Island County Solid Waste Department, Island County Courthouse Annex, Sixth and Main, P.O. Box 5000, Coupeville, Washington 98239.”

12.4 Workers Compensation. The Contractor shall provide workers compensation or evidence of participation in the Washington State Department of Labor and Industries program and any other program in any other state in which operations are performed by Contractor to satisfy its obligations hereunder, or, in lieu thereof, the Contractor may provide a self insurance or alternate insurance program for workers compensation if approved by the County in the County’s sole discretion.

12.5 Minimum Insurance. Maintenance of insurance by the Contractor as specified in this Article shall constitute the minimum coverage required and shall in no way lessen or limit the liability or responsibility of Contractor under this Contract. Contractor shall carry, at its own expense, any additional insurance it deems necessary.

12.6 Failure to Provide Insurance. The Contractor's failure to fully comply with any provision of this Article shall be considered a Class C Default under this Contract.

12.7 Unavailability. In the event that any of the insurance required by this Article become unavailable, or is available only on a "claims made" rather than on an "occurrence" basis, Contractor shall secure insurance with substitute provisions providing as much protection to the County as is reasonably available in the insurance marketplace and approved in writing by the County.

12.8 Delivery of Certificates of Insurance. The Contractor shall within thirty days of the date the Contractor receives the County's notice to proceed with services under the Contract at the time the Contractor provides the County with the executed Contract, deliver certificates of insurance required under this Article.

12.9 Collection of Insurance Proceeds. If any of the Facilities are damaged or destroyed due to events for which the Contractor is obligated to carry insurance, the Contractor shall act diligently to promptly collect and apply insurance proceeds to the repair or reconstruction of those Facilities.

ARTICLE 13

Washington Disposal Sites and Other Alternate Facilities

13.1 Washington Disposal Site; Tipping Fee Adjustments. If the Disposal Site is not located in Washington state and the Contractor develops, owns, operates or otherwise has available a Waste disposal site in Washington State that is capable of accepting annual Waste volumes substantially equal to the average annual volume of County Waste disposed at the out of state Disposal Site prior to the opening of that Washington disposal site, the County may in its sole discretion require that some or all of the Waste originating in the County be Transported to and Disposed at the Washington site; however, the County cannot require that more Waste from the County be Disposed at a Washington disposal site than the capacity of that site will permit, capacity being based on the remaining Term of this Contract.

If the County chooses to require that Waste originating in the County be disposed at a Washington Disposal Site, the County shall adjust applicable Tipping Fee components to reflect reasonable adjustments in the Contractor's costs of Transportation to and Disposal at the Washington Disposal Site. In no event shall the Tipping Fee component attributable to Disposal exceed the disposal fees charged other customers of the Contractor delivering Waste of a substantially similar character and in substantially similar volumes to the Washington Disposal Site; however, this sentence shall not apply to fees paid by customers handling Waste originating in the county in which the Disposal Site is located.

13.2 Other Alternate Facilities; Tipping Fee Adjustments. The Contractor may, with the County's written approval, use facilities, sites or processes different from the Facilities to carry out the Contractor's obligations under this Contract. Upon petition by the Contractor, the County may adjust applicable Tipping Fee components to reflect reasonable actual cost increases or decreases in providing and operating those alternate facilities.

13.3 Disputes. Unresolved disputes concerning Tipping Fee calculations or adjustments under this Article shall be resolved by arbitration in accordance with Article 17.

ARTICLE 14

Coordination Meetings

14.1 Initial Coordination Meeting. Prior to the commencement of services under this Contract, the Contractor, County, principal subcontractors and others requested by either party shall meet in Coupeville, Washington to discuss scheduling, processes, materials, change orders, personnel and any other matters the parties deem appropriate.

14.2 Periodic Coordination Meetings and Reports. The County and the Contractor shall hold periodic coordination meetings in Coupeville, Washington but no less than one every three months to review the progress of the work and to discuss operations, problems and/or complaints made by third parties. Any cost incurred by any Person to attend a coordination meeting shall be borne by that Person. Either the County or the Contractor may organize, call and notify the other party of that meeting. If requested, the Contractor shall submit a report to the County no later than three days before that meeting regarding operations, problems, complaints or any other matter relating to or arising under the Contract.

ARTICLE 15

Additional or Deleted Work

15.1 Payment or Credit for Additional Services. All requests for payment for services or work under this Contract in addition to the services of work described in the Contract shall be made only under the conditions and procedures of this Article. For purposes of this Article, the term "additional work" means work that is in addition to the Project or other work required to be performed under the Contract or any amendments thereof, but does not include any work required to comply with any changes in law, statutes, rules, regulations, ordinances, permit(s), permit conditions or regulatory provisions. Nothing in this Article is intended to negate or lessen any other precondition or procedure for payment or reimbursement provided in this Contract.

15.2 Additional Work.

(a) The County shall submit to the Contractor a written request to perform any work or services additional to those performed under this Contract. Within twenty one days of that request, the Contractor shall submit to the County an itemized proposal stating the Contractor's actual costs for performing the additional work or services, a schedule and the impact the performance of that additional work or services will have on the Contractor's

performance under this Contract. The Contractor's proposal shall be based on the least costly method for performing the additional work or services.

(b) Upon receipt of the Contractor's proposal, the County shall have authority to order Contractor to perform the relevant additional work or services if the County accepts the Contractor's proposal, for an increase in Tipping Fees equal to the Contractor's actual reasonable costs of performing that work or services plus ten percent of those costs; the Contractor shall comply with that order. If the County approves the Contractor's written request for additional work or services and proposal, the County shall notify the Contractor in writing and order the Contractor to proceed. Unless the Contractor performed to remedy what a reasonable person would recognize as an emergency, the Contractor shall not be entitled to Tipping Fee increases for the additional work or services performed unless the County orders the Contractor to perform the work or services in accordance with this Article.

(c) A request to provide transportation services under the contract from new transfer stations in addition to Coupeville and Camano shall be considered additional work, but the disposal cost for Waste transported from additional transfer stations in the County shall be the same as disposal costs from Coupeville and Camano.

(d) Unresolved disputes concerning the calculation of or adjustments to Tipping Fees under this Section shall be resolved by arbitration in accordance with Article 17.

ARTICLE 16

Defaults in Performance of the Contract

16.1 Contractor Default. There shall be four classes of defaults by the Contractor in its performance under this Contract:

(a) A Class A default is the Contractor's failure to commence Waste Transport and Disposal service with Facilities properly permitted by Applicable Law and in substantial and material compliance with the Specifications, on the date designated by the County.

(b) A Class B default includes, on the commencement of services under this Contract, the Contractor's:

(1) failure to perform the basic Transport and/or Disposal services required under this Contract and it appears to the County's Representative, in that Representative's reasonable judgment, that the Contractor has abandoned the Project;

(2) failure substantially to perform the basic Transport and/or Disposal services under this Contract on three or more occasions of three days duration in any given year; or

(3) sale or transfer of controlling interest in the beneficial ownership of the Contractor other than as expressly permitted under in Section 18.3.

(c) A Class C default includes the Contractor's:

(1) failure to procure and/or maintain the construction performance bond and/or letter of credit required under Section 6.4; or

(2) failure to procure and maintain insurance under Article 12.

(d) A Class D default includes a delay of operations as described in Section 9.0 of the Specifications or any other failure by the Contractor to perform its obligations under this Contract.

Notwithstanding anything in this Section to the contrary, a delay or interruption in the performance of all or any part of the Contract resulting from Uncontrollable Circumstances shall not be deemed a default under this Section.

16.2 Consequences of Contractor Defaults.

(a) Class A Default. In the event of a Class A default, the Contractor shall be permitted to remedy the default within ninety days from notice by the County and shall pay to the County from the date of that notice to the date the default is remedied, liquidated damages in the amount of \$50,000 per day. If the Class A default is not remedied within ninety days of that notice, the County may, at its sole option:

(1) be released from its obligations under this Contract and use any other method or Person to transport and/or dispose of Waste and may sue for actual damages;

(2) seek judicial remedy of specific performance; or

(3) pursue any combination of the foregoing or any other remedy provided under this Contract.

(b) Class B Default. In the event of a Class B default, the Contractor shall be permitted to remedy the default within ten days from notice by the County and shall pay to the County the County's actual damages and costs for providing alternative Transportation and/or Disposal of Waste or otherwise operating after the change in ownership under Section 18.3. If the Class B default is not remedied within ten days, the County may at its sole discretion:

(1) be released from its obligations under this Contract and use any other method or Person to Transport and/or Dispose of Waste and may collect from the Contractor liquidated damages as set forth in Section 16.2(b)(4) below;

(2) seek judicial remedy of specific performance;

(3) charge the Contractor liquidated damages in the amount of \$10,000 per day for each day the Contractor fails to perform solid waste handling services; or

(4) pursue any combination of the foregoing or any other remedy provided under this Contract.

(c) Class C Default. In the event of a Class C default, the Contractor shall be permitted to remedy the default within fifteen days from notice by the County, and from the date of that notice to the date the default is remedied shall pay to the County liquidated damages in the following amounts:

(1) Failure to procure and/or maintain insurance in the types and amounts required by Article 12: a per day fee equal to twice the annual cost of obtaining that insurance on the day of the default divided by 365 (i.e., twice the daily cost of the insurance); and

(2) Failure to procure and/or maintain the letter of credit or other financial guarantee required in Section 6.4: \$5,000 per day;

If a Class C default is not remedied within fifteen days, the County may at its sole option exercise any of the remedies set forth for remedy of a Class B default under this Section.

(d) Class D Default. In the event of a Class D default, other than a delay of operations, the Contractor shall be permitted to remedy the default within thirty days from written notice by the County and if the default is not remedied within that thirty days shall thereafter pay to the County liquidated damages in the amount of \$1,000 per day until the date the default is remedied plus the County's actual damages. In the event of a delay of operations, the Contractor shall pay to the County \$1,000 for each day operations are delayed in accordance with Section 9.0 of the Specifications. If a Class D default occurs on a chronic basis, is material to the operations under the Contract and is not remedied, the County may at its sole option terminate the Contract.

(e) Termination. In addition to liquidated damages, specific performance and any other remedies provided above, the County shall have the right to terminate this Contract (i) immediately on the occurrence of an event of default described in Section 16.1(a) or 16.1(b), if that event of default shall occur and be continuing for the period specified in such Section, and (ii) on the occurrence of any event of default described in Section 16.1(c) or 16.1(d), if that event of default shall occur and be continuing for ninety days beyond the date the Contractor receives the default notice, occurs on a chronic basis, and is material to Contractor's operations under the Contract. Any unresolved dispute concerning whether an event of default is material for purposes of terminating the Contract shall be resolved in accordance with Article 17. In the event the County terminates the Contract, the Contractor shall be entitled to payment of any Tipping Fee due prior to the effective date of the County's notice of termination of this Contract, but only to the extent the amount of such Tipping Fee exceeds amounts owed to the County. The County shall retain the right to pursue any cause of action or assert any claim or remedy it may have against Contractor despite its termination of the Contract.

16.3 Default Procedure.

(a) Notice. To initiate default proceedings under this Article, the County's Representative shall give the Contractor written notice of the default specifying with particularity the event of default that has occurred and specifying the County's intention to declare the Contractor in default. Unless the Contractor within 48 hours shows cause why it should not be

declared in default under the Contract, the County shall declare the Contractor in default and shall be entitled to the remedies set forth in Section 16.2 above.

(b) No Adjustment for County Savings. If the County secures performance of the services described in this Contract at a cost less than the Tipping Fees established in accordance with Article 8, as adjusted in accordance with this Contract, the County shall retain that difference.

(c) Procedure for Collection of Liquidated Damages. The County may draw upon the letter of credit provided by the Contractor if the County determines that a default has occurred and that the County has or will incur costs as a result. The County may draw amounts equal to actual costs or liquidated damages, as applicable. In the event of a court or arbitrator's determination that all or part of any draw was not justified, the County shall repay the amount overdrawn to the Contractor together with interest at the rate of the Contractor's actual interest costs incurred in connection with the draw or portion thereof.

(d) Offset of Tipping Fees. Any amount due the Contractor under this Contract at the time of default shall be reduced by any amount due the County under this Contract.

16.4 County Default. For purposes of this Contract, a County event of default shall constitute the repeated or persistent failure or refusal by the County to fulfill any of its material obligations under this Contract (unless that failure or refusal results from an Uncontrollable Circumstance). To initiate default proceedings under this Article, the Contractor's Representative shall give the County written notice of that default specifying with particularity the event of default that has occurred and specifying the Contractor's intention to declare the County in default. If within thirty days of notice by the Contractor, except as provided in subsection (d) below, the County has failed to cure the default or give Contractor reasonable assurances that the default or threatened default will be promptly cured, the Contractor shall have the right to any or all of the following remedies to the extent provided by law:

(a) Specific Performance. For each and every default, the Contractor shall be entitled to a judicial remedy of specific performance or mandamus requiring the County to specifically perform the County's responsibilities as provided in Article 7; it being agreed that in the case of a default by the County, Contractor's remedies at law will be inadequate.

(b) Injunctive Relief.

(1) For each and every default, the Contractor shall be entitled to the remedy of a permanent or temporary injunction, either in mandatory or prohibitory form, it being agreed that in the case of a default, the Contractor's remedy at law is inadequate. If a court of competent jurisdiction finds that Contractor is entitled to injunctive relief by virtue of a default by the County, the County and Contractor agree that Contractor shall not be required to post a bond in excess of \$1,000.

(2) If the governing body of the County places as an agenda item before its deliberative body, any proposed ordinance, rule or other regulation that threatens, on its effective date, to precipitate a default of the County's responsibilities under Article 7, the

Contractor may seek an injunction from a court of competent jurisdiction enjoining the County's deliberative body from enacting that ordinance, rule or regulation, if Contractor can show that Contractor will be irreparably damaged as a result of the enactment of that proposed ordinance, rule or regulation. If a court of competent jurisdiction grants Contractor a prepassage injunction, it is agreed between the County and the Contractor that Contractor shall not be required to post a bond in excess of \$1,000.

(c) Liquidated Damages. For each and every County default, the Contractor may charge the County the Contractor's actual reasonable costs incurred as a result of that default, but in no event greater than \$5,000 per day.

(d) Termination or Suspension of Contractor's Performance of the Contract. For any County default that within 120 days of the County's receipt of the notice required under this Section is not remedied and for which the County does not give the Contractor reasonable assurance that it will be remedied and which occurs on a chronic basis and is material to the County's operations under the Contract, Contractor shall be entitled to terminate the Contract.

(e) Limitation of Liability of the County. The obligations of the County under this Contract are limited obligations payable solely from such amounts as may lawfully be paid by the County for services of the type required to be rendered by the Contractor under this Contract. The obligations of the County hereunder shall not be payable from the general funds of the County and the incurrence or non performance of such obligations shall not constitute or create a legal or equitable pledge of, or lien or encumbrance upon, or claim against, any of the assets or property of the County or upon any of its income, receipts or revenues other than upon its income receipts and revenues derived from its regulation and operation of a system for the handling of solid waste within its boundaries. The execution and delivery of this Contract by the County shall not impose any personal liability on the members, officers, employees or agents of the County. No recourse shall be had by the Contractor for any claims based on this Contract against any member, officer, employee or other agent of the County in his or her individual capacity, all such liability, if any, being expressly waived by the Contractor by the execution of this Contract.

16.5 Contractor's Bankruptcy/Receivership. If during the term of this Contract the Contractor becomes insolvent, is dissolved, files a petition under any bankruptcy statute, is the debtor in any involuntary bankruptcy case that is not dismissed within sixty days after the petition commencing that case is filed, makes a general assignment for the benefit of creditors, or if a receiver is appointed for the benefit of its creditors or on account of its insolvency, that event could impair or frustrate the Contractor's performance of this Contract. Therefore, it is agreed that on the occurrence of any one or more of those events, the County shall be entitled to obtain from Contractor or its successor-in-interest, adequate assurance of future performance in accordance with the terms and conditions of this Contract. Failure of Contractor to comply with that request within ten calendar days of service on Contractor of a written request from the County for that assurance shall entitle the County to terminate or suspend Contractor's performance of the Contract. The County shall not be bound to the Contract by any trustee or receiver appointed to take possession of any of the Facilities or the Contractor's business.

16.6 No Waiver by County. Nothing in this Article, and no actions taken pursuant to this Article shall constitute a waiver or surrender of any rights, remedies, claims or causes of action the County may have against Contractor under any other provision of this Contract or any provision of law.

ARTICLE 17

Dispute Resolution

17.1 Good Faith Negotiation; Arbitration.

(a) The parties shall attempt to resolve any and all disputes to the mutual satisfaction of both parties by good faith negotiations.

(b) Whenever a party desires to initiate the dispute resolution process set forth in this Article, it shall do so by giving a dispute notice to the other party. Upon delivery of any dispute notice, the Representative of the recipient thereof shall deliver to the party giving that dispute notice a signed and dated receipt therefor, which receipt shall serve as conclusive evidence of the date upon which such dispute notice was delivered, notwithstanding the provisions of Section 2.12. Within five days after the delivery of a dispute notice, the parties shall meet for the purpose of negotiating a resolution of the dispute.

(c) Subject to the conditions and limitations of this Article, controversies or claims arising out of or relating to the Tipping Fee, payments to the Contractor or other calculations under Articles 6, 7, 8 and 16 of this Contract and any other unresolved disputes designated for arbitration in the Contract shall be exclusively settled by arbitration in accordance with this Article. All other controversies and claims shall be brought in the Superior Court of the State of Washington in Island County, Washington.

17.2 Arbitration Procedure.

(a) If any dispute related to the calculation of the Tipping Fee or any payment to the Contractor or any other fee or cost required under this Contract is not resolved by negotiations of the parties within twenty days after the date either party delivers to the other a notice of dispute, either party shall have the option to submit that dispute for resolution pursuant to arbitration as provided in this Section 17.2 by delivering a request for final and binding arbitration to the other party (an "Arbitration Request").

(b) Each arbitration proceeding pursuant to this Section 17.2 shall be governed by and conducted in accordance with the following provisions:

(1) The arbitration shall take place in Coupeville, Washington, or any other place mutually agreed upon by the parties and shall be conducted in accordance with the Rules of Arbitration of the AAA. In the event of an arbitration conducted under (3) below, the appointing authority shall be such group as the parties may mutually agree upon within five days of the date of the Arbitration Request or, in the absence of such mutual agreement, the Judicial Arbitration and Mediation Service, or if the Judicial Arbitration and Mediation Service is not available, the appointing authority of the AAA.

(2) For claims equal to or less than \$200,000, the parties shall choose one arbitrator from a panel of persons qualified with the Judicial Arbitration and Mediation Service or AAA and knowledgeable in the area which is the subject of the dispute in question, such selection to be made within fifteen days of the Arbitration Request. If the issue involves a question regarding insurance then the parties agree that the arbitrator shall be chosen from those particularly experienced in such matters. If the parties are unable to agree on the arbitrator within fifteen days of the date of the Arbitration Request, the arbitrator shall be appointed forthwith by the Judicial Arbitration and Mediation Service.

(3) For claims involving more than \$200,000 each party to the Contract shall choose one arbitrator from a panel of persons qualified with the Judicial Arbitration and Mediation Service or AAA and knowledgeable in the area which is the subject of the dispute in question, such selection to be made within fifteen days of the Arbitration Request. If the issue involves a question regarding insurance then the parties agree that the arbitrators shall be chosen from those particularly experienced in such matters. The two arbitrators chosen shall appoint a third. If the two arbitrators are unable to agree on the third arbitrator within fifteen days following the selection of the second arbitrator, the third shall be appointed forthwith by the Judicial Arbitration and Mediation Service.

(4) In arriving at a decision, the arbitrator(s) shall consider the pertinent facts and circumstances and be guided by the terms and conditions of this Contract, as applicable. If a resolution of the dispute is not found in the terms and conditions of this Contract, the arbitrator(s) shall apply the principles of the laws of the State of Washington. The arbitration award shall be considered a Washington award. The decision and award of the arbitrator(s) shall be final and binding.

(5) Each party shall be responsible for its own costs and expenses (including attorneys' fees) incurred in connection with the arbitration. The parties shall share equally the arbitrator's(s') fees and costs.

(6) Any award involving the payment of any sums by one party to the other (other than any payments relating to the costs and expenses incurred in connection with such arbitration or any payments to be made in the future by one party to the other pursuant to the terms of this Contract) shall include interest from the date of any breach or other violation of this Contract or, if the award does not specify the date of such breach or other violation, from the date of the award. The arbitrator(s) shall also fix an appropriate rate of interest from the date of the breach or other violation to the date when the award is paid in full, which rate shall be the prime commercial lending rate charged by Washington Mutual at its principal office in Seattle, Washington, for responsible and substantial commercial borrowers.

(7) In the course of arbitration, the terms and provisions of this Contract which are then in effect shall be continuously executed by both parties, except to the extent that any such terms and provisions are the subject matter of the pending arbitration.

(8) All notices to be given in connection with the arbitration shall be in writing. All notices shall be sent by registered or certified mail, return receipt requested to the

addresses of the parties as stated in the notice provisions of the Contract, as amended from time to time.

17.3 Limited Consolidation. There shall be no consolidation of any arbitration between the County and the Contractor with any other arbitration not involving, arising from or relating to this Contract.

17.4 Jurisdiction; Venue. Each party to the Contract accepts jurisdiction of the courts of the State of Washington for the purposes of commencing, conducting and enforcing arbitration proceedings and agree to accept written notice of the arbitration proceedings sent by certified letter addressed to the party of intention. The parties agree that proper venue for any judicial proceeding to enforce any decision or award made by an arbitrator under this Article shall be in the Superior Court of the State of Washington in Island County.

17.5 Nonarbitrable Disputes. The parties agree that the proper venue for any judicial proceeding brought under this Contract or any subcontract made pursuant to this Contract that is not subject to resolution by arbitration under this Article shall be the Superior Court of the State of Washington in Island County.

17.6 Standing. Only the County and the Contractor shall have standing to bring or become a party to arbitration claims or legal actions under this Contract.

ARTICLE 18

Successors; Assignment

18.1 Contractor Delegation. The County executes this Contract with the Contractor as a qualified party to accomplish the Project. The Contractor's delegation of any Contract duties shall require the prior written consent of the County. Any delegation of duties shall not relieve the Contractor of any liability and/or obligation to perform.

18.2 Assignment. The Contractor shall not assign any rights or obligations under or arising from this Contract without the prior written consent of the County unless otherwise permitted under Section 18.3.

18.3 Change in Control or Ownership. Sale or the transfer of a direct or indirect controlling interest in the beneficial ownership of the Contractor shall constitute a Class B default under the terms of this Contract, unless the County consents to that transfer, which consent shall not be unreasonably withheld.

18.4 Binding Effect. This Contract shall bind and inure to the benefit of the successors or assigns hereto, whether by merger, consolidation, transfer of assets or transfer of ownership of the Contractor.

ARTICLE 19

Dissolution of the County and Successor to the County

In the event that the County is dissolved or its solid waste functions and powers relative to this Contract are taken from the County by legislative act or by referendum of the people or by agreement, all of the duties, rights, and remedies of the County under the Contract, including, but not limited to, all bonds executed for this Contract, shall remain in full force and effect and shall be transferred to either: (1) the successor to the County as specified by the legislative act or referendum by which the County is dissolved; or, (2) if no successor to the County is specified by the relevant legislation or referendum, the State of Washington, which shall be deemed to be the successor to the County under this Contract.

ARTICLE 20

Term; Option to Renew

The Term of the Contract shall begin on January 1, 2007, and end at midnight on December 31, 2012. The County shall have the unilateral right to renew the Contract for up to four additional three year periods under the same provisions and for the same Tipping Fees calculated in accordance with Article 8 of this Contract. The County shall notify the Contractor in writing on or before April 15, 2012 in order to exercise its first option to renew the Contract for an additional term of three years. Subsequent notices of the County's option to renew the Contract for additional three year terms shall likewise be given to the Contractor on or before April 15 of the third year in each successive three year term.

DATED this 9 day of OCT., 2006.


CONTRACTOR:

By



Approved as to Form
And Legality:

By


William H. Patton, Special
Deputy Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
ISLAND/COUNTY, WASHINGTON

By *Wm L McDowell*
Wm. L. McDowell, Chairman

By *William J Byrd*
William J. Byrd, Member

By ABSENT
Mike Shelton, Member

ATTEST:

Elaine Marlow
ELAINE MARLOW
CLERK OF THE BOARD



EXHIBIT A

(Contractor's Resolution Authorizing Execution of Contract)

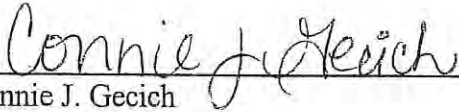
[See Certificate and Schedule A on the following pages.]

CERTIFICATE OF CORPORATE RESOLUTIONS

CERTIFICATE

The undersigned certifies that she is the duly elected, qualified and acting Assistant Secretary of **RABANCO, LTD.**, a Washington corporation (the "Corporation") and that attached hereto as Schedule A is a true and correct copy of resolutions duly adopted by unanimous written consent of the Board of Directors of the Corporation, and that such resolutions have not been amended or rescinded and are in full force and effect on the date hereof.

Dated: September 19, 2006.



Connie J. Gecich
Assistant Secretary

SCHEDULE A

RESOLVED, that the Corporation (as the "Contractor") is hereby authorized to enter into the Contract Regarding Solid Waste Transport and Disposal for Island County, Washington (the "Agreement") between the Corporation and Island County, a political subdivision of the State of Washington (the "County") in the State of Washington, for *Services to be provided by the Contractor to include design, construct, own, provide performance testing, and operate, for the term of the Contract, facilities to accept Acceptable Waste in Loaded Containers at the County Transfer Stations on Whidbey and Camano Islands and other sites that may be later designated by the Count, and to Transport to and Dispose of that Acceptable Waste at the Disposal Sites*, substantially in the form presented to the Corporation, with such changes as may be approved by the officers or such other persons authorized to execute same and such actions are hereby approved, adopted, ratified and confirmed;

FURTHER RESOLVED, that the Corporation is hereby authorized and directed to execute and deliver the Agreement, and such other applications, exhibits, agreements or attachments necessary in connection with the Agreement and in connection with the performance of the Corporation's obligations and agreements as set forth therein;

FURTHER RESOLVED, that **PETER J. KELLER**, as Vice President of the Corporation, or any officer of the Corporation, is hereby authorized and directed to execute and deliver the Agreement to the County and to execute any and all other documents on behalf of the Corporation required by the County in connection with the Agreement and in connection with the performance of the Corporation's obligations and agreements set forth therein; and

FURTHER RESOLVED, that the Secretary, or any other officer of the Corporation, is hereby authorized to certify to the adoption of the foregoing resolutions as may be required.

EXHIBIT B

(County Recommendation Authorizing Execution of Contract)

PUBLIC WORKS/COUNTY COMMISSIONERS – STAFF SESSION

October 4, 2006

9:00 a.m.

County Commissioners Present:

Wm. L. McDowell, Chairman; William J. Byrd, Member; Mike Shelton, Member

Also in Attendance:

I. SOLID WASTE

A. SUBJECT: Long Haul Contract Renewal Recommendation

Attachments: To be Distributed at Staff

Proposed Action: Discussion – Island County Public Works (ICPW) Director Bill Oakes presented the Department's recommendation for Contract Award Regarding Solid Waste Transport and Disposal for Island County Washington. This contract will cover both Whidbey and Camano Island. The recommendation, based on an RFP process, resulted in negotiations with Rabanco Ltd., of Seattle, Washington, to whom the ICPW recommends award of the contract. Solid Waste manager Dave Bonvouloir answered questions by the commissioners regarding fuel costs and the impact of the new contract on future prices. This contract will add approximately 9% to long haul transportation costs.

Action: Approved as presented.

II. ROADS

A. SUBJECT: Transportation Agreement Between WSDOT & Island County

Attachments: None

Proposed Action: Discussion – Bill Oakes updated the Board on detour agreement, excluding closure of SR20 on the weekend of August 11th and 12th, 2007. WSDOT still plans two other weekend closures in August of 2007.

Action: Approved as presented.

B. SUBJECT: Arnold Road Discussion

Attachments: None

Proposed Action: Discussion – Bill Oakes discussed Public Works (PW) project off of Arnold Rd., on private property on Penn Cove Farm Property w/Board. Bill Oakes informed Board ICPW is exempt from requirement to obtain a clearing and grading permit pursuant to Island County Code 11.02.

Action: Approved as presented.

Public Works Staff Session Minutes Approved By:



William E. Oakes, P.E., Director/County Engineer

EXHIBIT C
Specifications

TECHNICAL SPECIFICATIONS

SOLID WASTE
TRANSPORT AND DISPOSAL
FOR
ISLAND COUNTY, WASHINGTON

TECHNICAL SPECIFICATIONS

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TECHNICAL SPECIFICATIONS

1.0 OPERATING PLAN

In the Island County Operating Plan, Transport of Containers shall be provided by the Contractor. The County will provide a staging area at the Transfer Stations or other designated sites where the Contractor may temporarily store a specified number of empty and Loaded Containers. During operations at the Transfer Station, the County will move empty Containers from the staging area to the compactor or other loading facility using a yard Tractor. The County will compact Acceptable Waste, Load Bales of compacted Waste into Containers, or load uncompacted Waste into Open-top Containers, install Security Seals on the Loaded Containers, and return them to the staging area. The Contractor shall have final responsibility for the condition of the loaded Containers before they are transported.

The Contractor shall deliver empty Containers and receive Loaded Containers at the staging area. When receiving a Loaded Container, the Contractor shall inspect the Security Seal and, if the Security Seal is intact and the trailer secured, take possession of the Loaded Container for Short Haul Transport (if required), Long-Haul Transport, and Disposal.

2.0 RESPONSIBILITY TO PROVIDE, OPERATE, AND MAINTAIN EQUIPMENT

The responsibility to provide, operate, and maintain equipment shall be as indicated in the following table. Except as noted, the equipment shall be provided by the party indicated:

Transfer Station	County
Compaction equipment	County
Yard Tractors	County
Containers	Contractor (*County)
Short-Haul Transport (if required)	Contractor
Tractors	Contractor
Chassis or Transfer Trailers	Contractor (*County)
Long-Haul Transport	Contractor
Disposal	Contractor

*Contractor to own (or lease) and maintain; County to operate at Transfer Station.

The County will provide and operate all equipment necessary for Transfer Station operation including compaction equipment and yard tractors. Both Closed and Open-top Containers shall be provided by and remain the responsibility of the Contractor. Open-top Containers shall be provided with a sturdy, fully intact, tarp to cover the load. The Contractor shall provide and operate any Contractor transfer facility required, and all Facilities necessary for Long Haul Transport and Disposal.

The Containers and Chassis, or Transfer Trailers, shall be provided, operated, and maintained by the Contractor throughout the Term of the Contract.

3.0 COMPACTION EQUIPMENT AND LOADING DENSITIES

The County will own and operate compactor equipment at the Transfer Stations where compactor equipment is utilized. One or two Bales, depending on the type of compactor chosen, will be Loaded into Closed Containers. Notwithstanding the provisions of this paragraph, the County may deliver to the Contractor Waste that is not suitable for and has not been compacted, and requires loading in an Open-top Container.

Typical Bale densities will range between approximately 500 pounds per cubic yard and 800 pounds per cubic yard, but depending on variation in the composition of the Waste the density of individual Bales or loads may be greater or less than this range. The density of Waste within a Bale may vary due to the variations in the composition of Waste and due to operational variations at the Transfer Station. The County does not guarantee uniform Waste density in either Open-top or Closed Containers. The Contractor's equipment shall be capable of accommodating the range of variation in Waste density within each Container that may result from the County's operations. Specifically, Contractor's Transport equipment shall be able to accommodate such variation as it affects compliance with legal limits on axle loadings.

If the County must remove Waste from a Container that is Loaded Bales weighing less than or equal to the Contractor's maximum Container weight in order to bring the Contractor's Transport equipment into compliance with legal limits on gross vehicle weight or axle loadings, that removal shall be at the Contractor's expense, and if the Contractor requires assistance of County employees or equipment, the County shall be reimbursed by the Contractor at the County's fully-loaded labor and equipment costs. Further, if the rearrangement of Waste results in removing weight from the Container, that amount of weight shall be subtracted from the actual final weight of the Container for payment of transportation of that Container, but payment for disposal of the contents shall be at its actual weight..

4.0 CONTAINERS

4.1 GENERAL REQUIREMENTS

It is the intent of these Specifications to ensure that Contractor equipment is suitable for long distance Waste Transport. Both Closed and Open-top Containers shall be rigid and durable, corrosion resistant, nonabsorbent, rodent-proof, easily cleanable, and suitable for handling with no sharp edges or other hazardous conditions. Containers shall include smooth interior walls and floors and shall be capable of withstanding the hard use typically associated with handling compacted solid waste. Container doors and hardware shall be free of defects that prevent or impede proper closure and securing of the Container for transport.

Closed Containers shall be of a rear loading design suitable for Loading by any model compactor selected by the County. Containers shall be able to be placed and secured to the extreme rear of the chassis during loading if so required. Containers shall be of the following dimensions:

Minimum interior height	—	8 feet
Minimum interior width	—	8 feet
Minimum exterior length	—	40 feet
Maximum exterior length	—	48 feet

Containers shall be 100 percent leak proof to a height of 18 inches from the Container floor.

Containers shall be designed with vents that allow dissipation of heat and expanding gasses that may be generated during storage or Transport to the Disposal Site. Vents shall be located to prevent vent blockage and screened to prevent the release of Waste during Transport.

Open-top Containers shall be supplied with a sturdy, fully intact, tarp with straps that is of sufficient size and strength to cover and secure any Open-top load. The Contractor shall neatly roll back and secure the tarp on every Open-top Container at the time each Open-top Container is delivered to the Transfer Stations or other staging site designated by the County. Tarp rods shall be straight, free of defects, and operate smoothly. The County shall roll the tarp over the Open-top Container after it is loaded, but it shall be the responsibility of the Contractor to secure the tarp in place before the Open-top Container is transported, and the Contractor shall assume all liability for adequately securing the tarp and the load itself before the Container is transported. Landing gear shall be fully operational and function smoothly.

4.2 MAINTENANCE AND REPAIRS

The Contractor shall replace any Container equipment that does not meet these Specification. Containers shall be properly maintained in a safe working condition at all times, with particular attention to ladders, platforms, and other parts of the Containers on which County personnel can be expected to work.

Containers shall be designed and maintained so that leakage or spillage of either Waste or liquids from the Container while in transit or storage does not occur. However, if a Loaded Container is discovered to be leaking during Transport, the Contractor shall Transport the Container to the closest Contractor-provided Facility, where leachate from the Container that is not Hazardous Waste can drain into a sanitary sewer. The Contractor shall repair the damaged Container within 24 hours after the leak is discovered, and shall then Transport and Dispose of the Waste in the Container as required in the Contract. The Contractor shall be responsible for provision of emergency sealing material and tools to carry out temporary repair of small leaks.

If a Container is damaged during Loading, Transport or Unloading at disposal site, the Contractor shall repair or replace the Container and shall pay all associated costs of repair or replacement, unless the damage is the result of gross negligence by the County in which case the County will reimburse the Contractor for all reasonable costs of repair or replacement.

Each time a Container is emptied, all Waste shall be removed from the Container. The Contractor shall clean Containers as necessary to comply with the requirements of the jurisdictional health department(s) and to mitigate malodor, unsightliness, or attraction of vectors.

Containers shall be inspected at least monthly for loose fitting doors, damage to doors, ladders, seals and locking mechanisms, blocked vents, corrosion, leaks, frayed or ripped tarps on Open-top Containers, or other damage incurred during Transport, handling, and Disposal of Waste. Inspection records shall be maintained at the Transfer Station, Disposal Site and at any Contractor transfer facility or such other location where maintenance records are kept. Such

records shall be kept for a period of at least 2 years, and shall be made available for inspection upon the request of the County or the jurisdictional health department(s).

5.0 CHASSIS AND TRANSFER TRAILERS

5.1 GENERAL REQUIREMENTS

Chassis and Transfer Trailers shall be in good operating condition and Contractor shall provide Chassis and Trailers which shall meet or exceed the requirements set forth below:

1. Overall outside length, bridge span, and distance between axles of Chassis and Transfer Trailers when combined with Tractor shall conform to all applicable local, state, and federal regulations.
2. Chassis and Transfer Trailers shall be designed to allow for positive mating with the selected compactor at the County's Transfer Station. A coupling hook or similar device will be part of the compactor for locking the Chassis or Transfer Trailer to the compactor during loading. The floor of the Container must be maintained at a specified height above the ground appropriate for the chosen compactor's discharge tube. Chassis and Container shall be configured to permit rear of Container to be located at extreme end of chassis during loading.
3. Chassis and Transfer Trailers shall be designed, engineered, and rated to perform satisfactorily and to safely transport Containers bearing the maximum Container weight, and/or maximum axle loading and vehicle weight permitted by this Contract.
4. To facilitate establishing Bale weight on compactor system, Chassis, Transfer Trailers and Containers shall be of similar construction, type, and age such that components are as near to identical in weight as possible.
5. When Loaded with the maximum weight, Tractor-trailer combinations shall not exceed legal gross vehicle or axle weights permitted on any road used for Transport of the waste to the Disposal Site.

5.2 MAINTENANCE AND REPAIRS

Chassis and Transfer Trailers shall be maintained by the Contractor in accordance with the manufacturer recommended maintenance schedule. Brake adjustments shall be checked weekly and documented in maintenance records. Reflective markings and safety equipment shall be checked weekly. The Contractor shall provide units sufficient to allow County operations to continue without delay in the event of scheduled or unscheduled maintenance. The Contractor shall provide quarterly maintenance reports to the County, if requested. Such reports shall include a record of all scheduled and unscheduled maintenance performed on any Chassis or Transfer Trailer used in the Project during the previous quarter.

At its option, the County may perform emergency repairs that do not require purchasing major parts and are necessary to keep a Chassis or Transfer Trailer in operation. Emergency repairs include, but are not limited to, changing flat tires, replacing lights and lenses, and splicing wires.

The County will promptly notify the Contractor of all such repairs. The Contractor shall inspect the repair, and shall reimburse the County for the cost of labor and materials to make the repair. The Contractor shall provide to the County an adequate inventory of replacement tires, rims, lights, and/or lenses for use in emergency repairs.

If a Chassis or Transfer Trailer ceases to become legally operable while in possession of the County and the County elects not to perform the repair, the County operator will immediately notify the Contractor of the breakdown. The Contractor shall provide the replacement within twelve (12) hours of such notification. The Contractor shall be responsible for removing and repairing the disabled Chassis or Transfer Trailer, and shall otherwise Transport and Dispose of the Waste in accordance with the Contract.

6.0 WEIGHING, TRANSACTION TICKETS, AND BASIS OF PAYMENT

The Contractor will determine total loaded vehicle weights to ensure that the Chassis weight does not exceed legal gross vehicle or axle weights permitted on any road or ferry used for Transport [See 5.1(4)]. The Contractor may have access to the County scale for determining trailer weights. The scales used for weighing components will be part of the County's equipment and will be maintained in accordance with the requirements set forth in "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," 11 U.S. Department of Commerce, National Bureau of Standards, Handbook 44, or any successor publication.

The Contractor shall be responsible for having or subcontracting for a certified scale on which loaded Containers can be weighed and from individual weight tickets for each load will be obtained. The Contractor will weigh each loaded Container and Chassis, and will prepare a transaction ticket bearing the time, date, Security Seal markings, and calculated net weight of the Container. Such transaction tickets will serve as the basis of payment for all services provided by the Contractor under this Contract. If, for any reason, the Contractor's scale is inoperable, the Contractor may request that the County weigh Containers at the Transfer Station. The County may weigh any or all Containers as they leave a County Transfer Station or other depository site to verify the Contractor's billings.

The Contractor, at its option, may use scales at the County Transfer Station to verify that the truck combination does not exceed legal GVW or axle loading requirements. If, after adjustment of the axle loading to the extent permitted by the Contractor's equipment, the truck combination exceeds legal limits the County will break the Security Seal, remove Waste from the rear of the loaded Container, install a new Security Seal, and prepare a new transaction ticket. The Contractor may weigh the truck combination as many times as necessary to verify that the combination does not exceed legal gross vehicle weights or axle loading limits. After each such weighing, the County will respond as described above.

If the County disagrees with the weight information contained on a transaction ticket, the County may request in writing recalibration of the Contractor's or other applicable scales. If the Contractor's scales or other scales used for billing are found to be miscalibrated, the Contractor shall pay all costs incurred for recalibration; if the County's scales are improperly calibrated, the County will pay for the recalibration. The County will reimburse the Contractor for any

underpayment and the Contractor shall reimburse the County for any overpayment attributable to improper calibration, retroactive to the date of -the County's written request.

7.0 [INTENTIONALLY OMITTED]

8.0 WASTE ACCEPTANCE

After each Container is loaded and before the Container leaves the County Transfer Station, the County will install a Security Seal on the Container. Each Security Seal shall be marked with a serial number of at least five digits. The County will track seal numbers assigned to its Transfer Stations. After the Security Seal is installed on a Container, the seal shall not be broken until the Container is opened at the Disposal Site, except as otherwise allowed under Section 6.0 of these Specifications.

9.0 WASTE FLOW AND DELAY OF OPERATIONS

9.1 GENERAL

The Contractor shall assure that County operations are not delayed, and shall maintain operating hours necessary to achieve this purpose. Waste volumes delivered by the County to the Contractor will fluctuate daily, weekly, and monthly. The Contractor's Facilities shall have sufficient capacity to accommodate Waste volume variations without delay of County operations.

If the Contractor or County must remove or rearrange Waste from a Container weighing less than or equal to the Contractor's maximum weight in order to bring the Contractor's Transport equipment into compliance with legal limits on gross vehicle weight of axle loadings, such action shall constitute a delay of County operations by the Contractor.

9.2 ACCESS AND OPERATION, DELAY OF OPERATIONS

Access to Transfer Station or designated facility for acceptance of Loaded Containers and delivery of empty Containers for Transport will be provided during normal operating hours, and during other hours mutually agreed to by the County and the Contractor. The Contractor shall provide and maintain at all times a minimum of two empty Closed Containers and two empty Open-top Containers in the staging area of the Transfer Stations, or in other locations as may be agreed upon by the County and the Contractor. Loaded Containers shall be removed from the Transfer Station no later than 24 hours after Loading, and with sufficient frequency so that the maximum Container storage limits set forth in Section 10 below are not violated. Failure by the Contractor to provide empty Containers, failure to remove Loaded Containers no later than 24 hours after Loading, or failure to observe the maximum Container storage limits shall constitute a delay of operations, if such failure occurs through no fault of the County.

9.3 TRUCK TRANSPORT AND POINTS OF CONTACT

The truck transport portion of Contractor's service will entail over-the-road movements from Coupeville to Burlington and Everett, and Camano to Everett. Contractor has knowledge of the County's current waste generation rates and load counts per facility per day. Throughout the term of the agreement, Contractor will strive to have the requisite numbers on containers and chassis on site and available as necessary. Special provisions will be made for long weekends, holidays, and other special events. Contractor may, from time to time, utilize other infrastructure as a staging or pooling area to ensure adequate levels of resources are available.

Contractor will be responsible for ensuring that its trucking subcontractor is supplying adequate containers, chassis, and tractors. If for any reason, tractors are not available, another tractor, operated by Contractor or a trucking company hired by Contractor, will be sent to service the County.

Additionally, if necessary because of primary transportation failures, Contractor will hire a trucking contractor to provide additional tractors and chassis, in order to keep operations in the County flowing smoothly. Contingency truck transport will be provided on an as-needed basis, in accord with applicable rules and regulations.

If difficulty with trucks is incurred, Contractor will be the point of contact. Contact information includes the following:

Contact: Roy Westmoreland
General Manager, Waste Export and Intermodal Services
Address: 54 S. Dawson Street
Seattle, WA 98134
Phone: (206) 332-7705
(206) 391-4531 (Cell)

Contact: Joe Casalini
Director, Business Development
Address: 54 S. Dawson Street
Seattle, WA 98134
Phone: (206) 332-7747
(206) 255-4070 (Cell)

Contractor will require reasonable advance requests from the County in relation to special events or extraordinary circumstances, such as unusually high volumes at a transfer station. Generally speaking, it is difficult to schedule trucks for the day after 12 PM of the prior day. Communication regarding volume generation and equipment usage will be vital to ensure consistent and timely service.

10.0 STORAGE OF CONTAINERS

10.1 TRANSFER STATIONS

Unless otherwise agreed upon by the County and the Contractor, the maximum total number of empty and full Containers that may be temporarily stored by the Contractor in the staging area at the Coupeville Transfer Station shall be 12, and at the staging area of the Camano Transfer Station shall be 2.

10.2 OTHER STORAGE FACILITIES

Subject to and except as limited by Applicable Law, storage of Loaded Containers will be allowed at any Contractor Facility or at another storage yard provided by the Contractor.

11.0 ALTERNATIVE AND EMERGENCY OPERATIONS PLANS

11.1 ALTERNATIVE OPERATIONS PLAN

No later than 60 days after execution of the Contract, the Contractor shall submit to the County for approval a complete and detailed alternative operations plan for correcting, repairing or reconstructing and/or providing alternative Facilities for any Facility that for any reason becomes incapable of performing its role in normal operations pursuant to the Contract. This plan shall be of sufficient detail to satisfy the County of the Contractor's ability to maintain operations in the event that Uncontrollable Circumstances prevent the use of the primary system, or if for any other reason the Contractor is unable to Transport and Dispose of Waste using the primary system pursuant to this Contract. The Plan shall include but not be limited to:

- An inventory of alternative Transportation, handling, and Disposal Facilities

- A listing of financial and technical resources for the implementation of the plan

- A mobilization plan for each component of the alternative operations system

- Copies of any operating permits for alternative Facilities received since Contractor's Bid submittal, and/or an updated timeline for receiving permits pending

- A back up plan and standby arrangement for continuous delivery of empty Containers – both Closed and Open-top.

All alternate Facilities shall be available from the first day that operations commence under this Contract. The alternative operations plan shall be updated and submitted for County approval on an annual basis. If no changes have occurred since the last submittal that affect any part of the alternative operations system a report stating this fact and signed by the Contractor's Representative will satisfy the requirement for the annual alternative operations plan update.

The County's approval of the plan is not and shall not be construed as a limitation on Contractor's obligation to Transport and Dispose of Waste pursuant to the provisions of the Contract.

11.2 EMERGENCY OPERATIONS PLAN

No later than 60 days after execution of the Contract, the Contractor shall provide to the County a comprehensive emergency operations plan designed to mitigate and correct hazards that may arise due to accident or disruption of the storage, Transport, handling, and Disposal of Waste, including: damage to property, the interruption of traffic along Transportation routes, release of hazardous or dangerous materials, and the release of any Waste constituents.

The emergency plan shall also include:

- Procedures and a schedule for notifying the County and the appropriate federal, state, or local authorities of emergency conditions

- A description of actions that the Contractor's and the County's operating personnel will take in response to the emergency conditions

- Evidence acceptable to the County that arrangements have been made with local emergency response agencies setting forth the services that will be rendered by each agency in the event of an emergency

The emergency operations plan shall be updated and submitted for County approval on an annual basis. If no changes have occurred since the last submittal that affect any part of the emergency plan, a report stating this fact and signed by the Contractor's representative will satisfy the requirement for the annual emergency plan update.

The emergency plan in no way diminishes the Contractor's responsibility to comply with all applicable regulatory provisions for storing, Transporting, handling, and Disposing of the Waste despite the emergency.

12.0 DISPOSAL SITE

Disposal Sites located within the United States shall, at a minimum, be constructed, operated, Closed, and otherwise maintained in a manner that complies with the applicable Washington State Minimum Functional Standards (MFS), WAC 173 304. If the landfill is located in an area meeting the definition of arid contained in the MFS, that landfill shall, at a minimum, comply with the standard for arid landfills.

Disposal Sites located outside of the United States shall be sited, constructed, operated, Closed, and otherwise maintained in a manner that is protective of human health and would be required by the MFS if such Disposal Sites are located within the State of Washington.

The Contractor shall not dispose of County Waste in a landfill that has been nominated or proposed for the National Priority List of the federal Superfund Program, or that has been nominated or proposed under a similar program in any other jurisdiction, or is in any way in violation of applicable federal, state, or local standards not less strict than would be required by the MFS.

If a Disposal Site is located in a jurisdiction that is required to prepare a Comprehensive Solid Waste Management Plan, or the equivalent if the Facility is located outside the State of Washington, the Plan of the receiving jurisdiction must allow waste import to the Disposal Site.

WASTE QUANTITY FORECAST FOR WHIDBEY ISLAND 2006 – 2012

Calendar Year	Contract Year	Waste Quantity Forecast, Tons/Year
2006		53,400
2007	1	55,600
2008	2	57,800
2009	3	60,100
2010	4	62,500
2011	5	65,000
2012	6	67,600

**2012 AMENDMENT
TO
CONTRACT REGARDING SOLID WASTE TRANSPORT AND DISPOSAL
FOR ISLAND COUNTY, WASHINGTON**

THIS 2012 AMENDMENT (this "Amendment") is made and effective as of NOVEMBER 19 2012, 2012 by and between Island County, a political subdivision of the state of Washington (the "County") and Rabanco Ltd., a Washington corporation ("Contractor");

WHEREAS, the County and Contractor are parties to a Contract regarding solid waste transport and disposal dated as of October 9, 2006 (the "Contract"); and

WHEREAS, the parties agree to amend the Contract in certain respects;

NOW, THEREFORE, in consideration of the covenants set forth in the Contract and herein, the parties agree as follows:

1. Contract Amendments.

1.1. Term. Contractor acknowledges receipt from the County of acceptable notice of the County's exercise of the County's right to renew the Contract for the first of the four (3) three-year renewal periods provided for by Article 20 of the Contract, so as to extend the term of the Contract to December 31, 2015. The parties acknowledge and agree that, unless further extended by the County in accordance with Article 20 of the Contract or by further amendment in accordance with Section 2.14 of the Contract, the term of the Contract shall end at midnight on December 31, 2015.

1.2. Transportation Component Of Base Tipping Fee. The portion of subsection (a) of Section 8.1 of the Contract that begins with the subheading "Transportation" and that ends immediately before the subheading "Prompt Payment Discount" is amended to read as follows (the modifications effected by such amendment to apply prospectively only):

Transportation:

<i>Origin</i>	<i>Destination</i>	<i>Transportation per Container</i>
<i>Coupeville</i>	<i>Burlington</i>	<i>\$910</i>
<i>Coupeville</i>	<i>Everett</i>	<i>\$1040</i>
<i>Camano</i>	<i>Burlington</i>	<i>\$830</i>
<i>Camano</i>	<i>Everett</i>	<i>\$830</i>

Provided that, if on any day the number of Containers transported from Coupeville to Burlington is less than four, then the Coupeville-to-Burlington rate nevertheless shall be charged with respect to the lesser of (1) four of the Containers transported from Coupeville on such day or (2) the total number of Containers transported from Coupeville on such day.

In addition, should expanded capacity at Burlington become available, Contractor shall deliver all Containers transported from Coupeville to Burlington rather than Everett, unless circumstances require that they be delivered to Everett.

1.3. Clarification. The dollar amounts set forth in the revised table of transportation rate components in Section 1.2 of this Amendment are dollar amounts as of the original effective date of the Contract, prior to adjustments pursuant to Section 8.1(b). The parties acknowledge that, after giving effect to adjustments to such transportation rate components previously made pursuant to Section 8.1(b), the currently-applicable transportation components of the Contractor's Tipping Fee as of the date of this Amendment are:

Coupeville to Burlington: \$1,007.09/Container
Coupeville to Everett: \$1,150.96/Container
Camano to Burlington: \$918.55/Container
Camano to Everett: \$918.55/Container

All of such currently-applicable transportation rates remain subject to further adjustment in accordance with the terms and conditions of the Contract.

2. No Other Changes. Except as expressly amended by this Amendment, all of the terms and conditions of the Contract as originally executed remain unchanged and in full force and effect.

The Rest Of This Page Intentionally Is Left Blank – Signatures Follow

WHEREFORE, the County and Contractor are executing this Amendment as of the date first written above.

CONTRACTOR:

Rabanco Ltd.

By: [Signature]

Name: Mike Hayakawa

Title: Area President

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON November 19, 2012

[Signature]
Helen Price Johnson, Chair

[Signature]
Kelly Emerson, Member

[Signature]
Angie Homola, Member

ATTEST:

[Signature]

Name: ELAINE MARLOW

Title: Clerk of BOCC



SECOND EXTENSION
TO
CONTRACT REGARDING SOLID WASTE TRANSPORT AND DISPOSAL
FOR ISLAND COUNTY, WASHINGTON

1. AGREEMENT

This Extension Agreement ("Extension") is by and between Island County, a political subdivision of the state of Washington ("County") and Rabanco, Ltd, a Washington corporation ("Contractor"). The County and Contractor are each a Party, and collectively, the Parties to this Extension. The Parties agree as follows.

2. RECITALS

The County and Contractor are Parties to the Contract Regarding Solid Waste Transport and Disposal for Island County, Washington (October 9, 2006, "Contract"). The Contract provides at Article 20 for up to four additional three-year extension periods under the same provisions and for the same Tipping Fees in accordance with Article 8 of the Contract. By November 29, 2012 amendment to the Contract, the County exercised its right to renew the Contract for a first renewal period, through December 31, 2015. By notice dated January 23, 2015, the County advised Contractor of its intent to extend the Contract for a second term, through December 31, 2018. This extension memorializes that second, three-year extension.

3. CONTRACT EXTENSION

3.1 Contractor acknowledges receipt from County of notice of the County's exercise of the County's right to renew the Contract through December 31, 2018. Unless further extended by the County in accordance with Contract Article 20 (or by further amendment in accordance with Contract Section 2.14), the term of the Contract shall end at midnight on December 31, 2018.

3.2 Except as otherwise stated herein, the Contract remains in full force and effect.

4. AUTHORIZATION AND EFFECTIVE DATE

4.1 Each Party represents that its representative, below shown, is authorized to execute this extension for and on behalf of the indicated Party.

4.2 This extension shall take effect and be in full force and effect upon expiration of the first extension (on December 31, 2015), and extend through midnight on December 31, 2018.



CONTRACTOR:

Rabanco, Ltd

By: [Signature]

Name: Mike Hughes

Title: Verlanedant

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

[Signature] 10/27/15
Heleen Price Johnson, Chair



ATTEST:

[Signature]

Name: Debbie Thompson

Title: Clerk of the Board



**THIRD EXTENSION
TO
CONTRACT REGARDING SOLID WASTE TRANSPORT AND DISPOSAL
FOR ISLAND COUNTY, WASHINGTON**

1. AGREEMENT

This Extension Agreement ("Extension") is by and between Island County, a political subdivision of the state of Washington ("County") and Rabanco, Ltd, a Washington corporation ("Contractor"). The County and Contractor are each a Party, and collectively, the Parties to this Extension. The Parties agree as follows.

2. RECITALS

The County and Contractor are Parties to the Contract Regarding Solid Waste Transport and Disposal for Island County, Washington (October 9, 2006, "Contract"). The Contract provides at Article 20 for up to four additional three-year extension periods under the same provisions and for the same Tipping Fees in accordance with Article 8 of the Contract. By November 29, 2012 amendment to the Contract, the County exercised its right to renew the Contract for a first renewal period, through December 31, 2015. By notice dated January 23, 2015, the County advised Contractor of its intent to extend the Contract for a second term, through December 31, 2018. By notice dated March 13, 2018, the County advised Contractor of its intent to extend the Contract for a third term, through December 31, 2021. This Extension memorializes that third, three-year extension.

3. CONTRACT EXTENSION

3.1 Contractor acknowledges receipt from County of notice (dated March 13, 2018) of the County's exercise of the County's right to renew the Contract through December 31, 2021. Unless further extended by the County in accordance with Contract Article 20 (or by further amendment in accordance with Contract Section 2.14), the term of the Contract shall end at midnight on December 31, 2021.

3.2 Except as otherwise stated herein, the Contract remains in full force and effect.

4. AUTHORIZATION AND EFFECTIVE DATE

4.1 Each Party represents that its representative, below shown, is authorized to execute this extension for and on behalf of the indicated Party.

4.2 This extension shall take effect and be in full force and effect upon expiration of the second extension (on December 31, 2018), and extend through midnight on December 31, 2021.

CONTRACTOR:


Rabanco, Ltd

By: 

Name: 

Title:  Area President

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

 11/20/18

Helen Price Johnson, Chair

**FOURTH EXTENSION
TO
CONTRACT REGARDING SOLID WASTE TRANSPORT AND DISPOSAL
FOR ISLAND COUNTY, WASHINGTON**

1. AGREEMENT

This Extension Agreement ("Extension") is by and between Island County, a political subdivision of the state of Washington ("County") and Rabanco, Ltd, also known as Republic Services, a Washington corporation ("Contractor"). The County and Contractor are each a Party, and collectively, the Parties to this Extension. The Parties agree as follows.

2. RECITALS

The County and Contractor are Parties to the Contract Regarding Solid Waste Transport and Disposal for Island County, Washington (October 9, 2006, "Contract"). The Contract provides at Article 20 for up to four additional three-year extension periods under the same provisions and for the same Tipping Fees in accordance with Article 8 of the Contract. By November 29, 2012 amendment to the Contract, the County exercised its right to renew the Contract for a first renewal period, through December 31, 2015. By notice dated January 23, 2015, the County advised Contractor of its intent to extend the Contract for a second term, through December 31, 2018. By notice dated March 13, 2018, the County advised Contractor of its intent to extend the Contract for a third term, through December 31, 2021. By notice dated March 11, 2021 the County advised Contractor of its intent to extend the Contract for a fourth term, through December 31, 2024. This Extension memorializes the fourth, three-year extension.

3. CONTRACT EXTENSION

3.1 Contractor acknowledges receipt from County of notice (dated March 11, 2021) of the County's exercise of the County's right to renew the Contract through midnight on December 31, 2024.

3.2 Except as otherwise stated herein, the Contract remains in full force and effect.

4. AUTHORIZATION AND EFFECTIVE DATE

4.1 Each Party represents that its representative, below shown, is authorized to execute this extension for and on behalf of the indicated Party.

4.2 This extension shall take effect and be in full force and effect upon expiration of the third extension (on December 31, 2021), and extend through midnight on December 31, 2024.

Executed by Contractor this 20th day of August, 2021.

CONTRACTOR

Rabanco, Ltd

Signature: _____

Printed Name: _____

Title: _____

Executed by the Board of County Commissioners this _____ day of _____, 2021.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

Jill Johnson, Chair

Melanie Bacon, Member

Janet St. Clair, Member

ATTEST:

Signature: _____

Printed Name: _____

Title: _____

**REGIONAL DISPOSAL COMPANY
(RDC)**

ALTERNATIVE OPERATIONS PLAN (AOP)

FOR ISLAND COUNTY, Washington

Prepared by
Regional Disposal Company (RDC)
54 S. Dawson Street
Seattle, Washington 98134

December 2006

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1. INTRODUCTION AND PURPOSE

This Alternative Operations Plan (AOP) fulfills the requirements of Section 11.2, Alternative Operations Plan of Regional Disposal Company's (RDC) Contract for waste transport and disposal services with Island County, Washington.

The purpose of this AOP is to inventory alternative facilities and equipment that will be used by RDC to avoid or minimize delays in the handling, transport, and disposal of solid waste for Island County. At this time, alternative facilities include use of the Rabanco Recycling Transfer Station in Seattle, the Burlington Northern Santa Fe Railroad (BNSF) Seattle International Gateway (SIG), and the BNSF Pasco Hub for intermodal services, transport by truck from the Island County transfer stations, and disposal at Finley Buttes Landfill in Morrow County, Oregon.

The AOP includes a mobilization plan for each component of the alternative operations system and lists financial and technical resources for implementation of the plan. The AOP specifies procedures to be followed and defines the roles of RDC personnel, if alternative facilities must be used.

The AOP is filed with each permitting agency, at each alternative operations facility, and with owners of those facilities. Agencies and locations where the AOP is available are listed in Section 4.4 of this plan.

2. INVENTORY OF ALTERNATIVE WASTE HANDLING, TRANSPORT, AND DISPOSAL FACILITIES

The alternative waste handling, transport, and disposal facilities for RDC's Contract with Island County include the following:

- Intermodal Services
 - Use of Rabanco Recycling Transfer Facility (located at Third Avenue S. and S. Lander Street in Seattle) and Ferndale Intermodal.
 - Use of BNSF Seattle International Gateway (SIG)
 - Use of BNSF Pasco Hub in Eastern Washington
- Transport
 - Direct truck transport from the Island County transfer facilities to RDC's Everett, Burlington, Ferndale or to Rabanco Recycling Transfer Facility (located at Third Avenue S. and S. Lander Street in Seattle)
 -
- Disposal
 - Finley Buttes Landfill

Each facility is shown on Figure 1, and described briefly in this section.

2.1 INTERMODAL SERVICES AND TRANSPORT

2.1.1 Rabanco Seattle Recycling and Transfer Station

The Rabanco Seattle Recycling and Transfer Station is located at 2733 Third Avenue South in Seattle. The facility handles about 3,000 tons per day of recyclables and various solid waste streams including Municipal Solid Waste (MSW), Construction, Demolition and Landclearing Debris (CDL), yard waste, contaminated soils, asbestos and commingled recyclables.

RDC operates five trains per week of over 100 containers per train from this facility. The Third and Lander facility handles containers of CDL, contaminated soils and asbestos wastes and has the capacity to handle, under normal operating conditions, all containers from Island County.

2.1.2 BNSF Seattle International Gateway (SIG)

The BNSF Seattle International Gateway (SIG) is located south of downtown Seattle, at 44 South Hanford Street, less than one mile south of the Rabanco Recycling Center. SIG has a loading capacity of 1,200 containers per day. If Island County's approximately 450,000 annual tons of solid waste (1,800 tons per day) were shipped through SIG, it would account for approximately 60 30-ton containers of solid waste per day. SIG operates 24 hours per day, seven days per week. Through the terms of the Master Transportation Agreement with BNSF, it is possible for RDC to use SIG as an alternative intermodal facility during "swing-shift" hours (i.e., 6:00 p.m. to 2:00 a.m.), if necessary.

SIG uses a "live load" operating system, in which containers arriving from in-coming trucks are loaded directly onto rail cars. Occasionally, containers are temporarily stored on the ground until rail cars are available. SIG is designed to handle both conventional flat and double-stack railroad cars on four loading tracks. Six top picks and three overhead cranes are available to transfer containers.

Use of SIG will be consistent with permits for the Roosevelt Regional Landfill with respect to transport of waste from Island County. SIG is permitted as a solid waste handling facility.

2.1.3 Alternative Rail Routes

If for any reason service on the BNSF mainline is unavailable, BNSF will transport waste using alternative routes. The route to be used will be determined by BNSF. there are two possibilities: Alternative rail route #1 would use BNSF east from Everett through Wenatchee to Spokane, then south through the Tri-Cities to the Pasco Hub or continue following the north side of the Columbia River to the Roosevelt Intermodal Facility; alternative rail route #2 would use the UPRR/BNSF mainline south to Portland, where it would cross the Columbia River and then continue on the south side of the river to Pendleton where it would proceed north on the BNSF to Pasco and either to the Pasco Hub, or follow the north side of the Columbia River to the Roosevelt Intermodal Facility. Transport and circumstances in which alternative routes would be used are discussed in Section 4.2 of this AOP.

2.1.4 BNSF Pasco Hub

The BNSF Pasco Hub is located at 4911 A Railroad Avenue, north of Pasco, just east of the Tri-Cities airport, between Selah Landing Road and Glade North Road. Pasco has a loading capacity of over 100 containers per day. Pasco normally operates Monday through Friday from 7:30 a.m. to 9:00 p.m. Through the terms of the Master Transportation Agreement with BNSF, it is possible for RDC to use Pasco as an alternative intermodal facility, increasing their operation hours as necessary.

Pasco uses a “live load” operating system, in which containers from in-coming trucks are loaded directly onto rail cars. Occasionally, containers are temporarily stored on the ground until rail cars are available. Pasco is designed to handle both conventional flat and double-stack railroad cars with its lift tractor. If necessary, RDC top picks could be moved by truck to Pasco to accommodate any additional volume.

Use of Pasco as a back-up facility does not require any additional permits.

2.1.5 Truck Transport

The truck transport alternative will use the Everett Intermodal Facility as a queuing yard. RDC would bring containers of solid waste by truck to the Intermodal Facility, where. If necessary, another tractor, operated by RDC or a trucking company hired by RDC, would be connected to the chassis and container, and would then haul the waste directly to the another RDC intermodal facility. Storage of containers at the Intermodal Facility would be for short duration; therefore, a solid waste handling permit will not be required.

Alternative truck route will follow Interstate 5 (I-5) south to Interstate 90 (I-90) east from Seattle to Ellensburg; turn south on Interstate 82 (I-82) through Yakima to the Tri-Cities area; turn west along State Route 14 (SR-14) to Roosevelt, and turn north on Roosevelt Grade Road (East Road) to RDC’s private road to the Roosevelt Regional Landfill. This route will be consistent with the permits for the Roosevelt Regional Landfill with respect to truck transport of waste from Island County. Alternative truck route #2, which also may be used temporarily. This route would use I-5 south to Chehalis; turn east on SR-12 through White Pass, then use I-82 to Pasco, and SR-14 south and west to Roosevelt Grade Road (East Grade Road) to RDC’s private road to the Roosevelt Regional Landfill.

Equipment used to transport solid waste include the following:

<u>Owner</u>	<u>Tractors</u>	<u>Chassis</u>	<u>Containers</u>
RDC 54 S. Dawson Street Seattle, WA 98134 (206) 332-7700	15	96	1,000
RDC Trucking 13349 HWY 14 Roosevelt, WA (509) 384-5144	34	42	---

Additionally, if necessary, RDC would hire a trucking contractor to provide additional tractors and chassis, in order to keep operations in Island County flowing smoothly. Truck transport would be a 24-hour operation, if necessary.

If trucks are used to transport waste, RDC will be the first point of contact. Contact information includes the following:

Contact: Roy Westmoreland
Operations Manager, RDC
Address: 54 S. Dawson Street
Seattle, WA 98134
Phone: (206) 332-7705
(206) 953-1019 (Cell)

2.2 DISPOSAL: FINLEY BUTTES LANDFILL, MORROW COUNTY, OREGON

The Finley Buttes Landfill is located approximately ten miles south of the intersection of I-84 and Bombing Range Road on Bombing Range Road in Boardman, Morrow County, Oregon. The landfill is a 1,800-acre site located in desert rangeland. About 510 acres is being developed as the landfill area (in 56 modules), and the total capacity is estimated to be 40 million tons. The landfill opened November 1, 1990.

The Finley Buttes Landfill is owned and operated by Finley Buttes Landfill Company (FBLC), a subsidiary of Waste Connections, Inc. RDC has an agreement with FBLC to use its landfill as a backup disposal site to the Roosevelt Regional Landfill. The agreed disposal capacity reservation is from 552,500 to 1,105,000 tons (850,000 to 1,700,000 cy).

In the event RDC must use the Finley Buttes Landfill for disposal of waste from Island County and the waste volume exceeds 1,000 tons per year, Island County's recycling program must be certified by the Oregon Department of Environmental Quality (DEQ).

3. CRITERIA AND CIRCUMSTANCES FOR IMPLEMENTING THE AOP

This section describes the personnel responsible for coordinating and implementing the AOP, criteria for implementing the AOP, and potential circumstances that would require implementation of the AOP.

3.1 PERSONNEL RESPONSIBLE FOR COORDINATION AND IMPLEMENTATION

The Alternative Operations Coordinator has the primary responsibility to initiate and coordinate all alternative operations procedures. (See notification procedures later in this section.) The Alternative Operations Coordinator has full authority to commit the necessary resources to implement to AOP, or to call in contractors to provide the necessary additional resources. The coordinator has the authority to appoint other RDC employees to assist in implementing the AOP.

There are two designated Alternative Operations Coordinators: one for transportation and intermodal services, and one for disposal facilities. The names, addresses, and telephone numbers of the Alternative Operations Coordinators and designees are provided in the following section.

3.1.1 Intermodal Services and Transport

Alternative Operations Coordinator:	Roy Westmoreland Operations Manager, RDC 54 S. Dawson Street Seattle, WA 98134 (206) 332-7705 (206) 391-4531 (Cell)
--	--

Alternative Operations Coordinator (Back-up):	Pete Keller 54 S. Dawson Street Seattle, WA 98134 (206) 332-7795 (Office) (206) 465-1609 (Mobile)
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3.1.2 Disposal Facilities

Alternative Operations Coordinator:	Matt Henry General Manager, Roosevelt Regional Landfill 500 Roosevelt Grade Road Roosevelt, WA 99356 (800) 275-5641 (509) 727-1488 (Cell)
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Alternative Operations
Coordinator (Back-up):

Dan Wedgwood
Operations Manager, Roosevelt Regional Landfill
500 Roosevelt Grade Road
Roosevelt, WA 99356
(800) 275-5641
(541) 288-7027 (Cell)

In the event of a situation that would delay the transport and disposal of waste to an extent potentially harmful to human health and the environment, the Alternative Operations Coordinator will do the following:

- Initiate the AOP;
- Notify RDC's Operations Manager;
- Notify the Island County Contract Representative and Operations Superintendent;
- Notify the BNSF office, if applicable; and
- Notify the owner(s) and operator(s) of the alternative facility or equipment that may be used.

3.2 *CRITERIA FOR IMPLEMENTING THE AOP*

Based on the initial assessment, the Alternative Operations Coordinator will use their best judgment to determine when to initiate the AOP. The criteria that determine when a situation may delay the handling, transport, and disposal of waste include the following:

- Disruption of service at a transfer or intermodal facility;
- Disruption of commonly-used transportation routes; and/or
- Disruption of service at the disposal site.

Initiation of the AOP is unlikely if such disruptions are less than 3 to 4 consecutive days. Extended disruptions of several consecutive days will require initiation of the AOP.

3.3 *CIRCUMSTANCES THAT MAY REQUIRE IMPLEMENTING THE AOP*

Alternative facilities will be used in the event any of the criteria listed in Section 3.2 occur. Incidents that have the potential to delay the handling, transport, and disposal of waste include the following:

- Derailments on the railroad mainline.
- Natural disasters (flood, earthquake, landslide).
- An incident at an intermodal facility or at the landfill.
- Maintenance work or construction.
- Labor disputes.
- Permit orders.
- Failure to secure or maintain required permits.
- Lack of adequate freight mobility (rail)

The majority of incidents that have the potential to disrupt or delay service will not result in a significant or lengthy interruption. It is anticipated that the majority of incidents will be resolved quickly, restoring service in a matter of hours, or a maximum of one to three days. Incidents taking longer to resolve, such as natural disasters or labor disputes, are much less likely to occur. Long-term disruptions of service from closure of an intermodal facility or the landfill are unlikely to occur.

If any one or a combination of these circumstances occur, the Alternative Operations Coordinator will assess the situation based on the criteria identified in Section 3.2 of this AOP and determine whether implementing the AOP is warranted.

4. MOBILIZATION PLAN

This section describes the mobilization plan followed in implementing the AOP in the event an incident occurs that renders the primary intermodal facilities, transportation system, or disposal facility inoperable. Table 1 identifies the key steps in implementing the Alternative Operation System (described in detail in Section 4.1-4.3) and indicates mobilization time required to implement each step.

4.1 *INTERMODAL SERVICES*

If service is disrupted at the Everett, Burlington or Ferndale Intermodal Facilities or the Roosevelt Intermodal Facility, the mobilization plans described below will be followed.

4.1.1 Disruption of Service at the Everett, Burlington, or Ferndale Intermodal Facility

In the event an incident occurs that renders the Everett Intermodal Facility in Everett temporarily unavailable to accept waste for shipment, full waste containers will be temporarily stored at the facility until operations can resume. Containers of solid waste can be stored for three to four days. For storage of 144 to 192 containers, stacked three high, a space of 240 to 320 feet by 64 feet will be needed and is available at the facility.

Although storage space is available at the Everett Intermodal Facility, it is extremely unlikely RDC will allow containers to accumulate for three to four days before implementing alternative operations. It is more probable that RDC will begin using the Rabanco Recycling Center or SIG. If the Rabanco Recycling Center and SIG are used, RDC and its sub-contractor could transport waste from County transfer stations to those facilities. Containers will then be loaded onto trains at those facilities for rail transport to the Roosevelt Regional Landfill.

4.1.2 Disruption of Service at the Roosevelt Intermodal Facility

In the event an incident occurs that renders the Roosevelt Intermodal Facility unavailable to accept waste transported by rail to Klickitat County, BNSF will transport waste to the Pasco Hub, where the containers will be transferred to truck and taken to the Roosevelt Regional Landfill.

4.2 *TRANSPORT*

TABLE 1 IMPLEMENTATION SCHEDULE

SYSTEM COMPONENT		ALTERNATIVE OPERATION SYSTEM	MOBILIZATION TIME TO IMPLEMENT
Intermodal Services	1.	a. Store containers temporarily at Everett, Burlington or Ferndale Intermodal Facilities.	a. None. Implement immediately. Three to four days storage capacity available.
		b. Transport by rail (BNSF) to Roosevelt Intermodal Facility when service is resumed.	b. None. Implement as soon as service is restored.
		c. Add extra equipment to reduce backlog.	c. None. Implement immediately.
	2.	a. Transport by truck (Puget Sound Trucking or RDC) to 3rd & Lander.	a. None. Implement immediately.
		b. Transport by rail (BNSF) to Roosevelt Intermodal Facility.	b. None Implement immediately.
	3.	a. Transport by truck (PST or RDC) to 3rd & Lander then store containers temporarily at Rabanco Recycling Center.	a. None. Implement immediately. Three to four days storage capacity available.
		b. Transport by rail (BNSF) to Roosevelt Intermodal Facility when service is resumed.	b. None. Implement as soon as service is restored.
		c. Add extra care to reduce backlog.	c. None. Implement immediately.
	4.	a. Transport by truck to SIG.	a. None. Implement immediately.
		b. Transport by rail (BNSF) to Roosevelt Intermodal Facility.	b. None Implement immediately.

TABLE 1 IMPLEMENTATION SCHEDULE, CONT.

SYSTEM COMPONENT		ALTERNATIVE OPERATION SYSTEM	MOBILIZATION TIME TO IMPLEMENT
Roosevelt Intermodal Facility	1.	a. Transport by rail (BNSF) to Pasco Hub; b. Transport by truck (RDC) to Roosevelt Regional Landfill.	a. None. Implement immediately. b. None. Implement immediately.
Transport	2.	a. Store containers temporarily at the Everett Intermodal Facility. b. Transport by truck (RDC) to Roosevelt Regional Landfill.	a/b. None. Implement immediately. One to two days to mobilize. Notify Island County immediately.
	3.	a. Transport by truck (RDC) to Rabanco Recycling Center and then by truck to Roosevelt Regional Landfill.	a. One to two days to mobilize. Notify Island County Solid Waste Immediately.
	1.	a. Store containers temporarily at Everett Intermodal Facility. b. Transport by rail (BNSF) on an alternative line to Roosevelt Intermodal Facility. c. Add extra equipment to reduce backlog.	a. None. Implement Immediately. Three to four days storage capacity available. b. None. Implement immediately. c. None Implement immediately.
	2.	a. Store containers temporarily at Rabanco Recycling Center. b. Transport by rail (BNSF) to Roosevelt Intermodal Facility when service is resumed. c. Add extra car to reduce backlog.	a. None. Implement immediately. Three to four days storage capacity. b. None Implement immediately. Notify Island County Solid Waste Immediately. c. None. Implement immediately.

TABLE 1 IMPLEMENTATION SCHEDULE, CONT.

SYSTEM COMPONENT	ALTERNATIVE OPERATION SYSTEM	MOBILIZATION TIME TO IMPLEMENT
Disposal	1. a. Store containers at Roosevelt Intermodal Facility or Roosevelt Regional Landfill. b. Dispose of waste at landfill when operation resumes. c. Use extra equipment to reduce backlog.	a. None. Implement immediately. b. None. Implement immediately. c. None. Implement Immediately.
	2. a. Transport by truck (RDC) from Roosevelt Intermodal Facility to Finley Buttes Landfill for disposal.	a. One to two days to mobilize. Requires DEQ recycling requirements if more than 1,000 tons per year of waste is disposed. Notify Island County immediately.

4.2.2 Rail Transport

In the event an incident occurs that interrupts the movement of waste by rail from the Everett, Burlington, or Ferndale Intermodal Facilities to the Roosevelt Intermodal Facility, full waste containers will be temporarily stored at the Everett, Burlington, or Ferndale Intermodal Facility. Under worst case conditions, in which 144 to 192 containers are full of waste and temporarily stored for three or four days, a space 240 to 320 feet by 64 feet will be needed and is available at the Everett Intermodal Facility. Containers could also be trucked to Third and Lander for storage there. When train service is restored, an extra car (with a ten-container capacity) will be added to the train to reduce the backlog in containers. The additional car will be used until all stored containers have been transported to the Roosevelt Regional Landfill. Containers will be shipped on a first-in, first-out basis.

It will be BNSF's responsibility to resolve the interruption of rail service as quickly as possible with RDC to avoid delays in the movement of waste. For the majority of derailments, service is restored within hours of an incident. It is unlikely BNSF service will not be restored in a matter of hours, as derailments are attended to immediately and service is restored as quickly as possible.

In the event of a labor dispute, BNSF management personnel will run priority trains which will include trains carrying waste from Island County. RDC will immediately file for injunctive relief based on health concerns if it appears BNSF will not be able to move waste for one day or more. Containers will be stored at the Everett, Burlington, Ferndale or Seattle Intermodal Facilities. Labor disputes historically do not prevail

because Congressional and/or Presidential intervention ensures the continual flow of goods, as occurred in June 1992.

If service on the BNSF mainline is unavailable, BNSF will transport waste using alternative routes. The route used will be determined by BNSF.

RDC will notify Island County's Contract Representative and transfer station operators of its intention to transport the waste by truck and will advise them of any further changes that may affect operations. RDC will coordinate with the Island County on staffing and scheduling, and will seek County approval if RDC changes require equipment and/or staffing changes at the County.

4.3 *DISPOSAL*

In the event waste disposal at the Roosevelt Regional Landfill is temporarily interrupted, full waste containers will be stored at the Roosevelt Intermodal Facility or the Roosevelt Regional Landfill in Klickitat County until disposal can be resumed. A container storage capacity of a minimum of 144 to 192 containers is available for three or four days. When disposal is resumed, the tipper, tractors, and chassis will be used during overtime and/or second and third shifts to reduce the container backlog. No additional trailers will be required.

If the interruption in service lasts longer than four or five days, RDC will begin transporting waste containers by truck to the Finley Buttes Landfill in Morrow County, Oregon, for disposal until services can be resumed at the Roosevelt Regional Landfill. Long-term disruption of service from closure of the Roosevelt Regional Landfill is highly unlikely.

4.4 *AGENCIES AND LOCATIONS WHERE AOP IS AVAILABLE*

The agencies and locations listed below will receive copies of the AOP:

Regional Disposal Company
54 S. Dawson Street
Seattle, WA 98118
(206) 332-7700

Roosevelt Regional Landfill
500 Roosevelt Grade Road
Roosevelt, WA 99356
(800) 275-5641

Rabanco Recycling Center
2733 3rd Avenue South
Seattle, WA 98104
(206) 723-9584

Klickitat County Solid Waste
127 W. Court St., MS-CH-27
Goldendale, WA 98620
(509) 773-5703

Island County
Public Works Department
6th & Main, Coupeville, WA
(360) 679-7331

Burlington Northern Santa Fe Railroad
2454 Occidental Avenue S
Seattle, WA 98134
(206) 625-6654

Finley Buttes Landfill Company
611 S.E. Kaiser, Suite 110
Vancouver, WA 98661
(503) 288-7844

State of Washington
Department of Ecology
Central Regional Office
15 West Yakima Ave -- Suite 200
Yakima, WA 98902-3452
(509) 575-2490

Snohomish County Health District
Environmental Health Division
3020 Rucker Avenue, Suite 102
Everett, WA 98201-3971
(425) 339-5250

Seattle-King County Health Department
The Smith Tower, Suite 201
506 Second Avenue
Seattle, WA 98104
(206) 296-4785

Puget Sound Trucking, Inc.
7303 8th Ave. South
Seattle, WA 98108
1-800-638-2254

State of Washington Department of Ecology
Northwest Regional Office
3190 - 160th Ave. SE
Bellevue, WA 98008-5452
425-649-7000

State of Washington Department of Transportation
Northwest Region
15700 Dayton Ave. North
Shoreline, WA
Phone: 206.440.4000

Southwest Washington Health District

Vancouver:

2000 Fort Vancouver Way
Vancouver, Washington 98661
(206) 695-9215

Goldendale:

228 West Main Street
Goldendale, Washington 98620
(509) 773-4565

5. FINANCIAL AND TECHNICAL RESOURCES FOR IMPLEMENTING THE AOP

Table 2 (see Page 16) presents a listing of areas where potential cost increases could occur if the alternative operation systems are implemented. For each alternative, key components are listed and the elements that could generate additional costs are identified. Actual increased costs due to the implementation of the AOP, if any, are subject to Article 9 of the Contract. Nevertheless, if long haul trucking becomes necessary over a long period of time, RDC will work with contractors and the County to minimize costs.

5.1 FINANCIAL RESOURCES

With availability of equipment and in using RDC and its subcontractor's existing manpower, no extraordinary financial resources are required to implement the alternatives.

TABLE 2 POTENTIAL COST IMPACTS FOR ALTERNATIVE OPERATIONS
(listed in ascending order of estimated cost to implement each alternative)

	ALTERNATIVE OPERATION SYSTEM AREAS CAUSING COST INCREASE	CIRCUMSTANCES FOR IMPLEMENTING
1.	Store containers temporarily at Rabanco Recycling Center; then transport by rail (BNSF) to Roosevelt Intermodal Facility when service is resumed; Add extra car to reduce backlog.	<ul style="list-style-type: none"> ▪ Disruption of service at Rabanco Recycling Center. ▪ Disruption of rail transport by BNSF.
2.	Store containers temporarily at Roosevelt Intermodal Facility or Roosevelt Regional Landfill; Dispose of waste at Roosevelt Regional Landfill when operation resumes; Use extra equipment to reduce backlog.	<ul style="list-style-type: none"> ▪ Disruption of service at Roosevelt Regional Landfill.
3.	Transport by truck to SIG; then transport by truck to (RDC) to the Roosevelt Regional Landfill.	<ul style="list-style-type: none"> ▪ Disruption of service at Rabanco Recycling Center.
4.	Transport by rail (BNSF) to Pasco Hub, and transport by truck (RDC) to the Roosevelt Regional Landfill.	<ul style="list-style-type: none"> ▪ Disruption of rail transport by BNSF ▪ Disruption of service at Roosevelt Intermodal Facility
5.	Transfer at the Island County Facilities; then transport by truck (RDC) to Roosevelt Regional Landfill.	<ul style="list-style-type: none"> ▪ Disruption of service at Rabanco Recycling Center. ▪ Disruption of service at Roosevelt Intermodal Facility. ▪ Disruption of rail transport by BNSF.
6.	Store containers temporarily at Rabanco Recycling Center, then transport by truck (RDC) to Roosevelt Regional Landfill.	<ul style="list-style-type: none"> ▪ Disruption of service at Roosevelt Intermodal Facility.
7.	Transport by truck (RDC) from Roosevelt Intermodal Facility to the Finely Buttes Landfill for disposal.	<ul style="list-style-type: none"> ▪ Disruption of service at Roosevelt Regional Landfill.

APPENDIX B

SOLID WASTE SYSTEM INTERLOCAL AGREEMENTS

SOLID WASTE LONG HAUL TRANSPORTATION AND DISPOSAL

ISLAND COUNTY, WASHINGTON

RESOLUTION NO. 20-07

**A RESOLUTION OF THE TOWN COUNCIL OF THE
TOWN OF COUPEVILLE, ISLAND COUNTY, WASHINGTON
ADOPTING THE ISLAND COUNTY SOLID WASTE AND
MODERATE RISK WASTE MANAGEMENT PLAN**

WHEREAS, RCW 70.95 assigns responsibility for solid waste management to local governments, and each unit of local government is required to prepare and maintain in current condition a comprehensive solid waste management plan in accordance with RCW 70.95.080 and 70.95.110; and

WHEREAS, RCW 70.105 assigns primary responsibility for moderate risk waste management to local governments, and each unit of local government is required to prepare a local moderate risk waste management plan in accordance with RCW 70.105.220; and

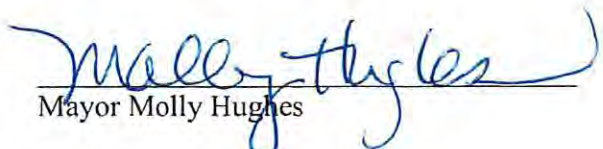
WHEREAS, the Town of Coupeville, Cities of Oak Harbor and Langley and Island County have entered in to an interlocal agreement to mutually and cooperatively comply with RCW 70.95 and 70.10; and

WHEREAS, the Island County Solid Waste Advisory Committee, of which Coupeville is a member, participated in the preparation of the plan in accordance with RCW 70.95.165(3) and recommended approval of the Island County Solid Waste and Moderate Risk Waste Management Plan dated February 2020; and


NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Coupeville, Washington, that the Island County Solid Waste and Moderate Risk Waste Management Plan dated February 2020 be adopted pursuant to RCW 70.95 and RCW 70.105.

PASSED by the Town Council of the Town of Coupeville and approved by the Mayor this 9th day of June, 2020.

TOWN OF COUPEVILLE:


Mayor Molly Hughes

ATTEST:


Clerk Treasurer Kelly Beech

RESOLUTION NO. 20-07

**A RESOLUTION OF THE CITY OF OAK HARBOR, WASHINGTON,
ADOPTING THE ISLAND COUNTY COMPREHENSIVE SOLID WASTE AND MODERATE-
RISK WASTE MANAGEMENT PLAN**

WHEREAS, RCW 70.95 assigns responsibility for solid waste management to local governments, and each unit of local government is required to prepare and maintain in current condition a comprehensive solid waste management plan in accordance with RCW 70.95.080 and 70.95.110; and

WHEREAS, RCW 70.105 assigns primary responsibility for moderate-risk waste management to local governments, and each unit of local government is required to prepare a local moderate-risk waste management plan in accordance with RCW 70.105.220; and

WHEREAS, the Island County Solid Waste Advisory Committee participated in the preparation of the plan in accordance with RCW 70.95.165(3) and recommended approval of the Draft Final Island County Comprehensive Solid Waste and Moderate-Risk Waste Management Plan, dated February 2020; and

WHEREAS, the Oak Harbor City Council reviewed the Draft Island County Comprehensive Solid Waste and Moderate-Risk Waste Management Plan on March 25, 2020, and City staff reviewed the Draft Final Plan and recommends adoption by the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oak Harbor, Washington, that the Island County Comprehensive Solid Waste and Moderate-Risk Waste Management Plan, dated February 2020, be adopted pursuant to RCW 70.95 and RCW 70.105.

PASSED and approved by the City Council this 7th day of April 2020.

CITY OF OAK HARBOR

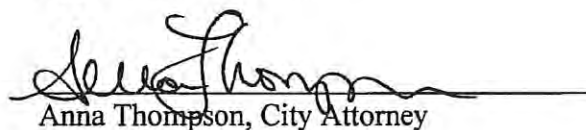


Bob Severns, Mayor

Attest:


Carla Brown, City Clerk

Approved as to Form:


Anna Thompson, City Attorney

**CITY OF LANGLEY
RESOLUTION NO. 807**

**A RESOLUTION OF THE CITY OF LANGLEY, WASHINGTON
ADOPTING THE ISLAND COUNTY COMPREHENSIVE SOLID WASTE
AND MODERATE RISK WASTE MANAGEMENT PLAN.**

WHEREAS, RCW 70.95 assigns responsibility for solid waste management to local governments, and each unit of local government is required to prepare and maintain in current condition a comprehensive solid waste management plan in accordance with RCW 70.95.080 and 70.95.110; and

WHEREAS, RCW 70.105 assigns primary responsibility for moderate-risk waste management to local governments, and each unit of local government is required to prepare a local moderate-risk waste management plan in accordance with RCW 70.105.220; and

WHEREAS, the Island County Solid Waste Advisory Committee participated in the preparation of the plans in accordance with RCW 70.95. 165(3) and recommended approval of the Draft Final Island County Comprehensive Solid Waste and Moderate-Risk Waste Management Plan dated February 2020; and

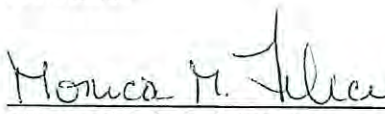
WHEREAS, the City Council, by motion, approved the Draft Final Plan dated February 2020.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Langley that the Draft Final Comprehensive Solid Waste and Moderate-Risk Waste Management Plan dated February 2020, be adopted pursuant to RCW 70.95 and RCW 70.105.

PASSED BY THE CITY COUNCIL OF THE CITY OF LANGLEY and
Approved by the Mayor this 8th day of June 2020.


Tim Callison, Mayor

ATTEST:


Monica M. Felici, Clerk-Treasurer

APPENDIX C

DRAFT CONTRACT TEMPLATE

SOLID WASTE LONG HAUL TRANSPORTATION AND DISPOSAL

ISLAND COUNTY, WASHINGTON

CONTRACT

**SOLID WASTE LONG HAUL
TRANSPORTATION AND DISPOSAL**

ISLAND COUNTY, WASHINGTON

DATED _____, 2024

CONTRACT
SOLID WASTE LONG HAUL TRANSPORTATION AND DISPOSAL
ISLAND COUNTY, WASHINGTON

THIS CONTRACT (the “Contract” or “Agreement”) is made by and between Island County, a political subdivision of the State of Washington (the “County”) and _____ (the “Contractor”), pursuant to Island County Resolution #2024_____and RCW 36.58. The County and the Contractor may be individually referred to herein as a “party” and may be collectively referred to herein as the “parties.” In consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

ARTICLE 1 DEFINITIONS

For the purposes of this Contract and the Contract Documents, the following terms shall have the following meanings when they are used with initial capitalization:

- 1.1** "Acceptable Waste" means Solid Waste excluding Unacceptable Waste.
- 1.2** "Addenda" means written or graphic documents issued by the County that clarify, correct or change the Contract Documents.
- 1.3** "Business Day" means any day, Monday through Friday, from 8:30 AM, Pacific Time until 4:30 PM, Pacific Time, which is not a holiday designated as such in the Contract.
- 1.4** "Chassis" means a Tractor-drawn trailer that conforms to the Contract and is designed for over-the-road Transport of a Loaded or empty demountable Container.
- 1.5** "City" or "Cities" means those incorporated cities or towns in Island County that participate in the Island County Comprehensive Solid Waste Management Plan through execution of an interlocal agreement between the County and incorporated cities or towns in Island County for Solid Waste Management.
- 1.6** "Closed Top Container" means any fully enclosed Container equipped with rear doors that conforms to the specifications of this Contract and is designed for trucking or rail shipment.
- 1.7** "Collect" means the act of accepting and removing Acceptable Waste from the generator for Transport.

- 1.8** “Compacted Container” means a Container Loaded with Solid Waste that has been crushed or compressed in a hydraulic compactor at a County Transfer Station.
- 1.9** "Comprehensive Solid Waste Management Plan" means the County's Comprehensive Solid and Moderate Risk Waste Management Plan adopted in accordance with Chapter 70.95 RCW.
- 1.10** "Consumer Price Index" or "CPI" means the Consumer Price Index computed by the United States Department of Labor, Bureau of Labor Statistics, for the Seattle-Tacoma Metropolitan Area for Urban Wage Earners and Clerical Workers, or a successor index produced by the United States government. If the United States government discontinues publication of such an index for the Seattle-Tacoma area, then its index for the Puget Sound Region or the State of Washington shall be used, and if such indices are not available, a similar index proposed by another governmental agency shall be used.
- 1.11** "Construction, Demolition and Land-clearing Waste" (CDL Wastes) means any recyclable or non-recyclable Waste that results from construction, remodeling, repair or demolition of buildings, roads, or other structures, or from land-clearing for development, and that is removed from the site of construction, demolition or land clearing.
- 1.12** "Container" means a Closed Top Container or Open Top Container conforming to, but not limited to, Section 6.3 of the Contract.
- 1.13** "Contract", "Contract Documents", and/or “Agreement” are synonymous and mean the combination of all of the following:
- (A) This Contract, and all duly authorized and executed amendments thereto;
 - (B) The performance bonds, letters of credit or other financial guarantees required by the Contract;
 - (C) All exhibits and attachments to the Contract;
 - (D) Request for Proposals (RFP) as issued pursuant to RCW 36.58., Island County Resolution # R2024_____, and the Contractor’s response(s) thereto;
 - (E) Any and all duly authorized Addenda to the Contract;

- (F) Any and all duly authorized and executed change orders or modifications of the foregoing documents agreed to by the parties in the manner prescribed by the Contract unless otherwise designated for informational or bid evaluation purposes only.
- 1.14** "County System" means the Solid Waste handling system operated by Island County, in accordance with applicable contractual agreements, laws, rules, regulations, and the
- (A) current approved Comprehensive Solid Waste Management Plan.
- 1.15** "County Transfer Station" means any Facility used by County as part of the Comprehensive Solid Waste Management Plan where Solid Waste is accepted from Persons and loaded into Containers for Transport to a Disposal Site.
- 1.16** "Customer" means (i) the County, (ii) City or Cities, or (iii) other person required by County Code to utilize the County System.
- 1.17** "Dispose" or "Disposal" means all work, services or operations performed by the Contractor pursuant to this Contract on or after the time that Solid Waste enters the boundaries of Contractor's Disposal Site pursuant to this Contract.
- 1.18** "Disposal Services Fee" means the per ton fee for Disposal provided by Contractor.
- 1.19** "Disposal Site" means the landfill used by the Contractor for the final treatment, utilization, processing, or deposition of any Solid Waste received under this Contract.
- 1.20** "Facility" or "Facilities" means all real and personal property necessary for the Contractor to fulfill its obligations under this Contract, including but not limited to, all vehicles, equipment, fixtures, and improvements used in Receiving, Transporting, and Disposing of Solid Waste, that are owned, leased, operated, or used by the Contractor or the County to carry out the provisions of this Contract.
- 1.21** "Hazardous Waste" means any Solid Waste that is either expressly subject to regulation as "hazardous waste" or is not excluded from regulation as "hazardous waste" or "dangerous waste" by application of hazardous waste or dangerous waste regulations adopted by the United States Environmental Protection Agency, the Washington State Department of Ecology or, if the Solid Waste is Received, Transported or Disposed outside the State of Washington, any other applicable state or federal agency and now or hereafter.
- 1.22** "Load" or "Loaded" means the process by which, and the status of a Container after which, Solid Waste is placed inside a Container and prepared for Transport.

- 1.23** “Open Top Container” means any Container that is open on top and equipped with a tarp or cover system that conforms to the specifications of this Contract and is designed for trucking or rail shipment.
- 1.24** “Person” or “Persons” means, without limitation, any individual, firm, corporation, association, partnership, consortium, joint venture, entity, government agency or unit of local government.
- 1.25** “Project” means any and all matters and things that the Contract requires to be done, kept, performed and furnished by the Contractor and by the County, respectively.
- 1.26** “Receiving” means all work, services or operations performed by the Contractor pursuant to this Contract to accept Containers at the Receiving Facility for Transport and Disposal pursuant to this Contract.
- 1.27** “Receiving Facility” means a Facility at which the Contractor accepts Loaded Containers (typically, a permitted solid waste transfer station).
- 1.28** “Receiving Services and Transport Services Fee” means the per ton fee for Receiving and Transport provided by Contractor.
- 1.29** “Recycling” means transforming or remanufacturing Solid Waste materials into usable or marketable materials for use other than for landfill disposal or incineration. Recycling does not include collection, compacting, repackaging, and sorting for the purpose of Transport.
- 1.30** “Representative” means the authorized representative of the County or the Contractor designated in accordance with Article 5.
- 1.31** “Residual Recycling Waste” means Solid Waste generated during the processing of Recyclable Materials.
- 1.32** “Security Seal” means a lead-and-wire seal, or similar nonreusable closure, installed on a Loaded Container for protection against undetectable access, removal, adjustment or unauthorized use that must be broken to open that Container.
- 1.33** “Solid Waste” means Solid Waste as defined and used by Washington Administrative Code WAC 173-350, *Solid Waste Handling Standards*.
- 1.34** “State/Local Solid Waste Handling Fee” means a governmentally-imposed fee, tax, surcharge or similar charge on Solid Waste handling services, including but not limited

to Receiving, Transport and Disposal services; the term does not include federally-imposed fees, taxes, surcharges or other charges levied equally on Solid Waste Receiving, Transport and Disposal in all states.

- 1.35** "Surety" means the Person approved by the County to provide a cash bond, performance bond, letter of credit or other financial guarantee required guaranteeing or providing the funds to guarantee performance of the Contractor's obligations under this Contract; the surety must be licensed to conduct business in Washington and included on the current list of Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies, as published in Circular 570, as amended, by the Audit Staff Bureau of Accounts, United States Treasury Department.
- 1.36** "Tipping Fee(s)" means the per ton fees paid by the County to the Contractor for Solid Waste accepted by the Contractor at the Receiving Facility, Transported from the Receiving Facility to the Disposal Site, and Disposed at the Disposal Site, as more fully described in Article 8.
- 1.37** "Tractor" means a vehicle used to move Containers.
- 1.38** "Transport" or "Transportation" means but is not limited to the storage, handling, loading, unloading, and movement of Containers under this Contract (by intermodal container, truck, railroad, and/or other means).
- 1.39** "Unacceptable Waste" means:
- (A) Solid Waste that may not be Disposed at the Disposal Site under state or federal law, regulation, rule, code, permit or permit condition;
 - (B) Solid Waste that is restricted from acceptance at County owned and operated Solid Waste Facilities in accordance with applicable law; or
 - (C) any other Solid Waste that the County Representative and Contractor Representative have agreed in writing to exclude from Acceptable Waste.
- 1.40** "Uncompacted Container" means a Container containing Waste that has not been crushed or compressed in a hydraulic compactor.
- 1.41** "Uncontrollable Circumstances" means to the extent that the occurrence of a riot, war, civil disturbance, insurrection, act of terrorism, or epidemic delays the Contractor from performing any of its obligations under this Contract and no alternative means for the services under this Contract is available. Uncontrollable Circumstances shall

not include to the extent the occurrence of a riot, war, civil disturbance, insurrection, act of terrorism, pandemic or epidemic does not delay the Contractor from performing any of its obligations under this Contract. Uncontrollable Circumstance shall not include any other events or circumstances such as, but not limited to, labor shortage or dispute, strikes, slowdowns, walkouts, lockouts, industrial disturbances or other disputes involving the Contractor's employees; changes in the Contractor's costs for performance under this Contract; economic changes; or slowdowns or shutdowns of Transport systems, including but not limited to railroads and other thoroughfares.

ARTICLE 2 GENERAL PROVISIONS

2.1 Governing Law; Venue

This Contract shall be governed by the laws of the State of Washington. The venue of any action arising out of this Contract shall be in the Superior Court of the State of Washington, in and for Island County.

2.2 Complete Contract

The Contractor was selected as provided pursuant to Island County Resolution # R2024_____in accordance with RCW 36.58. (the County's "RFP"). The RFP and the Contractor's response are incorporated herein by this reference. To the extent of any inconsistency among this Contract, the RFP, and the Contractor's response, this Contract shall govern. To the extent of any inconsistency between the RFP and the Contractor's response, the RFP shall govern.

2.3 Conflicts between Attachments and Text

Should any conflicts exist between any exhibit, attachment, or schedule and the text or main body of this Contract, the text or main body of this Contract shall prevail.

2.4 Severability

If any Contract provision is void, invalid or unenforceable under any applicable law, the remaining provisions of the Contract shall remain in effect and bind the parties; however, the parties shall negotiate in good faith to amend the Contract to effectuate the intent of any void, invalid or unenforceable provision, if permissible under applicable law.

2.5 Time is of the Essence

Time is of the essence of this Contract. The County's or Contractor's failure to object to a breach of any Contract provision is not, and shall not, be construed as a waiver of that provision. The payment or acceptance of compensation subsequent to any breach is not, and shall not, be deemed an acceptance of that breach. Any waiver must be in writing.

2.6 Construction of Terms

Unless otherwise specified in the Contract, words describing material or work that have a well-known technical or trade meaning shall be construed in accordance with the well-

known meaning generally recognized by Solid Waste professionals, engineers and trades.

2.7 Access

The County shall have the right and unlimited access to inspect any or all of the Contractor's and subcontractor's operations, Facilities or records related to this Contract; however, the County's access to records under this Section shall be subject to the provisions of Section 2.17. The County shall have access to operations and Facilities under this Section during all normal business hours or when there is activity of any kind at those operations or Facilities.

2.8 No Third Party Beneficiaries

This Contract is entered into by the County in its governmental capacity and is not intended to nor does it create any third party beneficiary or rights in any private Person. This Contract does create certain rights in the Cities with respect to the Contractor but those rights may be exercised only by and through the County.

2.9 Personal Liability

This Contract is not intended to create or result in any personal liability for any public official or County employee or agent, nor shall the Contract be construed to create that liability.

2.10 Comprehensive Contract

All services that are necessary to complete and carry out the terms of the Contract as described in the Contract Documents shall be considered part of the Contract and the Contractor shall perform or provide for the services without extra compensation unless otherwise expressly stated in the Contract Documents.

2.11 Subsidiary Contracts

No agreement between the Contractor and its subcontractors, officers, employees or agents, including any agreement relating to the use, lease, operation or ownership of the Disposal Site and other Facilities, shall prevent, and the Contractor hereby represents and warrants that no such agreement prevents, either expressly or as the practical effect thereof, the Contractor from performing its obligations under this Contract.

2.12 Notices

All notices and other communications shall be in writing and shall be sufficient if given, and shall be deemed given, on the date on which the same has been mailed by certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the County:

Island County Public Works Department
Attn: Jeff Hegedus
Solid Waste Division Manager
1 NE 7th Street
Coupeville, Washington 98239

If to the Contractor:

The County or the Contractor may, by notice to the other given hereunder, designate any further or different addresses to which subsequent notices or other communications shall be sent.

2.13 Article, Section and Subsection References

Any Articles, Sections or subsections mentioned in this Contract by number only without reference to another document refer to the Articles, Sections and subsections contained in this Contract.

2.17 Public Records

Unless privileged, or otherwise exempt from public disclosure pursuant to applicable law, the County shall have the right to use and distribute any and all documents, writings, programs, data, public records or other materials prepared by either party in connection with performance of this Contract. The Contractor recognizes and agrees that any documents and/or materials arising from and/or related to this Agreement may be subject to public disclosure pursuant to applicable law (including RCW 42.56). The Contractor should clearly identify and label in its proposal any specific information that it believes to be exempt from public disclosure, with an explanation as to what specific exemption(s) it believes to apply. If Island County receives a Public Records Act (RCW 42.56) request for such information so marked by the Contractor, and the County determines that it may need to produce that information in response to the Public Records Act request, the County's sole obligation to the Contractor shall be to reasonably attempt to notify the Contractor: (1) of the request, and (2) of the date that such information will be released to the requester, unless the Contractor independently obtains a court order to enjoin such disclosure (at the Contractor's sole cost and expense) pursuant to RCW 42.56. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified. While the County may take such above-described reasonable steps to attempt to prevent the disclosure of such documents and information, the County cannot and does not represent and/or guarantee that any specific drawings, documents, data, plans, materials and/or information will not be released, even if the release of such drawings, documents, data, materials, plans, and/or information may be (or may arguably be) exempt or otherwise preventable by law.

The Contractor expressly waives any and all claims against the County for any harm, liability, costs, and/or damages (direct and/or consequential) incurred by Contractor arising from and/or directly or indirectly related to the release of any and all drawings, plans, documents, data, materials, and/or information provided by Contractor.

2.18 Compliance with Laws

The Contractor, its officers, employees, agents and subcontractors shall comply with every applicable federal, state or local law, statute, rule, regulation or ordinance, including those of agencies having jurisdiction over the Project, in performing obligations under this Contract. The County shall have the right to inspect copies of all correspondence or any other documents in the possession of the Contractor or its subcontractors related to the Contractor's compliance with laws under this Contract.

2.19 Permits, Licenses, etc.

The Contractor shall obtain, maintain and pay for, comply with, at Contractor's sole expense, all permits and approvals from all applicable jurisdictions as required by law for its operations and activities under this Contract. For purposes of this Contract, the term "permits" means any temporary and/or permanent governmental authorization, approvals, licenses, certificates, inspection fees, surcharges or other approvals required for the performance of the Project. The Contractor shall provide to the County a list of all permits required for the Project designating the issuing agency and the permits' respective dates of issuance and expiration, copies of all current permits and the Contractor's schedule for obtaining or renewing all permits required during the term of the Contract. The Contractor shall be liable for all fines or civil penalties that may be imposed by any regulatory agency for Contractor-caused violations of permits, laws or regulations; the County shall not be liable for and shall not reimburse Contractor for payment of those fines or civil penalties. Nothing herein is intended to restrict the Contractor's right to contest any fine in an administrative proceeding or in court.

2.20 Taxes and Fees

The Contractor shall be responsible and liable for payment of all federal, state and local taxes and fees, and surcharges of every form, that apply to any and all Persons, property, income, equipment, materials, supplies, structures or activities that are involved in the performance of the Contract, including but not limited to, any income taxes, real property, excise, sales and use taxes and fees that arise in connection with the Contract; however, the Contractor shall not be responsible or liable for payment of any tax or fee for which the County is ordinarily responsible without regard to the services provided by the Contractor under this Contract.

2.21 Compliance with Grant Terms and Conditions

The Contractor shall comply with any and all conditions, terms and requirements of any federal, state or other grant that wholly or partially funds the Contractor's work hereunder.

2.22 Records and Access; Audit; Ineligible Expenditures

The Contractor shall maintain records related to performance of its obligations under this Contract for a period of seven (7) years after completion of its services under this Contract. The County or any of its duly authorized representatives shall have access at reasonable times to any books, documents, papers and records of the Contractor which are directly related to this Contract for the purposes of making audit examinations, obtaining excerpts, transcripts or copies, and ensuring compliance by the County with applicable laws. Expenditures under this Contract, which are determined by audit to be ineligible for reimbursement and for which payment has been made to the Contractor, shall be refunded to the County by the Contractor.

2.23 Access Rights

The County shall have the right to have its representative present at the Receiving Facility and Disposal Site during their hours of operation to observe and monitor Contractor's compliance with the provisions of this Contract, provided that such observation monitoring shall be conducted in a manner to minimize interference with the Receiving Facility and Disposal Site operations. While visiting the Receiving Facility or Disposal Site, the County representative shall comply with all reasonable rules and regulations adopted by Contractor.

ARTICLE 3 INDEPENDENT CONTRACTOR

The Contractor agrees that it will perform the services under this Contract as an independent contractor and not as an agent, employee, or servant of the County. This Contract neither constitutes nor creates an employer-employee relationship. The parties agree that the Contractor is not entitled to any benefits or rights enjoyed by employees of the County. The Contractor specifically has the right to direct and control Contractor's own activities in providing the agreed services in accordance with the specifications set out in this Contract. The County shall only have the right to ensure performance. Nothing in this Contract shall be construed to render the parties partners or joint ventures.

The Contractor shall furnish, employ and have exclusive control of all persons to be engaged in performing the Contractor's obligations under this Contract (the "Contractor personnel"), and shall prescribe and control the means and methods of performing such obligations by providing adequate and proper supervision. For all purposes under this Contract, the Contractor personnel shall be the employees or agents of the Contractor exclusively and shall not be deemed to be employees or agents of the County for any purposes whatsoever. The Contractor shall be solely responsible for compliance by Contractor personnel with all rules, laws and regulations relating to employment of labor, prevailing wages, hours of labor, working conditions, payment of wages and payment of taxes, including applicable contributions from Contractor personnel when required by law.

Because it is an independent contractor, the Contractor shall be responsible for all obligations relating to federal income tax, self-employment or FICA taxes and contributions, and all other so-called employer taxes and contributions including, but not limited to, industrial insurance (workers' compensation). The Contractor agrees to indemnify, defend and hold the County harmless from any and all claims, valid or otherwise, made against the County with respect to those obligations. The Contractor assumes full responsibility for the payment of all payroll taxes, use, sales, income, or other form of taxes, fees, licenses, excises or payments required by any city, county, federal or state legislation which are now or may during the term of the Contract be enacted as to all persons employed by the Contractor and as to all duties, activities and requirements by the Contractor in performance of the work under this Contract. The Contractor has exclusive liability for all such obligations, and shall meet all requirements with regard to those obligations under any rules or regulations currently in force or which may be promulgated in connection therewith in the future. The parties recognize that this Contract is subject to prevailing wage requirements pursuant to applicable law, including RCW 39.58.090(8) and RCW 39.12.

ARTICLE 4

SUBCONTRACTING AND ASSIGNMENT

4.1 Subcontracting and Assignment

The Contractor shall not subcontract, assign, or delegate any of the rights, duties or obligations covered by this Contract without prior express written consent of the County which shall not be unreasonably withheld. Any attempt by the Contractor to subcontract, assign, or delegate any portion of the Contractor's rights, duties or obligations under this Contract to another party in violation of the preceding sentence shall be null and void and shall constitute a material breach of this Contract. Contractor shall remain liable and responsible for the performance of any such portion of this Contractor assigned, contracted, and/ or subcontracted to any other individual, firm, company, and/or other entity. Contractor shall ensure that all subcontractor(s) comply with the terms and conditions of this Contract, and all subcontractor(s) are to provide proof of insurance in the same form and amount as required for the Contractor (as determined to be sufficient by the County). Compensation for approved subcontractor(s) shall be included in the total dollar amount of this Agreement. All contracts between the Contractor and its subcontractors for services and work under this Contract shall contain a clause that if the Contractor defaults in performance of the Contract and the County accepts assignment of the subcontract, the subcontractor shall recognize the County or its assignee as the Contractor and the County or its assignee shall have all the former rights, remedies and responsibilities of the Contractor under the subcontract. The Contractor shall be responsible to the County for the acts and omissions of its subcontractors and suppliers and the subcontractor's suppliers, employees, agents, or servants.

ARTICLE 5

CONTRACTOR AND COUNTY REPRESENTATIVES

5.1 Representatives

The Contractor and the County shall each designate a Contract Representative ("Representative") for this Contract.

5.1.1 The Representative for the County is: Jeff Hegedus, Solid Waste Division Manager, or his designee.

5.1.2 The Representative for the Contractor is: _____

5.2 Contractor Representative

The Contractor's Representative shall be the Contractor's agent and shall represent the Contractor for all purposes of this Contract. All written or oral directions, instructions or notices given by the County to that Representative and related to the subject matter of the Contract shall bind the Contractor. The Contractor's Representative shall have authority to act on behalf of the Contractor; the Contractor's Representative's statements, representations, actions and commitments shall fully bind the Contractor. The Contractor Representative shall be available to the County Representative at all times during the term of this Contract.

5.3 Change in Representative

The parties shall promptly notify each other in writing of any change in the Representative designations.

ARTICLE 6 CONTRACTOR RESPONSIBILITIES

The services to be performed under the terms of this Contract shall be performed in accordance with the requirements of this Contract and with generally accepted practices prevailing in the Solid Waste industry at the time the services are performed. The Contractor shall perform the work in a timely manner. Any materials or equipment used by the Contractor in connection with performing the services shall be of good quality. The Contractor represents that it is fully qualified to perform the services to be performed under this Contract in a competent and professional manner.

6.1 General

The Contractor shall:

- (A) Own, operate, and/or lease Facilities necessary to perform its obligations under this Contract;
- (B) Procure and maintain performance bonds, letters of credit or other financial guarantees in accordance with this Contract;
- (C) Comply with all applicable laws; obtain any permit, license, certificate or governmental approval required for the Project; and pay all applicable taxes and fees in accordance with this Contract;
- (D) Procure and maintain insurance in accordance with this Contract; and
- (E) Maintain a closure and post-closure trust financial assurance in accordance with this Contract (see, Section 6.9.).

6.2 Receiving, Transportation, and Disposal Services

The Contractor shall Receive, Transport, and Dispose of Solid Waste from Customers as follows:

- (A) Receiving Services:
 - 1.) Contractor shall accept Loaded Containers at the Receiving Facilities for Transport and Disposal pursuant to terms of the Contract.

2.) At the Receiving Facility, the Contractor will weigh each Container as it exits the Receiving Facility.

(B) Transport Services:

1.) Contractor shall Transport Loaded Containers to the Disposal Site, in a safe and timely manner, accepted at the Receiving Facility.

2.) Contractor shall Transport adequate quantities of empty open top and closed top Containers from the Disposal Site to the Receiving Facilities as required by the Contract.

(C) Disposal Services:

1.) Contractor shall operate and maintain any and all Disposal Sites utilized for this Contract in compliance with all applicable laws, rules, and regulations, including, but not necessarily limited to, WAC 173-351-300 Design Criteria (2)(a) or CFR Title 40, Subpart D, Section 258.40 Design Criteria (2)(b).

2.) Contractor shall Dispose at the Disposal Site located all Solid Waste accepted at the Receiving Facility within seventy-two (72) hours at the Disposal Site at throughout the term of the Contract unless an alternative Disposal Site is approved in writing by the County Representative.

3.) The Contractor shall not Dispose of Solid Waste in a Disposal Site that has been nominated or proposed for the National Priorities List ("NPL") of contaminated sites, or that has been nominated or proposed for inclusion in a list of contaminated sites under another program similar to the NPL.

4.) If a Disposal Site is located in a jurisdiction that is required to prepare a Comprehensive Solid Waste Management Plan, or the equivalent if the Disposal Site is located outside the State of Washington, the Contractor shall not Dispose of Solid Waste at such Disposal Site unless the plan of the receiving jurisdiction allows Solid Waste import to the Disposal Site.

5.) At the Disposal Site, the Contractor will weigh each Container as it enters and leaves the Disposal Site.

(D) The Contractor shall be solely responsible for providing sufficient capacity to Receive, Transport, and Dispose of Solid Waste in accordance with this Contract. The Contractor may accept materials from other sources provided that acceptance of such materials shall not interfere with providing services in accordance with this Contract.

6.3 Containers and Chassis

(A) Containers:

- 1.) Contractor shall provide Containers that have the following features:
 - (a) Closed top designed for intermodal refuse Transport;
 - (b) Rigid and durable, designed to Transport a minimum payload of 30 tons;
 - (c) Corrosion resistant;
 - (d) Smooth interior walls and floors;
 - (e) Rear loading double doors with heavy duty rubber seals that are safe and easily opened and closed manually by County personnel;
 - (f) 100% leak-proof to a height of 24" from the Container floor;
 - (g) Screened vent door at the front to allow dissipation of heat and expanding gases;
 - (h) No sharp edges or other hazardous conditions; and
 - (i) Painted with a unique alpha-numeric identification number that is not less than six (6) inches high on the two (2) long sides of the Container.
- 2.) Prior to the release of each Container by the Contractor to Customer, the Contractor will inspect the Container doorway seals and locking mechanisms and the overall condition of the Container to ensure that it conforms to this Contract.
- 3.) Contractor shall ensure adequate quantities of Containers are available at the Receiving Facilities at all times unless otherwise agreed to by County Representative.
- 4.) Following delivery to the Disposal Site, all Solid Waste shall be removed from each Container. The Contractor shall clean each Container as necessary to comply with the requirements of the jurisdictional health department(s) and to mitigate malodor, unsightliness, or the attraction of vectors.
- 5.) The Contractor shall supply the following types of Containers in

sufficient quantities to facilitate the successful performance of the Contract, which shall be no fewer than the number needed to hold at least two (2) days' Solid Waste delivered to the Receiving Facility based on the County's average daily Solid Waste deliveries for the prior six (6) months:

(a) 48' Open Top (Tarped) Containers; and

(b) 48' Closed Top Containers.

6.) Upon County Representative approval, the Contractor shall provide a Container to a Customer; provided that the County reserves the right to override such Customer requests.

(B) Chassis:

1.) Contractor shall ensure Chassis are available as necessary at the Receiving Facilities at all times unless otherwise agreed to by County Representative.

2.) Contractor shall provide Chassis for all types of Containers, which shall have the following features:

(a) 53' 3 or 4-Axle Chassis unless otherwise specified;

(b) Able to turn 180 degrees in a 75' radius (measured at steer axle of tractor/yard goat) without damage;

(c) Four sets of dual tires, all of which are the same size; and

(d) Lug nut torque indicators.

3.) All Chassis for Residual Recycling Waste/Construction Demolition Debris (RRW/CDL) must be 48' four axle chassis.

4.) The Contractor shall supply all Chassis in sufficient quantity to facilitate the successful performance of the Contract.

5.) Upon County approval, the Contractor shall provide a Chassis to a Customer, provided that the County reserves the right to override such Customer requests.

(C) Maintenance:

- 1.) Chassis and Containers shall be properly maintained in a safe working condition at all times.
- 2.) Chassis and Containers shall be maintained by the Contractor in accordance with the manufacturer's recommended maintenance.
- 3.) Brake adjustments shall be checked weekly and documented in maintenance records.
- 4.) The Contractor shall replace any Chassis or Container that does not meet the requirements specified in this Contract.
- 5.) Containers and Chassis shall be maintained in a neat and sanitary manner including, but not limited to, washing and sanitizing the inside and outside of all Containers and Chassis with a suitable disinfectant and deodorant a minimum of once per month.
- 6.) Containers shall be maintained to avoid leakage or spillage of either Solid Waste or liquids from the Container while in transit or storage.
- 7.) Containers shall be inspected and repaired at least monthly for loose fitting doors, damage to doors, seals or locking mechanisms, blocked vents, corrosion, leaks, frayed or ripped tarps on Open Top Containers, or other damage incurred during loading, Transport, handling and Disposal of Solid Waste.
- 8.) If a Chassis or Container becomes legally inoperable while being moved by the County, the County operator will uncouple the Chassis or Container from the Tractor, immediately notify the Contractor of the breakdown, and return to the Contractor Transfer Facility for a replacement Chassis or Container. The Contractor shall provide the replacement within one hour of such notification. The Contractor shall be responsible for removing and repairing the disabled Chassis or Container, and shall Transport and Dispose of its Solid Waste load.
- 9.) If the County damages a Chassis or Container during on-site Transport the County will reimburse the Contractor for all reasonable costs of repair or replacement.
- 10.) The Contractor shall provide Chassis and Containers in sufficient quantities to allow County operations to continue without delay in the event of scheduled or unscheduled maintenance. The Contractor shall provide

quarterly maintenance reports to the County. Such reports shall include a record of all scheduled and unscheduled maintenance performed on any Chassis or Container used in the Project during the previous quarter.

11.) Maintenance records shall be preserved for the term of this agreement plus three (3) years and made available for inspection upon the request of the County and/or the jurisdictional health department(s).

6.4 Scales

(A) The Contractor shall provide adequately sized truck scales and computerized record-keeping systems for weighing and recording all incoming and outgoing Containers at the Disposal Site.

(B) At the Disposal Site, the Contractor will prepare a weight ticket showing the date, Container number, time-in and time-out, Security Seal markings, and gross weight, tare weight and net weight of the Container. This information will serve as the basis of Payment for all services provided by the Contractor under this Contract. At the County's request, a copy of each weight ticket will be provided to the County.

(C) The Contractor shall weigh, record, and tabulate materials delivered pursuant to this Contract by Customer.

(D) The Contractor shall maintain the scales used for weighing Containers in accordance with the requirements set forth in *Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices*, U.S. Department of Commerce, National Institute of Standards and Technology, Handbook 44.

(E) The Contractor shall test the Disposal Site scales as required by Applicable Law or upon request of the County. At a minimum, the Contractor shall test the Disposal Site scales every six (6) months. At the County's request, the Contractor shall test the scales if the net weight of a Container at the Disposal Site varies by more than two percent (2.0%) from the net weight of such Container at the Receiving Facility.

(F) The Contractor will pay for the recalibration of scales excluding scales at the County Transfer Station.

(G) The Contractor will reimburse the County for any overpayment attributable to improper calibration, retroactive to the date of the County's request for the Contractor test the scales.

6.5 Alternative Operations Plan

(A) No later than sixty (60) calendar days after execution of the Contract, the Contractor shall submit to the County for approval a complete and detailed and satisfactory alternative operations plan for correcting, repairing or reconstructing any Facility that for any reason becomes incapable of performing its role pursuant to the Contract. This operations plan ("plans") shall be subject to review and approval by applicable County staff, and shall include provisions for alternative Facilities if necessary and shall be of sufficient detail to satisfy the County of the Contractor's ability to maintain operations in the event that Uncontrollable Circumstances prevent the use of the primary system, or if for any other reason the Contractor is unable to Receive, Transport, and/or Dispose of Solid Waste using the primary system pursuant to this Contract. The County shall not be responsible for additional costs related to the utilization of alternative Facilities unless otherwise specified in this Contract. The Contractor shall be responsible for procuring the alternative Facilities and any and all increases in costs, including, but not limited to, transportation costs, Disposal costs, and County capital and operational costs incurred due to the need for use of the alternative Facilities. The plans shall include but not be limited to:

- 1.) An inventory of alternative Receiving, Transportation, and Disposal Facilities;
- 2.) A listing of financial and technical resources for the implementation of the plan;
- 3.) A mobilization plan for each component of the alternative operations system;
- 4.) Copies of any operating permits for alternative Facilities and/or a timeline (to be updated annually) for receiving permits that have pending applications.

(B) All alternate Facilities shall be available from the first day that operations commence under this Contract. The alternative operations plan shall be updated and submitted for County approval on an annual basis. If no changes have occurred since the last submittal that affect any part of the alternative operations system, a report stating this fact and signed by the Contractor's representative will satisfy the requirement for the annual alternative operations plan update.

(C) The County's approval of the plan is not and shall not be construed as a limitation on Contractor's obligations pursuant to the provisions of the Contract.

6.6 Transition Support

The Contractor understands, acknowledges, and agrees that a smooth transition from one provider(s) to another is essential for the health and safety of the County, Cities and the residents thereof; the failure of the Contractor to timely and promptly transition the services provided pursuant to this Contract may create serious health and safety issues for County, Cities and residents thereof; and neither County nor Cities possess the necessary manpower or equipment to provide the services herein. Within thirty (30) calendar days after execution of the Contract, the Contractor shall submit to the County Representative for approval a satisfactory transition plan, subject to review and approval by applicable County staff. The plan shall include but not be limited to:

- (A) The transition from the current vendor to the Contractor providing services upon the date specified in Section 19;
- (B) The transition from the Contractor to subsequent person(s) or the County providing services upon expiration of the Contract; and,
- (C) The transition from the Contractor to subsequent person(s) or the County providing services upon termination of the Contract for reasons other than expiration of its term.

The Contractor shall cooperate fully and timely with the County and any previous and subsequent provider(s) in any transition of services. If the Contractor fails to fully and completely transition in accordance with this Contract and the transition plan, the County may engage the services of another provider to immediately fully and completely transition in accordance with this Contract and the transition plan, and Contractor shall pay the County any and all expenses of such transition. In the event the County is unable to secure the immediate services of another provider, the County may pursue any and all equitable and legal remedies available to it.

6.7 Solid Waste Acceptance and Transfer of Ownership

- (A) Customers shall prepare each Loaded Container at the Receiving Facility. Ownership of the Solid Waste within a Loaded Container shall pass to the Contractor at the Receiving Facility after the Contractor verifies that the Security Seal is intact and signs the County transaction ticket. After this transfer of ownership occurs, the Contractor shall be responsible for all duties, costs, and liabilities associated with managing the Solid Waste within the Container, except for such duties, costs, and liabilities that are the direct cause of Unacceptable Waste that was knowingly Loaded by the Customer into the Container.

(B) If a Container is collected at the Receiving Facility with a Security Seal that is not intact, the Contractor shall:

- 1.) Notify the County Representative within four (4) hours of discovery;
- 2.) Promptly inspect the Container in accordance with Article 10;
- 3.) Promptly install a replacement Security Seal on the Container marked with the same markings as the original seal; and
- 4.) Sign the County transaction ticket.

Ownership of the Solid Waste within a Loaded Container shall pass to the Contractor at the Receiving Facility after the Contractor verifies that the Security Seal is intact and signs the County transaction ticket. After this transfer of ownership occurs, the Contractor shall be responsible for all duties, costs, and liabilities associated with managing the Solid Waste within the Container, except for such duties, costs, and liabilities that are the direct cause of Unacceptable Waste that was Loaded by the Customer into the Container. If the net weight of the Container is greater than the net weight indicated on the transaction ticket, the County will reimburse the Contractor for any such increase.

(C) If a Container is delivered to the Contractor Receiving Facility with external evidence (such as smoke or extreme heat) that the Container might contain hazardous or explosive material, the Contractor shall take steps necessary to protect its employees and the public from potential hazard. The County will reimburse the Contractor for all costs associated with managing and Disposing of

6.8 Performance Bond

(A) The Contractor shall provide at the execution of the Contract and maintain for the term of the Contract a performance bond from a bonding company, financial institution or other entity approved by the County. Said bond shall be (i) a contract performance bond substantially in the form of **Exhibit B**, or (ii) a standby letter of credit from a financial institution whose long-term debt is rated in one of the three highest categories by a nationally recognized rating agency (e.g., Standard & Poor's rating of AAA, AA or A), or (iii) any other financial guarantee or type of bond or letter of credit that is approved by the County. The initial amount of the bond or other financial guarantee provided under this subsection shall be five hundred thousand dollars (\$500,000); however, within thirty (30) days of the date the Contractor receives a notice to proceed with service under the Contract, the bond or other financial guarantee shall be replaced or increased to a minimum amount of fifteen million dollars (\$15,000,000) for the first year of service under the

Contract, and the Contractor shall provide County with proof of replacement of initial bond within sixty (60) days. Thereafter, the Contractor shall replace or maintain the bond in an amount equal to seventy percent (70%) of the total revenues paid by the County to the Contractor under this Contract for the previous year of operations. Except for the initial five hundred thousand dollar (\$500,000) bond, the bond shall be issued for a period of not less than one (1) year; the Contractor shall provide a new bond, or evidence satisfactory to the County of the bond's renewability, at least one hundred eighty (180) days before the bond then in effect expires.

(B) Any bond under this Section shall automatically terminate on the expiration of the Contract. Notwithstanding that termination, at any time within two (2) years after the date any bond terminates, the County may make a claim against the bond to compensate for the Contractor's failure to perform its obligations under the Contract. For purposes of this Article the word "bond" shall mean any bond, letter of credit or other financial guarantee referred to in this Article and provided to guarantee or provide the funds to guarantee the performance of the Contractor's obligations under this Contract. All bonds given under this Article that are signed by the Surety's agent must be accompanied by a certified copy of that agent's authority to act for the Surety at the time the bond is signed. The County must approve in writing the Surety providing, and the form and substance of, all bonds. The Contractor may satisfy the bond obligations under this Article by providing bonds from one or more bonding companies meeting the qualifications set forth in this Article.

6.9 Closure and Post-Closure Financial Assurance

The Contractor shall be responsible for all closure and post-closure costs relating to the Facilities. The Contractor shall establish and maintain at its sole expense any closure and post-closure financial assurance now or hereafter required under any applicable federal, state or local law or regulation. The Contractor shall use the money (funds) in the financial assurance, including any interest earnings thereon, to guarantee proper closure and post-closure activities and to provide for the mitigation of environmental effects of the Receiving Facility and the Disposal Site. Funds (money) in the financial assurance shall be disbursed in accordance with laws and regulations of the State of Washington or other applicable law.

6.10 Records; Reporting

(A) The Contractor shall keep accurate records of all transactions connected with this Contract including, but not limited to, all correspondence and invoices and transaction tickets issued at a Contractor Receiving Facility or a Disposal Site. The Contractor shall at all times maintain an accounting system that uses generally accepted accounting principles for all services rendered and materials supplied in connection with this Contract. The requirements of this Section are supplemental to the Contractor's obligations and duties concerning public records pursuant to

applicable law (including RCW 42.56).

(B) The Contractor shall provide to the County by the fifteenth (15th) day of each month a report for the preceding month summarizing routine and extraordinary activities during the prior month and plans and schedules for future activities. The monthly report shall include, but not be limited to:

- 1.) The condition of the Facilities;
- 2.) Any complaints submitted to the Contractor, including but not limited to the date and time of the complaint, description of the complaint, the date and time of resolution of the complaint, and description of the resolution of complaint;
- 3.) Any extraordinary occurrences affecting the Contractor's performance including but not limited to occurrences affecting the Facilities;
- 4.) Documentation regarding deliveries of materials to Receiving Facility including date of delivery to the Receiving Facility, date of Disposal at the Disposal Site, Customer name, type of Solid Waste, tonnage of Solid Waste, type of Container (i.e. Closed Top Container or Open Top Container), Compacted Container or Uncompacted Container, and other information as requested by the County Representative.
- 5.) Copies of transaction tickets, invoices and/or receipts for the month;
- 6.) Changes in the status and readiness of alternate Facilities;
- 7.) Documentation regarding Unacceptable Waste as required in the Contract;
- 8.) Maintenance reports as required in the Contract;
- 9.) Accidents reports as required in the Contract; and
- 10.) Violations of permits, laws or regulations.

(C) The Contractor shall provide to the County, on a daily basis by 4:00 p.m., PST, the number and location of all Chassis and empty Containers used in the performance of this Contract.

(D) The Contractor shall provide to the County, on a weekly basis, a cumulative report of the matters specified in Subsection 6.10(B)(4) for the previous week, up to the day prior to the report.

6.11 Accidents; Complaints

The Contractor shall be responsible for all injuries, accidents and other mishaps associated with its operations that are not caused by the negligence of the County. The Contractor shall report any accidents resulting from the performance of this Contract to the County as soon as practicable. For purposes of this Section, "accident" shall include the death of any person, any personal injury resulting in inpatient hospitalization or outpatient treatment by a physician or damage to any real or personal property exceeding \$5,000. Within seven (7) days of an accident, the Contractor shall report in writing to the County complete details of the accident including witness statements. The Contractor shall respond in a reasonable manner to complaints, charges and allegations related to Contractor's performance under the Contract within one (1) Business Day of receipt of the complaint, charge or allegation, including but not limited to those complaints made or actions brought by members of the public, citizens, citizen groups and/or public agencies.

The Contractor shall deliver to the County a report of all complaints submitted that shall include but not be limited to the name and address of the complainant, the substance of the complaint including the activity or service at issue, the action, if any, the Contractor has taken to investigate or remedy the problem or an explanation of why no action has been taken.

6.12 Other Customers

For purposes of assuring that Contractor's use of the Facilities under other contracts will not adversely affect Contractor's performance under this Contract, by February 1 of each year, beginning February 1, 2026, the Contractor shall provide a report to the County listing all contracts with public and private customers which have utilized the Contractor's equipment, including, but not limited to Containers and Chassis.

6.13 Payment of Subcontractors and Agents

Unless a reasonable dispute exists concerning payment, the Contractor shall promptly pay all subcontractors, materialmen, suppliers or laborers engaged for purposes of this Contract in accordance with the contract or agreement between that Person and the Contractor.

6.14 Scheduling; Management; Quality of Performance

The Contractor shall coordinate, schedule in an orderly manner and manage all work done by Contractor's officers, employees, subcontractors and agents under this Contract. The Contractor and subcontractors shall perform every act or service under this Contract in a skillful and competent manner in accordance with the highest standards of the Solid Waste Receiving, Transportation and Disposal industries. The Contractor shall be responsible to the County for any errors, deficiencies or failures to perform under this Contract. All workers and subcontractors shall be skilled in their trades. All operators shall be licensed or otherwise qualified as required by law. The Contractor shall furnish evidence of the skill and licenses of its officers, employees, subcontractors and agents on the request of the County.

6.15 Spillage, Leakage, Litter and Odor, and Other Nuisances.

- (A) The Contractor shall be responsible for the cleanup of any spillage or leakage

caused by the Contractor or the Contractor's employees or subcontractors. The Contractor shall clean up any materials including leakage of fluids spilled while performing services under this Contract. During Transport, the Contractor shall ensure all materials are contained, covered and enclosed to prevent leaking, spilling, or blowing of materials. The Contractor shall immediately respond to and shall promptly and timely perform all clean-ups when the Contractor or the Contractor's employees or subcontractors learns (for avoidance of doubt, whichever learns first) of the spilling, leaking, etc.

(B) The Contractor shall be required to pick up all litter caused by services in connection with this Contract.

(C) The Contractor shall maintain the Receiving Facility and equipment located in the County in a manner that prevents odors. The Contractor shall routinely clean equipment at the Receiving Facility and equipment located in the County in a manner that prevents odors.

(D) The Contractor shall ensure that nuisances are not caused by the Contractor or the Contractor's employees or subcontractors while performing services under this Contract.

(E) Hazardous, Toxic or Harmful Substances. The Contractor shall at Contractor's own sole and separate cost, expense, and liability, comply with all hazardous waste laws, rules, and regulations and shall treat, store, dispose of or otherwise handle hazardous substances in a safe and proper manner and the Contractor shall not allow or cause any hazardous, toxic or petroleum materials to be disposed or discharged on any portion of the Facilities. As also further defined at Section 1.21., the term "hazardous substance", "hazardous waste", or "hazardous material" shall specifically include, but shall not be limited to petroleum and petroleum products and their by-products, residue, and remainder in whatever form or state, and any other material or substance which does cause or may cause environmental pollution or contamination (and associated liability and clean-up costs related thereto) as defined under applicable state and federal laws, rules, and regulations. The Contractor shall be solely and separately liable responsible for the remediation of any hazardous materials that are spilled or discharged on or about the Facilities that are caused by the actions or activities of the Contractor, Contractor's employee(s), subcontractor(s) and/or agent(s). Contractor shall indemnify, defend and hold the County harmless from any fines, suits, procedures, claims, costs, damages, expense, and actions of any kind arising out of or in any way connected with any releases, spills or discharges of hazardous substances or waste at the Facilities occurring, arising from, and/or related to the Contractor's use, occupation, and/or operation of the Facilities.

This indemnity includes, but is not limited to: (a) liability for a governmental agency's (including but not limited to the County's) costs of removal or remedial

action for hazardous substances; (b) damages to natural resources caused by hazardous substances, including the reasonable costs of assessing such damages; (c) liability for any other person's costs of responding to hazardous substances; and (d) liability for any costs of investigation, abatement, mitigation, correction, cleanup, fines, penalties, or other damages arising under any environmental laws.

Contractor shall: (1) Immediately notify the County of (i) all spills or releases of any hazardous substances affecting the Facilities, (ii) all failures to comply with any federal, state or local law, regulation or ordinance, as now enacted or as subsequently enacted or amended, (iii) all inspections of the Facilities by, or any correspondence, orders, citations or notifications from any regulatory entity concerning the hazardous substances affecting the Facilities, (iv) all regulatory orders or fines or all response or interim cleanup actions taken by or proposed to be taken by any government entity or private party concerning the Facilities; and

(2) On request, provide copies to the County of any and all correspondence, pleadings, and/or reports received by or required of Contractor or issued or written by Contractor or on behalf of Contractor with respect to the use, presence, transportation or generation of hazardous substances related to the Facilities. The terms of this Section shall survive the termination or expiration of this Contract.

6.16 Ancillary Use of Facilities by Contractor

The Contractor may use Facilities for its own purposes if used in accordance with all applicable federal, state and local laws and regulations and provided that said use does not interfere with the Contractor's performance under this Contract. If the Facilities are used in such manner, the Contractor shall be solely liable and responsible for all losses, damages, costs, charges, expenses, judgments or any liabilities whatsoever resulting from that use.

ARTICLE 7 COUNTY AND OTHER CUSTOMER RESPONSIBILITIES

7.1 Processing and Delivery of Solid Waste

(A) During operations at the County Transfer Stations, the County will load Acceptable Waste into Containers. The County will store Loaded Containers at the Receiving Facility with County tractors and Contractor Chassis.

(B) Prior to storing a Loaded Container at the Receiving Facility the Customer shall:

- 1.) Close the Container;
- 2.) Prepare and install a Safety Seal for the Container; and
- 3.) Prepare a bill of lading for the Container.

(C) If the County or other Customer do not create or install a Security Seal, the Contractor shall install a replacement Security Seal on the Container and follow the procedures set forth in Section 6.7(B).

(D) The County will provide and operate all equipment necessary for County Transfer Station operation. Containers and Chassis shall be provided by and remain the property of the Contractor.

(E) The Customers will provide the Tractors necessary to Transport and store Containers on-site at the Receiving Facility.

7.2 Minimum Average Annual County Compacted Container Weight

The County shall compact through hydraulic compaction or backhoe compaction Acceptable Waste accepted at County Transfer Stations prior to storing at the Receiving Facility. The County agrees that the average annual County provided Compacted Container weight, for hydraulic compaction, shall be at least twenty-six (26) tons. The County shall calculate the average Compacted Container weight on or before January 31st for each preceding year beginning January 31, 2026, and for each twelve-month period ending during the term of the Contract. The average Compacted Container weight shall be calculated as the total weight of all County provided Compacted Containers accepted by the Contractor divided by the total number of County provided Compacted Containers accepted by the Contractor during the given time period.

7.3 Rejection of Facilities

The County may reject a Facility, including but not limited to Containers or Chassis, which it reasonably believes is not roadworthy or otherwise does not conform to the Contract.

7.4 Weighing and Transaction Tickets

The County shall weigh each Loaded Container to be delivered from the County Transfer Station to the Receiving Facility. After each Loaded Container is weighed, the County will prepare a transaction ticket bearing the time, date, Security Seal markings, and net weight of the Container. Such transaction tickets will serve as the basis for the reconciliation of the difference between the Contractor's net weights as stated on the Contractor's weight tickets, and the County's net weights as stated on the County's corresponding transaction tickets. Two copies of the transaction ticket will be provided to the Contractor at the time that the Contractor accepts ownership of the Solid Waste pursuant to Section 6.7.

7.5 Flow Control

The Contractor shall comply with Island County's flow control regulations pursuant to applicable laws directing all Acceptable Waste generated and collected in the County to the County System.

7.6 Not a Put or Pay Contract (No Minimum Tonnage Guaranteed).

The Contractor and the County agree this is not a “put or pay” contract. The Contractor and the County agree there is no minimum tonnage that the County is required to deliver to the Contractor under this Contract, and the County makes no guarantees, representations and/or warranties (express or implied) in this regard.

7.7 Right to Establish Diversion Programs

The Contractor and the County agree that the County reserves the right to establish diversion programs. The Contractor and the County agree that nothing contained in this Contract shall be construed to prevent the County from establishing diversion programs that, recycles, composts, or otherwise diverts all or a portion of Acceptable Waste.

ARTICLE 8 TIPPING FEES AND CONTRACTOR COMPENSATION

8.1 Calculation of Tipping Fees

For each Loaded Container accepted by the Contractor at the Receiving Facilities, Transported from the Receiving Facility to the Disposal Site, and Disposed at the Disposal Site, the County shall pay Contractor a Receiving Services and Transport Services Fee and Disposal Services Fee based on the net weight reported by the scale at the Disposal Site. For each Loaded Container delivered by Customer directly to the Disposal Site and Disposed at the Disposal Site by the Contractor, the County shall pay Contractor a Disposal Services Fee based on the net weight reported by the scale at the Disposal Site. The Contractor shall not receive payment for any fees other than those specifically identified in **Exhibit A**.

8.2 CPI Fee Adjustments

All fees in Exhibit A and in Section 8.2 shall remain fixed from through _____. On February 1, 2026 and every February 1st thereafter for the term of the Contract, all fees in **Exhibit A** may be increased or decreased in accordance with this section upon approval of the County. The adjustment, if any, shall be effective February 1st of each year. The adjustment shall be calculated by multiplying the fee in the immediate preceding calendar year by seventy percent (70%) of the change in the Consumer Price Index for the previous calendar year. In the event that the standard reference base period of the CPI is changed, the annual adjustment shall reflect the new base period in the first calendar year the new base period is available. Any unresolved dispute regarding any other change in the definition or calculation of the CPI that materially affects the CPI Fee Adjustment under this Article shall be resolved by arbitration in accordance with Article 15 of the Contract.

8.3 Payment

(A) The Contractor shall provide to the County by the tenth (10th) day of each month an invoice (both a hard copy and a data file) in a format acceptable to the County and accompanied by supporting documentation as required by the County for services performed by the Contractor under this Contract in the preceding month. The invoice shall include (i) the tonnage and count of Compacted Loads of Solid Waste accepted at each

Receiving Facility, (ii) the tonnage and count of Uncompacted Loads of Solid Waste accepted at each Receiving facility, (iii) average weight of Compacted Loads, (iv) average weight of Uncompacted Loads, (v) description of condition of Facilities, (vi) copies of County transaction tickets, (vii) documentation of Unacceptable Waste; and (viii) changes in Alternative Operations Plan. The County shall pay the Contractor electronically (ACH) for the previous month's service by the last Business Day of the month in which the invoice is received. If any amount is disputed, the County may withhold payment of that disputed amount pending resolution. The County shall otherwise promptly pay invoices received in the ordinary course of business.

(B) All unresolved disputes concerning the calculation of or adjustment to payments based on the Tipping Fees shall be resolved by arbitration in accordance with Article 15. However, the undisputed portion of the fee (or fees) shall be made effective promptly; further adjustment shall be made effective on the resolution of the dispute under Article 15. In addition to any portion of the disputed amount ultimately awarded, the arbitrator may also award to the Contractor reasonable interest on the disputed amount from the date the Tipping Fee component or Payment adjustment was effective. The interest award may be made by means of a further increase or decrease in the payment made to the Contractor.

(C) Upon acceptance of payment, the Contractor waives any claims for the services covered by the Invoice. No advance payment shall be made for the services furnished by Contractor pursuant to this Contract.

8.4 Calculation Rounding

Rounding for calculations shall be done to the nearest hundredth. For example: 8.355 shall be rounded to 8.36, and 8.354 shall be rounded to 8.35.

ARTICLE 9 ALLOCATION OF RISK; UNCONTROLLABLE CIRCUMSTANCES

9.1 Contractor Reliance

The Contractor warrants that prior to submitting Contractor's response to the request for proposals (and executing this Contract), that Contractor has examined carefully and acquainted itself with:

- (A) all Contract Documents;
- (B) the Project;
- (C) the Facilities;
- (D) the difficulties that may be encountered in performing the Project;

- (E) all applicable federal, state and local laws, regulations, ordinances, codes and rules.

9.2 County Disclaimer

The County does not warrant or admit the correctness of any investigation, interpretation, deduction or conclusion by the Contractor relative to the condition or conditions of the Disposal Site or other Facilities. The Contractor has made and shall make its own deductions and conclusions as to any and all problems that may arise from Facility site conditions and shall accept full legal responsibility and liability for those conditions.

9.3 Uncontrollable Circumstances

(A) Notification; Damaged Facilities Plan. Within twenty-four hours of the occurrence of an Uncontrollable Circumstance, the knowledgeable party shall notify the other of the event. If the occurrence of the Uncontrollable Circumstance damages, destroys or otherwise incapacitates the Facilities, the Contractor shall, at the earliest practicable time, activate the alternative operations plan prepared in accordance with the Contract. If the Uncontrollable Circumstance or the damage to the Facilities is not provided for in that plan, the Contractor shall submit to the County as soon as practicable a plan for correcting, repairing or reconstructing the affected Facilities.

(B) Obligation to Provide Alternate Facilities. If the Contractor on the occurrence of an Uncontrollable Circumstance, cannot or fails to provide services under this Contract with the primary Facilities, the Contractor shall make available to the County alternate Facilities at the prevailing fees in effect at the primary Facility when the event occurs.

(C) Fees for Alternative Facilities. Subject to the conditions and limitations of Article 8, fee components may be increased to reflect additional costs incurred because an alternate Facility must be used due to an Uncontrollable Circumstance. If the reasonable actual increased cost of remedying the effects of any Uncontrollable Circumstance will or is estimated to increase the fees more than twenty-five percent (25%), or, in the event of an increase in or imposition of a State/Local Solid Waste Handling Fee that exceeds twenty-five percent (25%) of the fees not including that State/Local Solid Waste Handling Fee, the County may use other alternate Facilities.

(D) Disputes. Unresolved disputes concerning the calculation of the cost of remedying the effects of an Uncontrollable Circumstance under this Section shall be resolved by arbitration in accordance with Article 15.

9.4 Insurable Uncontrollable Circumstances

If any of the Facilities are damaged or destroyed due to events for which the Contractor is obligated to carry insurance, the Contractor shall act diligently to promptly collect and apply

insurance proceeds to the correction or reconstruction of those Facilities.

ARTICLE 10 INSPECTION OF SOLID WASTE; UNACCEPTABLE WASTE

10.1 Solid Waste Inspection at Disposal Site; Handling of Suspected Unacceptable Waste

The Contactor may inspect all delivered Loaded Containers for the presence of Unacceptable Waste. If the Contractor removes the Security Seal during an inspection for the presence of Unacceptable Waste, the Contractor shall notify the County with one (1) hour of its removal and install a replacement Security Seal on the Container marked with the same markings as the original seal upon completion of the inspection if such Solid Waste shall not be immediately disposed at the Disposal Site. The County may be present to observe any inspection conducted under this Article and may at its sole discretion and cost inspect any Solid Waste or Unacceptable Waste delivered to the Disposal Site under this Contract. If the Contractor discovers Unacceptable Waste in a Loaded Container, the Contractor shall:

- (A) First, notify the County of the discovery of the Unacceptable Waste within one (1) hour of the discovery;
- (B) Second, gather, preserve, maintain and make available to the County all evidence demonstrating that the Unacceptable Waste was delivered to the Contractor pursuant to this Contract including without limitation to the following:
 - 1.) The time the Loaded Container was delivered to the Disposal Site;
 - 2.) The Security Seal number on that Loaded Container;
 - 3.) Photographs of the Unacceptable Waste that might establish that the Solid Waste is Unacceptable Waste and was delivered pursuant to this Contract;
 - 4.) Samples of Acceptable Waste from the Loaded Container that may demonstrate that the Loaded Container was delivered pursuant to this Contract;
 - 4.) Other evidence that may demonstrate the origin of the Unacceptable Waste;
 - 5.) Laboratory results (if any);
 - 6.) Other documentation provided by federal, state, or local authorities; and
 - 7.) Other documentation the County reasonably believes is relevant.

(C) Third, test or arrange to have tested at the Contractor's own expense the Unacceptable Waste if required to prove to the County's satisfaction that such Solid Waste is Unacceptable Waste;

(D) Fourth, provide notice to the County of the Unacceptable Waste, after which the County may elect to do any or all of the following:

- 1.) Inspect that Unacceptable Waste within seventy-two (72) hours of the Contractor's notice to the County of the existence of that Unacceptable Waste,
- 2.) Test the Unacceptable Waste within a reasonable period of time; and
- 3.) At any time after the discovery of the Unacceptable Waste examine all other evidence gathered by the Contractor under Section 10.1 (B), above. For purposes of any inspection conducted pursuant to this Section 10., the County shall have unrestricted access to the Disposal Site and/or any other site or facility at which the Unacceptable Waste is located; and

(E) After completion of Section 10.1 (D) by County, Dispose of the Unacceptable Waste and seek reimbursement from the County for the actual reasonable cost of that Disposal in accordance with Section 10.2.

10.2 Liability for Testing, Inspecting, Handling and/or Disposing of Unacceptable Waste

If, after inspecting and/or testing the Solid Waste delivered under this Contract the Contractor discovers no Unacceptable Waste, or discovers that the Unacceptable Waste was not delivered to the Disposal Site under this Contract, the Contractor shall Dispose of that Solid Waste at no additional cost to the County and shall reimburse the County for the County's costs, if any, of inspecting and/or testing that Solid Waste including but not limited to laboratory fees, Transportation and handling costs and the inspector's food, transportation, lodging and labor costs. If Unacceptable Waste is discovered and there is reasonable proof satisfactory to the County that the Unacceptable Waste was delivered to the

Disposal Site under this Contract, the County shall pay or reimburse the Contractor for, subject to the limitations and conditions of this Article, the actual reasonable cost of the inspection, testing, identification, handling and Disposal of that Unacceptable Waste.

Payment or reimbursement by the County will only be made if the Contractor:

(A) complies with the requirements of this Article including but not limited to Subsections 10.1(A) through (E), above;

(B) assists the County to the extent possible in ascertaining the Person previously owning or responsible for the delivery of the Unacceptable Waste; and

(C) documents its actual costs, the reasonableness of those costs and that the costs represent the least costly method of inspecting, testing, identifying, handling and/or Disposing of the Unacceptable Waste in compliance with applicable federal, state or local law.

10.3 Any payment or reimbursement made by the County to the Contractor under this Section shall be paid in four (4) consecutive quarterly installments or a single lump sum payment at the County's sole discretion. The first installment or the lump sum payment shall be paid on the fifteenth day of January, April, July or October, whichever date first occurs a minimum of ninety (90) calendar days after all costs for the Unacceptable Waste are documented and submitted to the County. The County shall not pay the Contractor any interest accruing on any payment due under this Article. Any unresolved disputes arising under this Article relating to the Contractor's actual reasonable costs shall be resolved by arbitration in accordance with Article 15.

ARTICLE 11 INDEMNIFICATION

11.1 Indemnification of County

To the maximum extent allowed by law, the Contractor and Contractor's agents, subcontractors, and successors, will otherwise protect, save and hold harmless the County, the County's agents, employees, contractors, elected officials, and volunteers, from any and all claims, actions, costs, damages, or expenses of any nature whatsoever by reason of the acts or omissions of the Contractor, the Contractor's agents, contractors, subcontractors, licensees, invitees, employees, arising out of or in connection with any acts or activities related to this Contract, whether such claims, actions, costs, damages, or expenses result from acts or activities occurring on, at, and/or away from the Facilities.

Contractor further agrees to defend the County, its agents, employees, contractors, elected officials, and volunteers in any litigation, including payment of any costs or attorneys' fees, for any claims or actions commenced, arising out of, or in connection with acts or activities related to this Contract, whether such claims, actions, costs, damages, or expenses result from acts or activities occurring on, at, and/or away from the Facilities. To the maximum extent allowed by law, the Contractor agrees to indemnify, defend and hold the County, its agents, officers and employees, harmless from and shall process and defend at Contractor's own expense all claims, demands, or suits at law or equity arising out of the Contractor's negligent performance or failure to perform any and all duties prescribed by this Contract. This obligation shall not include such claims, costs, damages, or expenses which are caused by the sole negligence of the County. If applicable, Contractor's indemnification obligations include assuming potential liability for actions brought by Contractor's own employees and the employees of Contractor's agents, representatives, contractors, and subcontractors even though Contractor might be immune under Title 51

RCW from direct suit brought by such employees. It is expressly agreed and understood that this assumption of potential liability for actions brought by the aforementioned employees is limited solely to claims against the County arising by virtue of Contractor's exercise of the rights set forth in this Agreement. The obligations of Contractor under this section have been mutually negotiated by the parties, and Contractor acknowledges that the County would not enter into this Agreement without Contractor's waiver. To the extent applicable and required to provide this indemnification and this indemnification only, Contractor waives Contractor's immunity under Title 51 RCW as provided in RCW 4.24.115.

11.3 Notice to Contractor

In the event an action is brought against the County for which indemnity may be sought against the Contractor, the County shall notify the Contractor in writing within a reasonable period of time.

11.6 Royalties; License Fees; Patents

The Contractor shall pay all royalties and license fees, shall defend all suits or claims for patent infringements that may occur in the performance of this Contract and shall defend, indemnify, and hold th County harmless from any loss on account thereof.

11.7 No Waiver

Except as otherwise expressly stated herein, the parties do not under this Article waive or surrender immunity available under any federal, state, regional or local law. This Article shall survive termination or expiration of the Contract.

ARTICLE 12 INSURANCE

12.1 General; Minimum Scope and Limits of Insurance

The Contractor shall procure and maintain for the duration of the term of this Contract, insurance, or provide self-insurance, against all claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges and authority granted hereunder to the Contractor, its agents, representatives or employees. The Contractor shall provide evidence of self-insurance and/or an insurance certificate, that also names the County, its officers, elected officials, agents, employees, representatives, engineers, consultants and volunteers as additional insureds, to the County prior to the commencement of any use or operation of the Facilities by Contractor. Such self-insurance and/or insurance certificate shall evidence the following minimum coverages. All required insurance shall be obtained from companies rated "A-" or better in "A.M. Best's Insurance Guide," or an equivalent rating by similar rating agencies, and shall be from insurers authorized to transact business in the State of Washington. In no event shall the limits of any insurance policies be construed as limiting the liability of the Contractor.

- A. Comprehensive general/excess liability insurance including coverage for premises - operations, explosions and collapse hazard, underground hazard

and products completed hazard, with limits not less than:

- (1) \$10,000,000 (ten million dollars) per occurrence and in the aggregate for bodily injury or death to each person;
- (2) \$10,000,000 (ten million dollars) for property damage resulting from any one accident; and
- (3) \$10,000,000 (ten million dollars) for general liability.

B. Automobile liability for owned, non-owned and hired vehicles with a limit of \$5,000,000 (five million dollars) for each person and \$5,000,000 (five million dollars) for each accident;

C. Worker's compensation within statutory limits and employer's liability insurance with limits of not less than \$2,000,000 (two million dollars); and

D. Environmental/Pollution liability with a limit not less than \$10,000,000 (ten million dollars) for each occurrence, at a minimum covering liability from sudden and/or accidental occurrences.

12.1.1 If coverage is purchased on a "claims made" basis, then the Contractor shall warrant continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date termination of this Contract, and/or conversion from a "claims made" form to an "occurrence" coverage form. The required liability limits may be met under a primary or an excess policy, or any combination thereof.

12.2 Any deductibles or self-insured retentions must be declared to the County, if requested by the County. Payment of deductibles and self-insured retentions shall be the sole responsibility of the Contractor. The insurance certificate required by this Section shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

12.3 The Contractor's insurance shall be primary insurance with respect to the County, its officers, officials, employees, agents, consultants, and volunteers. Any insurance maintained by the County, its officers, officials, employees, consultants, agents, and volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.

12.4 In addition to the coverage requirements set forth in this Section, the certificate of

insurance shall provide that:

“The above described policies will not be canceled before the expiration date thereof, without the issuing company giving sixty (60) days written notice to the certificate holder.”

In the event of said cancellation or intent not to renew, the Contractor shall obtain and furnish to the County evidence of replacement insurance policies meeting the requirements of this Section by the cancellation date.

12.5 Non-Separation of Insureds

The Contractor shall include all Subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements for each Subcontractor. Insurance coverages provided by Subcontractors (in lieu of the Contractor) as evidence of compliance with the requirements of this Contract shall be subject to all of the requirements stated herein.

12.6 Failure to Provide Insurance

Failure on the part of the Contractor to maintain insurance as required shall constitute a default of Contract upon which the County may, after giving five (5) working days' notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid by Contractor to the County on demand, or at the sole discretion of the County, offset against funds due the Contractor.

12.7 Required Coverage for Marine Operations

In the event of barge or other marine operations, the Contractor shall contact the County in advance of said operations and comply with all insurance requirements determined by the County's Risk Manager relative to said Marine Operations (potentially including, but not necessarily limited to adequate USL&H coverage).

12.8 Insurance Review

In consideration of the duration of this Contract, the parties agree that the Insurance section herein, at the discretion of the County Risk Manager, may be reviewed and adjusted with each amendment and within ninety (90) days of the end of the first ten (10) year period of the Contract and the end of each successive five (5) year period thereafter. Any adjustments made as determined by the County Risk Manager shall be in accordance with reasonably prudent risk management practices and insurance industry standards and shall be effective on the first day of each successive five (5) year period.

Adjustment, if any, in insurance premium(s) shall be the responsibility of the Contractor. Any failure by the County to exercise the right to review and adjust at any of the aforementioned intervals shall not constitute a waiver of future review and adjustment intervals. **The Contractor shall not begin work, and the Contract is not considered to be final unless and until the certificates of insurance (described herein) with endorsements have been provided by the Contractor to the County and duly approved by the Island County Risk Manager's office.**

ARTICLE 13

COORDINATION MEETINGS

13.1 Initial Coordination Meeting

Prior to the commencement of services under this Contract, the Contractor, County, principal subcontractors and others requested by either party shall meet to discuss scheduling, processes, materials, change orders, personnel and any other matters the parties deem appropriate.

13.2 Periodic Coordination Meetings and Reports

The County and the Contractor shall hold periodic coordination meetings but no less than one every three (3) months to review the progress of the work and to discuss operations, problems and/or complaints made by third parties. Either the County or the Contractor may organize, call and notify the other party of that meeting. The County and the Contractor shall submit monthly reports to each other regarding operations, problems and/or complaints arising under the Contract.

ARTICLE 14

DISPUTE RESOLUTION; DEFAULT; & REMEDIES

14.1 Dispute Resolution.

14.1.1. The parties recognize that cooperation and communication are essential to resolving issues quickly and efficiently. If any dispute arises in regard to the material terms or conditions of this Contract, then the parties shall meet and engage in good faith discussions with the objective of settling the dispute within ten (10) business days after either party requests such a meeting. If the parties cannot resolve the dispute within such ten (10) business day period, the parties will, upon the written request of either party and written notice to the other party of the disputed material term of the Contract, seek to resolve the dispute in accordance with the following dispute resolution process:

Level One – A representative from Contractor and the County shall meet to discuss and attempt to resolve the dispute in a timely manner. If these representatives cannot resolve the dispute within ten (10) business days after referral of the dispute to Level One, either party may by written notice to the other party refer the dispute to Level Two.

Level Two – In the event either party properly refers the dispute to Level Two, a new Contractor representative and a new County representative shall meet to discuss and attempt to resolve the dispute in a timely manner. If these representatives cannot resolve the dispute within ten (10) business days after referral of the dispute to Level Two, either party may by written notice to the other party refer the dispute to Level Three.

Level Three – In the event either party properly refers the dispute to Level Three, the parties shall refer the dispute to mediation using a mediator mutually agreeable to the parties. If mediation does not resolve the dispute within ten (10) business days after referral of the dispute to Level Three, either party may by written notice to the other

party refer the dispute to Level Four.

Level Four – In the event either party properly refers the dispute to Level Four or the dispute is not resolved at Level Three within ten (10) business days after referral of that dispute to Level Three, either party may seek resolution of the dispute through litigation or other judicial proceedings in Island County Superior Court.

14.1.2 Subject to the terms of Section 14.2 (below), if Contractor shall fail to comply with a material provision of this Contract, the County may provide Contractor a written order to so comply within thirty (30) days from the date such order is received by Contractor. If Contractor is not in compliance with this Contract after expiration of said thirty (30) day period, the County may, by resolution of the Board of Commissioners, declare an immediate forfeiture and termination of this Contract. The County and Contractor shall, as may be reasonably practicable, continue to perform their respective obligations under this Agreement while a dispute is pending.

14.2. Default; Enforcement and Remedies.

No provision of this Contract shall be deemed to bar the right of the County to seek or obtain judicial relief from a violation of any provision of the Contract (including, but not limited to, the terms of Section 14.1. [above], or Section 15. [below]). Failure of the parties to comply with the terms of this Contract shall constitute default. Neither the existence of other remedies identified in this Contract nor the exercise thereof shall be deemed to bar or otherwise limit the right of the County to recover monetary damages for such violations by the Contractor, or to seek and obtain judicial enforcement of the Contractor's obligations by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity. Time is specifically declared to be of the essence of this Agreement and of all acts required to be done and performed by the parties hereto.

14.3 Contractor's Bankruptcy/Receivership

If during the term of this Contract the Contractor becomes insolvent, is dissolved, files a petition under any bankruptcy statute, is the debtor in any involuntary bankruptcy case that is not dismissed within sixty (60) days after the petition commencing that case is filed, makes a general assignment for the benefit of creditors, or if a receiver is appointed for the benefit of its creditors or on account of its insolvency, that event could impair or frustrate the Contractor's performance of this Contract. Therefore, it is agreed that on the occurrence of any one or more of those events, the County shall be entitled to request of Contractor or its successor-in-interest adequate assurance of future performance in accordance with the terms and conditions of this Contract. Failure of Contractor and Surety to comply with that request within ten (10) calendar days of service on both Contractor and Surety of a written request from the County for that assurance shall entitle the County to terminate or suspend Contractor's performance of the Contract. The County shall not be bound to the Contract by any trustee or receiver appointed to take possession of any of the Facilities or the Contractor's business.

14.3 No Waiver by County

Nothing in this Article, and no actions taken pursuant to this Article shall constitute a

waiver or surrender of any rights, remedies, claims or causes of action the County may have against Contractor or its Surety under any other provision of this Contract or any provision of law.

14.4 Termination of Contract

Subject to the provisions of Article 9, if an Uncontrollable Circumstance occurs and prevents the County or the Contractor from performing the Contract (except for an increase in or imposition of a State/Local Solid Waste Handling Fee enacted by the County or a change in County law that makes performance impossible), the County shall have the right, in its sole discretion, to terminate this Contract.

ARTICLE 15 ARBITRATION, VENUE; & GOVERNING LAW

15.1 Arbitration for Calculations

Subject to the terms of Section 14.2. (above), and the conditions and limitations of this Article, controversies or claims arising out of or relating to the Tipping Fee, Payment or other calculations under this Contract and any other unresolved disputes designated for arbitration in the Contract may (by mutual agreement of the parties) be exclusively settled by arbitration under the laws of the State of Washington, in accordance with the Commercial Arbitration Rules of the American Arbitration Association. All other controversies and claims shall be decided exclusively by the Superior Court of the State of Washington in Island County, Washington. The decision of the arbitrator shall be final and binding on both parties and the Surety.

15.2 One Arbitrator

All arbitrated disputes shall be heard and decided by one (1) arbitrator.

15.3 Limited Consolidation

There shall be no consolidation of any arbitration between the County and the Contractor involving, arising from or relating to this Project with any other arbitration not involving, arising from or relating to this Project.

15.4 Expedited Procedure

In the event that the County determines, in its sole discretion, that the public interest requires a speedy resolution of any arbitral controversy or claim regardless of the amount, the County shall have the option of electing resolution of the controversy or claim by the Expedited Procedures of the Commercial Arbitration Rules of the American Arbitration Association (Rules 54 through 58).

15.5 Arbitrable Disputes: Jurisdiction; Venue

Each party to the Contract and the Surety accept the jurisdiction of the courts of the State of Washington for the purposes of commencing, conducting and enforcing arbitration proceedings and agree to accept written notice of the arbitration proceedings sent by certified mail. The parties agree that proper venue for any judicial proceeding to enforce any decision or award made by an arbitrator under this Article shall be exclusively in Island

County in the State of Washington.

15.6 Non-arbitrable Disputes: Jurisdiction; Venue

The parties agree that the proper jurisdiction and venue for any judicial proceeding brought under this Contract or any subcontract made pursuant to this Contract that is not subject to resolution by arbitration under this Article shall be the Superior Court of the State of Washington in Island County.

15.7 Arbitrator's Fees; Attorney's Fees

The parties shall share the cost of any arbitration conducted under this Article. In the event that a suit or other action or arbitration is instituted to enforce any matter involving, arising from or relating to this Project or the Contract, each party shall be responsible for payment of its own attorney's fees and costs unless otherwise indicated in this Contract.

15.8 Standing

Only the County and the Contractor shall have standing to bring or become a party to arbitration claims or legal actions under this Contract. Except as expressly provided herein to the contrary, this Contract is not intended to nor does it create any third party beneficiary or other rights in any third person or party, including, but not limited to, members of the general public, any property owners and/or residents in the vicinity of the leased property, and/or any agent, contractor, subcontractor, consultant, employee, volunteer, or other representative of either party.

ARTICLE 16 SUCCESSORS; ASSIGNMENT

16.1 Contractor Delegation

The County executes this Contract with the Contractor as a qualified party to accomplish the Project. The Contractor's delegation of any Contract duties shall require the prior written consent of the County. Any delegation of duties shall not relieve the Contractor or the Surety of any liability and/or obligation to perform.

16.2 Assignment

Subject to and in accordance with the terms of Section 4., the Contractor shall not assign any rights or obligations under or arising from this Contract without the prior written consent of the County unless otherwise permitted under Section 16.3.

16.3 Change in Control or Ownership

Any change in control or the transfer of a controlling interest in the beneficial ownership of the Contractor shall constitute a default under the terms of this Contract, unless the County consents to that transfer. "The transfer of a controlling interest of Contractor" shall include, but is not limited to, the transfer or assignment of ten percent (10%) or more of the beneficial ownership of Contractor to or from a single entity, unless the County consents to that transfer or assignment; however, the following transfers or assignments shall not be construed as "the transfer of a controlling interest of Contractor:"

(a) intra-company transfers in the form of transfers between different subsidiaries or branches of the Contractor's parent corporation, or (b) if the Contractor, or its parent corporation, is a closely held corporation, transfers or assignments between individuals who own, in whole or in part, the parent or any subsidiary including transfers or assignments between or to (i) the individuals who own, in whole or in part, the parent or any subsidiary, (ii) the spouses, surviving spouses and linear descendants (including adopted children) of the persons described in (b)(i), above, (iii) a trust, corporation, partnership or other entity owned by the persons described in (b)(i), above, and (iv) a corporate trustee designated to act in a fiduciary capacity for the estate or trust of any person described in (b)(i), above. Notwithstanding the foregoing, the County may in its sole discretion determine that new ownership can adequately and faithfully render the service called for in this Contract for the remaining term of the Contract, and the County may then elect to execute a novation, allowing new ownership to assume the rights and duties of this Contract and releasing the previous ownership of all obligations and liability. The new ownership would then be solely liable for any work and/or claims related to this Contract.

16.4 Binding Effect

This Contract shall be binding on any and all successors or assignees in accordance with this Article.

ARTICLE 17 GUARANTEES AND WARRANTIES

17.1 Guarantees and Warranties Required by Contract

The Contractor shall provide to the County any and all warranties and guarantees specifically or implicitly required by any of the Contract Documents.

17.2 Other Guarantees and Warranties

The Contractor shall provide warranties and guarantees not expressly required by the Contract Documents that may be reasonably necessary to ensure the viability of the County's rights and remedies under this Contract.

17.3 County as Beneficiary

All warranties or guarantees for equipment, services or materials furnished to Contractor or subcontractors by any supplier shall be deemed to inure to the benefit of the County. If any supplier of any equipment, service or material furnishes a guarantee or warranty for a period in excess of one year from the date of acceptance, Contractor's guarantee, as provided in this Article, shall be deemed to extend for a like period as to that equipment, service or material.

17.4 Contractor Compliance with Warranties

The Contractor shall fulfill the conditions of any manufacturer's warranty for material or equipment.

17.5 Contractor Repair of Defects

Within a reasonable time after receiving written notice, the Contractor, at its own expense and without cost to the County or interruption of the Project, shall correct any defects in workmanship that exist prior to or during the period of any guarantee as well as any damage caused by those defects or their repair.

17.6 Independent Guarantees and Warranties

The guarantees and warranties described in this Article shall not be construed to modify, limit or lessen in any way, any rights or remedies that the County may otherwise have against the Contractor and the Surety.

ARTICLE 18 CONTRACT TERM & RENEWAL; ADDITIONAL TERMS

18.1 This Contract shall be effective upon mutual execution. The Contractor shall commence services on January 1, 2025, at 12:00 AM, Pacific Time and shall terminate on December 31, 2030 at 11:59 PM, Pacific Time, PROVIDED, HOWEVER, that the term of this Contract may be extended or renewed for up to two (2) additional six (6) year terms, at the sole discretion of the County, by written notice from the County to the Contractor with approximately one (1) year advance notice unless otherwise agreed to by County Representative and Contractor Representative.

18.2 Each of the terms and provisions of this Contract have been reviewed and negotiated and represents the combined work product of the parties hereto. No presumption or other rules of construction which would interpret the provisions of this Contract in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Contract. The parties represent that they have had a full and fair opportunity to seek legal advice with respect to the terms of this Contractor and have either done so or have voluntarily chosen not to do so. The parties represent and warrant that they have fully read this Contract, that they understand its meaning and effect, and that they enter into this Contract with full knowledge of its terms, and without duress or undue influence.

18.3 No partnership and/or joint venture exists between the Contractor and the County, and no partnership and/or joint venture is created by and between the Contractor and the County by virtue of this Contract. No agent, employee, contractor, subcontractor, consultant, volunteer, or other representative of the parties shall be deemed an agent, employee, contractor, subcontractor, consultant, volunteer, or other representative of the other party.

18.4 This Contract contains all of the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached (and/or have been received and reviewed by the parties) and no other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto. This Contract may be changed, modified, amended or waived only by subsequent written agreement duly executed by the parties hereto. Waiver or breach of any term or condition

of this Contract shall not be considered a waiver of any prior or subsequent breach.

18.5 In the event any term or condition of this Contract or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Contract which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Contract are declared severable.

18.6 Each person signing this Contract represents and warrants that he or she has the proper authority to bind the party on whose behalf he or she signs.

18.7 The captions in this Contract are for convenience and reference only and do not define, limit, or describe the scope or intent of this Contract. This Contract may be executed in any number of counterparts, via facsimile or otherwise, each of which shall be deemed an original, but all of which together shall be construed as one and the same instrument.

CONTRACTOR:

_____,
a _____.

By: _____

Print Name: _____

Its: _____

Date: _____, 2024

STATE OF

WASHINGTON

} ss.

COUNTY OF ISLAND

I certify that I know or have satisfactory evidence that _____, is the person who appeared before me, and said person acknowledged that she/he signed this instrument, on oath stated that he/she was duly authorized execute the instrument and acknowledged it as _____ of the _____, a _____, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

DATED this ____ day of _____, 2024.

(SEAL)

Notary Public

Print name: _____

Residing at: _____

My appointment expires: _____

COUNTY:

DATED this ____ day of _____, 2024.

**BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON**

Jill Johnson, Chair

Melanie Bacon, Member

Janet St. Clair, Member

Attest:

Jennifer Roll, Clerk of the Board

Approved as to Form:

Civil Deputy Prosecuting Attorney

Exhibit A

DRAFT

Exhibit B

DRAFT

APPENDIX D

MAP OF RECEIVING FACILITIES

SOLID WASTE LONG HAUL
TRANSPORTATION AND DISPOSAL
ISLAND COUNTY, WASHINGTON

MAP OF RECEIVING FACILITY 1

Whidbey Island Transfer Station
20018 SR 20, Coupeville, WA



MAP OF RECEIVING FACILITY 2

Camano Island Transfer Station
75 East Camano Hill Rd, Camano Island, WA



APPENDIX E

STATEMENT OF ORGANIZATION

**SOLID WASTE LONG HAUL
TRANSPORTATION AND DISPOSAL
ISLAND COUNTY, WASHINGTON**

FORM 1: STATEMENT OF ORGANIZATION

Proposer Name:

Full Name of Business:

Type of Corporate Entity:

Tax ID:

Principal Business Address:

Local Business Address:

(if available)

Contact Name:

Title:

Telephone Number:

Email Address:

Authorized Representative(s)

Provide the names of authorized representative(s) of the Proposer who has legal authority to bind the Proposer in contractual obligations:

(A)

(B)

(C)

(D)

Subcontractor(s)

List all firms participating in this proposal (print additional copies of this page if needed):

Name of Firm:

Subcontractor's Address:

Contact Name:

Contact Telephone Number:

Role of Firm:

Name of Firm:

Subcontractor's Address:

Contact Name:

Contact Telephone Number:

Role of Firm:

Name of Firm:

Subcontractor's Address:

Contact Name:

Contact Telephone Number:

Role of Firm:

APPENDIX F

PRICING FORM

**SOLID WASTE LONG HAUL
TRANSPORTATION AND DISPOSAL
ISLAND COUNTY, WASHINGTON**

FORM 2: PRICING FORM

Proposer Name: _____

Description	Proposed Service Fee
Receiving Services and Transport Services Fee ¹	per haul from Whidbey Island
Receiving Services and Transport Services Fee ¹	per haul from Camano Island
Disposal Services Fee ^{1, 2}	per ton

1. For each Loaded Container accepted by the Contractor at the Receiving Facility and Transported from the Receiving Facility to the Disposal Site, County shall pay Contractor a Receiving Services and Transport Services Fee per haul.
2. For each ton of solid waste Disposed at the Disposal Site by the Contractor, County shall pay Contractor a per ton Disposal Services Fee.



ISLAND COUNTY PLANNING & COMMUNITY DEV.

WORK SESSION AGENDA

MEETING DATE: 3/13/2024

To: Jill Johnson, Chair
Board of Island County Commissioners

From: Mary Engle, Director

Amount of time requested for agenda discussion. 120 minutes

DIVISION: Long Range Planning

Agenda Item No.: 1

Subject: Crescent Acres Water System 186/23 WSR

Description: Crescent Acres Water System is proposing to expand their service area boundaries by including one out of service area parcel that is currently served. Staff would like to schedule a public hearing on April 16, 2024.

Attachment: Memorandum, Application Materials, Staff Report and Recommendation, Draft Resolution

Request: *(Check boxes that apply)*

- | | |
|---|---|
| <input checked="" type="checkbox"/> Move to Consent | <input type="checkbox"/> Move to Regular |
| <input type="checkbox"/> None/Informational | <input checked="" type="checkbox"/> Schedule a Public Hearing |
| <input type="checkbox"/> Signature Request | <input type="checkbox"/> Other: _____ |

IT Review: Not Applicable

Budget Review: Not Applicable

P.A. Review: Not Applicable

DIVISION: Long Range Planning

Agenda Item No.: 2

Subject: 2025 Comprehensive Plan – Land Use & Housing Element Goals & Policies

Description: Staff will continue discussion from the 3/6/24 Work Session on the Land Use Element and begin review of the Housing Element Goals & Policies from the Island County 2016 Comprehensive Plan with the Board.

Attachment: Memorandum, Land Use Excerpt and Housing Excerpt from Island County 2016 Comprehensive Plan, Slides 11 – 20 from 3/6/24 Land Use presentation

Request: *(Check boxes that apply)*

- | | |
|--|--|
| <input type="checkbox"/> Move to Consent | <input type="checkbox"/> Move to Regular |
| <input checked="" type="checkbox"/> None/Informational | <input type="checkbox"/> Schedule a Public Hearing |
| <input type="checkbox"/> Signature Request | <input type="checkbox"/> Other: Review |

Budget Review: Not Applicable

P.A. Review: Not Applicable



Island County Planning and Community Development

Mary Engle, Director

1 NE 7th St., Coupeville, WA 98239

Ph: Whidbey 360-679-7339 | Camano 360-387-3443 | Fax: 360-679-7306

Email: PlanningDept@islandcountywa.gov | <https://www.islandcountywa.gov/207/Planning-Community-Development>

~ MEMORANDUM ~

TO: Board of County Commissioners
FROM: John Lanier, Senior Planner
DATE: February 28, 2024
SUBJECT: Crescent Acres Water Association (WSR 186/23)

Proposal

The Crescent Acres Water Association is proposing to update the Service Area Boundaries of the Crescent Acres Water Association by adding one additional parcel to the existing system area that is already being served. These changes, if approved, will be incorporated into the Service Area Boundaries map in the Island County Coordinated Water System Plan (CWSP).

Preliminary Review:

The Crescent Acres Water Association applied for Water System Review (WSR 186/23) on June 5, 2023. The Water System Review has been reviewed by Planning staff.

Staff Recommendation

The Water System Review application has been reviewed by Planning in accordance of Island County Code, the Island County Comprehensive Plan, and state requirements.

Staff recommends the Board of Commissioners schedule a Public Hearing for April 16, 2024 to consider adopting Resolution PLG-001-24, revising the boundary of the Crescent Acres Water Association in the Service Area Boundaries map in the Island County Coordinated Water System Plan (CWSP).

Attachments:

- Crescent Acres Water Association Application Materials
- Staff Recommendation for WSR 186/23
- Draft Resolution 186/23 WSR, PLG-001-24
 - Map of Current and Proposed Future Service Area

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON

IN THE MATTER OF EXPANDING THE
BOUNDARIES OF THE CRESCENT ACRES
WATER ASSOCIATION, AND
INCORPORATING THE SERVICE AREA
BOUNDARIES INTO THE COORDINATED
WATER SYSTEM PLAN (CWSP) (WSR
186/23)

RESOLUTION NO. C- -24
PLG-001-24

WHEREAS, the Washington State Legislature passed the Public Water System Coordination Act in 1977 (“Coordination Act”) for the purpose of maximizing the efficiency of the State’s public water supplies and providing a procedure to coordinate the planning of public water supply systems; and

WHEREAS, the Coordination Act authorized the creation of local government coordinated water system plans; and

WHEREAS, as a preface to implementing the Coordination Act, a “Preliminary Assessment” of water system issues was completed for Island County in 1985; and

WHEREAS, in order to address the identified issues of concern that may preclude the delivery of a safe, efficient, and reliable water service to the citizens of Island County, the Preliminary Assessment recommended the implementation of the Coordination Act in Island County; and

WHEREAS, following this recommendation the Board of Island County Commissioners adopted a declaration that Island County be declared a Critical Water Supply Service Area on August 19, 1985 which initiated the procedures of the Coordination Act; and

WHEREAS, following the procedures and criteria of WAC 248-56, the Board of Island County Commissioners appointed a Water Utility Coordinating Committee to prepare a Coordinated Water System Plan for Island County; and

WHEREAS, the Board of Island County Commissioners adopted the Island County Coordinated Water System Plan by Ordinance C-78-90 on May 14, 1990; and

WHEREAS, the Island County Coordinated Water System Plan provides for Service Area Adjustments (Section VI(1)(A)(4)); and

WHEREAS, Crescent Acres Water Association submitted a complete application to Island County Planning and Community Development on May 31, 2023; and

WHEREAS, Planning and Community Development reviewed the materials submitted by the Crescent Acres Water Association and determined that the proposed service area expansion is consistent with the policies of the Island County Coordinated Water System Plan; and

WHEREAS, Island County records indicate that the proposed Crescent Acres Water Association service area changes will not result in any overlapping water system service area boundaries; and

WHEREAS, Crescent Acres Water Association uses a water source that is approved by the Washington State Department of Health; and

WHEREAS, Planning & Community Development has consulted with local and state agencies and received no objection to the proposal; and

WHEREAS, Crescent Acres Water Association is required to receive approval from the Washington State Department of Public Health for any modifications to the Group A Water System and any other applicable state and federal agencies; **NOW, THEREFORE,**

IT IS HEREBY RESOLVED that the Board of Island County Commissioners hereby approves the amended service area boundaries for the Crescent Acres Water Association, attached hereto as Exhibit A, and incorporates the amended service area into the Island County Coordinated Water System Plan.

ADOPTED this _____ day of _____, 2024 following a public hearing.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

JILL JOHNSON, Chair

MELANIE BACON, Member

JANET ST. CLAIR, Member

ATTEST:

Jennifer Roll
Clerk of the Board

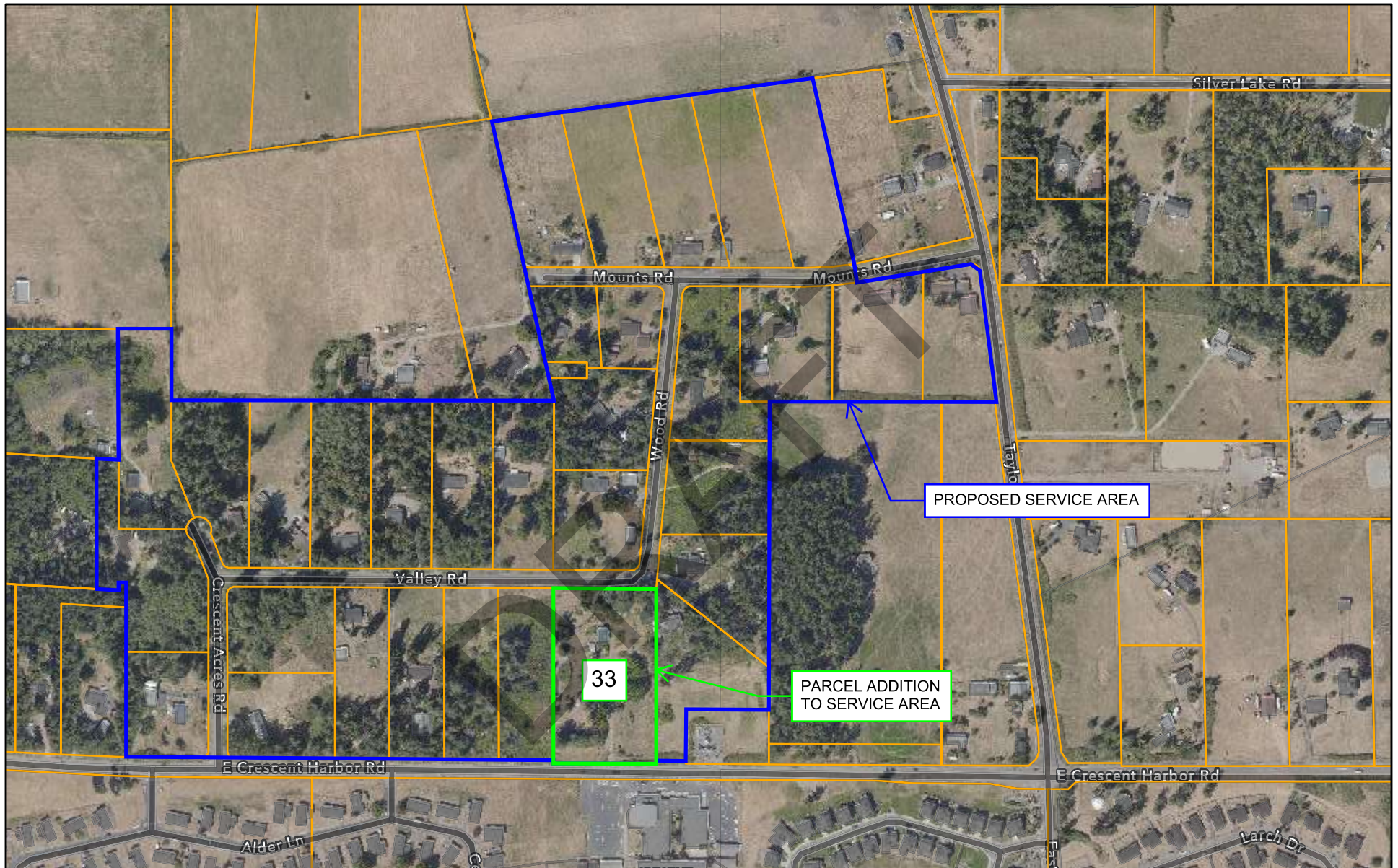
EXHIBIT A

Crescent Acres Water Association
Additional Parcel

DRAFT

Crescent Acres Water Association Service Area Map (Proposed)

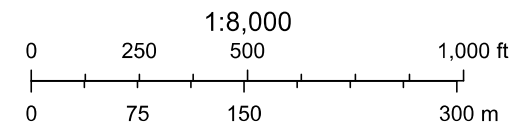
Exhibit A - Crescent Acres Water Association Additional Parcel



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Parcels

Proposed parcel addition to service area. Number shown corresponds to numbered list on "Assessor Parcel Numbers" sheet in this attachment. See list for Island County parcel numbers.



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EXHIBIT B

Staff Report and Recommendation

DRAFT



ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT

PHONE: (360) 679-7339 ■ from Camano (360) 629-4522, Ext. 7339 ■ from S. Whidbey (360) 321-5111, Ext. 7339 FAX: (360) 679-7306 ■ 1 NE 6th Street, P. O. Box 5000, Coupeville, WA 98239-5000.
<https://www.islandcountywa.gov/Planning/Pages/Home.aspx>

STAFF REPORT & RECOMMENDATION WATER SYSTEM REVIEW – TYPE IV 186/23 WSR – CRESCENT ACRES WATER ASSOCIATION

I – PROPOSAL

The Applicants are proposing to expand the Service Area Boundaries of the Crescent Acres Water System by adding one additional parcel. The change, if approved, will be incorporated into the Service Area Boundaries map in the Island County Coordinated Water System Plan (CWSP).

II – GENERAL INFORMATION

Applicant	Organization	Crescent Acres Water System PO Box 1132, Freeland, WA 98249
	Contact	Kristopher Keenan – 360.331.4131 x211
	Water System Classification	Group A
	Water Source	Groundwater Wells
	Approved Connections	32 connections – 26 in use
	Application Date	May 31, 2023
	Permit Type	Water System Review – Type IV Legislative Decision
	Permit Number	186/23 WSR
	County Staff Contact	John Lanier – 360.678.7811

III – SITE DATA

Affected Parcel Numbers	S6430-00-00001-0, S6430-00-00002-0, S6430-00-00003-0, S6430-00-00004-0, S6430-00-00005-0, S6430-00-00006-0, S6430-00-00007-0, S6430-00-00008-0, S6430-00-00009-0, S6430-00-00010-0, S6430-00-00011-0 (reservoir/pumphouse/wells parcel), S6430-00-00011-2, S6430-00-00012-1, S6430-00-00012-2, S6430-00-00013-0, S6430-00-00014-0, S6430-00-00015-0, S6430-00-00016-0, S6430-00-00017-0, S6430-00-00018-0, S6430-00-00019-0, S6430-00-00020-0, S6430-00-00021-0, S6430-00-00022-0, S6430-00-00023-0, S6430-00-00024-0, S6430-00-00025-0, S6430-00-00026-0, S6430-00-00027-0, S6430-00-00028-0, S6430-00-00029-0, S6430-00-00030-0, &
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	R23331-420-4160 (out of service area parcel that is currently being served)
Address (listed respective of parcels above)	Enclosure B
Property Owner(s) (listed respective of parcels above)	Enclosure B
Location	Oak Harbor, WA
Total Area Affected	Approximately 4.25 acres
Zone Designation	Rural (R)
Allowable Density	1 dwelling unit per 5 acres
Associated Permits	None

IV – REGULATORY COMPLIANCE*

**There is no section of County Code that deals directly with planning standards or requirements. ICC 13.03A has specific standards for water system design and fire flow requirements. RCW 70.116, WAC 246-290, and the Island County Coordinated Water Service Plan provide administrative guidance for processing these applications. The purpose of requiring County review is to ensure that water system boundaries are not overlapping (in order to provide predictability to land owners and to improve the efficient provision of water to those land owners) and to ensure that the underlying zoning is consistent with the expected number of connections the system is accounting for.*

Local Government Review Items	Complies (Y/N)	Comments
Proposal is consistent with the Island County Coordinated Water System Plan (CWSP).	Y	Island County Planning Department has reviewed the submitted materials and has determined that the proposal is consistent with the CWSP.
Proposal will not result in overlapping water system service area boundaries.	Y	The expansion area was not serviced previously by a water system. There is no overlapping water system that serves the parcel proposed for inclusion.
Allowed density within proposed expansion area is consistent with the approved number of system connections.	Y	The water system has been approved by DOH for 32 connections, the number of water shares in use are 26.
Water system uses a DOH approved source.	Y	The water source was reviewed and approved by Washington State DOH in 1970.
Water system has adequate infrastructure as determined by the DOE to provide service to proposed expansion area.	Y	The water system was reviewed by Public Works to ensure it complies with ICC 13.03A and WAC 246-290.

V – FINDINGS

1. Crescent Acres Water System submitted a complete application to Island County Planning and Community Development on June 5, 2023.
2. Planning & Community Development evaluated the Applicant's Water System Review application as a Type IV decision pursuant to Island County Code, one new parcel is served by this expansion. Other County and State agencies have been consulted, as appropriate.
3. The proposal complies with all the review items listed in section IV of this report.
4. Island County Public Health has no objections to the approval of this proposal.
5. Island County Public Works has no objections to the approval of this proposal with the following conditions noted below and provided in the memorandum from the Development Coordinator, Donah Dunn, dated June 16, 2023 (Enclosure C).
6. Crescent Acres Water System acknowledges any potential impacts to parcels within the current service area by approval of this extension and it is the responsibility of the water purveyor to plan for population and development growth, and to provide a process for approving connection requests for new development proposals within their service area.

VI – RECOMMENDATION

Pursuant to the Island County Coordinated Water System requirements, staff recommends approval of the proposed revision of the Crescent Acres Water System Service Area as shown on Enclosure A.

This Water System Review decision only changes the County's mapped Water Service Area Boundaries and does not modify any conditions of associated plats or obligations required by a landowner to a plat or any other private obligations. It is the landowner's responsibility to rectify all issues imposed by plat conditions or restrictions affecting their property.



John Lanier, Senior Planner
Island County Planning & Community Development

1/11/24

Date

VII -- APPEALS

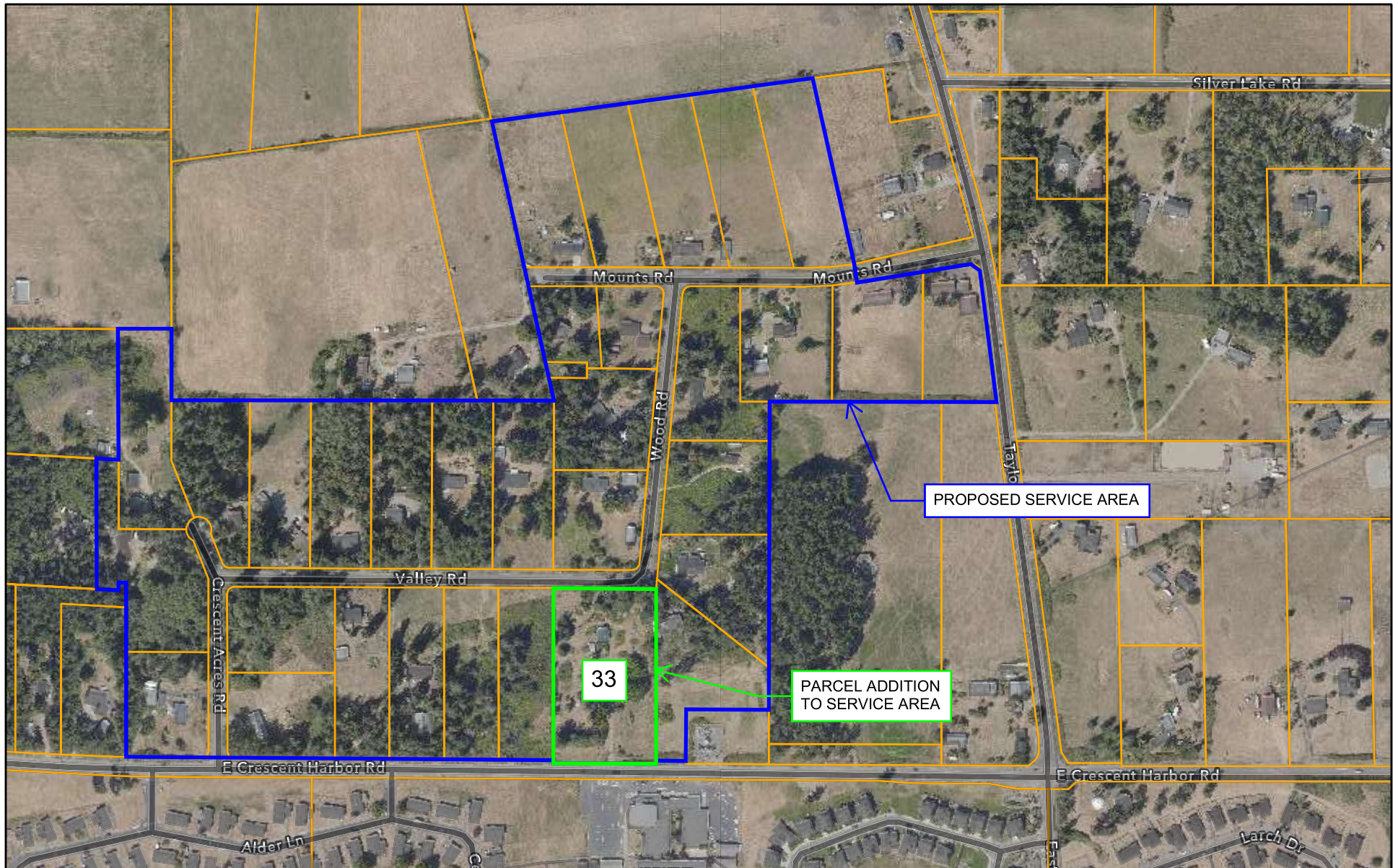
Except for SEPA threshold determinations issued for Type IV legislative actions initiated pursuant to Chapter 36.70A RCW which shall follow the procedures set for in ICC 16.19.205, a person with standing seeking further review of a final County land use decision, must both file a petition for review in the Island County Superior Court and serve the petition on all necessary parties in conformity with the requirements of the State Land Use Petition Act, Chapter 36.70C RCW.

Enclosure:

- A – Map of Proposed Change to Service Area
- B – Addresses and Property Owners
- C – Memorandum from Public Works dated June 16, 2023
- D – Island County Inadvertent Discovery Plan

Crescent Acres Water Association Service Area Map (Proposed)

Enclosure A - Map of Proposed Change to Service Area



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Parcels

Proposed parcel addition to service area. Number shown corresponds to numbered list on "Assessor Parcel Numbers" sheet in this attachment. See list for Island County parcel numbers.

1:8,000
0 250 500 1,000 ft
0 75 150 300 m
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Island County Parcel Viewer Map Export
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Enclosure B - Crescent Acres Water Association Addresses and Property Owners by Parcel

Assessor Parcel Nos.	Address	Property Owner	Notes
S6430-00-00001-0	2717 Crescent Acres Rd	Ross, Ralph L & Mabel W	
S6430-00-00002-0	2747 Crescent Acres Rd	Stover, Jessica	
S6430-00-00003-0	2753 Crescent Acres Rd	Haun, Achsah M	
S6430-00-00004-0	2744 Crescent Acres Rd	Morgan, Daniel J	
S6430-00-00005-0	239 Valley Rd	Sease, Harold L & Suzanne E	
S6430-00-00006-0	259 Valley Rd	Crawford, Jack K & Colleen M Crawford	
S6430-00-00007-0	265 Valley Rd	Anglum, Roger P	
S6430-00-00008-0	275 Valley Rd	Bartlett, David W	
S6430-00-00009-0	299 Valley Rd	Pitchford, Lewis D	
S6430-00-00010-0	2763 Wood Rd	Jewell, Marlene A	
S6430-00-00011-0	Mounts Rd	Crescent Acres Water Assn	Reservoir/pumphouse/wells
S6430-00-00011-2	2767 Wood Rd	Mafnas, Raymond & Bernadette Mafnas	
S6430-00-00012-1	N/A	Slattery, Mark Joseph & Virginia L Slattery	
S6430-00-00012-2	2805 Wood Rd	Gumataotao, Juan S	
S6430-00-00013-0	311 Mounts Rd	Villagomez, Robert J	
S6430-00-00014-0	N/A	Smith, Delbert L	
S6430-00-00015-0	339 Mounts Rd	Smith, Delbert L	
S6430-00-00016-0	Mounts Rd	Smith, Delbert L	
S6430-00-00017-0	367 Mounts Rd	Dinger TTEE, John P & Deborah E Dinger TTEE	
S6430-00-00018-0	400 Mounts Rd	Story, Jean A	
S6430-00-00019-0	384 Mounts Rd	Oldemeyer, Joy Yvonne Hardman	
S6430-00-00020-0	360 Mounts Rd	Dinger TTEE, John P & Deborah E Dinger TTEE	
S6430-00-00021-0	2800 Wood Rd	McBride, Larry W / Darlene C	
S6430-00-00022-0	2774 Wood Rd	Robertson, James R & Cheri L Forsythe	
S6430-00-00023-0	2746 Wood Rd	Hopwood II, David Paul	
S6430-00-00024-0	334 Valley Rd	Fenton, Justin W & Elysia Fenton	
S6430-00-00025-0	N/A	Taitano, Patrick A	
S6430-00-00026-0	N/A	Wolcott III, George F & Margaret A Wolcott	
S6430-00-00027-0	268 Valley Rd	Kluge, Jonathan S	
S6430-00-00028-0	N/A	Hogan, Joseph & Mary Hogan	
S6430-00-00029-0	N/A	Foxx, Joyce W	
S6430-00-00030-0	2704 Crescent Acres Rd	JHOTA LLC	
R23331-420-4160			Additional Parcel



ISLAND COUNTY PUBLIC WORKS
ROADS DIVISION

P.O. BOX 5000, COUPEVILLE, WA 98239
(360) 679-7331

Connie Bowers, P.E., Director/County Engineer
Fred Snoderly, Assistant Director
Ed Sewester, P.E., Asst. County Engineer

June 16, 2023

TO: John Lanier, Planning and Community Development
FROM: Donah Dunn, Public Works Development Coordinator
SUBJECT: WSR 186/23 PL-WSR-IV Crescent Acres Water Association
Proposed service area map corrections to include one property that is currently being serviced, to be included on the boundary map.

Public Works has reviewed the information for the above referenced application for consistency with its development standards and provides the following comments.

Per 13.03A.100.A:

*New water systems and **expansion of existing water systems** shall be designed and constructed to provide for fire flows in a manner consistent with the standards outlined in this chapter”.*

13.03A.030.D: Expanding public water systems:

Island County hereby adopts the definition contained in WAC 246-293-610 as it now exists or is hereafter amended.

WAC 246-293-610 Subsection (2)

Expanding public water systems" - Those public water systems installing additions, extensions, changes, or alterations to their existing source, transmission, storage, or distribution facilities which will enable the system to increase in size its existing service area. New individual retail or direct service connections onto an existing distribution system shall not be considered an expansion of the public water system.

1. We understand parcel R23331-420-4160 owned by John Koetje will be added to the Crescent Acres Water Association boundary map. This parcel is currently being serviced and will be connection 27 of the 30 approved services.

Public Works has no objection to approval as the proposal is a minor map correction and inclusion of one parcel to the southern boundary of the service area and substantially consistent with ICC 13.03A.100.

Please feel free to call me at 360 678-7812 or e-mail me at d.dunn@islandcountywa.gov if you have any questions regarding the above comments.

Enclosure D

Island County Inadvertent Discovery Plan

In the event that any ground-disturbing activities or other project activities related to this development or in any future development uncover protected cultural material (e.g., bones, shell, antler, horn or stone tools), the following actions will be taken:

1. When an unanticipated discovery of protected **cultural material** (see definitions below) occurs, the property owner or contractor will completely secure the location and contact:
 - a) The property owner and project manager;
 - b) The Department of Archaeology and Historic Preservation (DAHP) (Stephanie Jolivette, 360-586-3088);
 - c) The affected Tribal members:
 - a. The Swinomish Indian Tribal Community (Josephine Jefferson, THPO, office:360-466-7352, cell: 360-488-3860);
 - b. The Tulalip Tribes (Richard Young, cell: 425-622-4303);
 - c. Scott Schuyler, Upper Skagit Tribe (360-854-7090, cell 360-630-3680),
 - d. Jackie Ferry, THPO, Samish Tribe (office:360-726-3399, cell: 360-770-7784),
 - e. and Kerry Lyste, Stillaguamish Tribe, THPO (office: 360-572-3072)
 - d) and the Island County planner associated with the project.
 2. If the discovery is **human remains**, the property owner or contractor will stop work in and adjacent to the discovery, completely secure the work area by moving the land-altering equipment to a reasonable distance, and will immediately contact:
 - a) The property owner and project manager;
 - b) The Island County Sheriff's Department (360-629-4523 x7310)
 - c) and the Island County Coroner, Robert Bishop (360-679-7358) to determine if the remains are forensic in nature;
 - d) If the remains are not forensic in nature the Department of Archaeology and Historic Preservation (DAHP) (Stephanie Jolivette 360-586-3088 and Guy Tasa 360-586-3534); will take the lead on determining the appropriate method of treatment for the remains and will consult with the affected tribes;
- Cultural material that may be protected by law could include but not be limited to:
1. Buried layers of black soil with layers of shell, charcoal, and fish and mammal bones (Figure 1).
 2. Buried cobbles that may indicate a hearth feature;
 3. Non-natural sediment or stone deposits that may be related to activity areas of people;
 4. Stone, bone, shell, horn, or antler tools that may include projectile points (arrowheads),
 5. scrapers, cutting tools, wood working wedges or axes, and grinding stones (Figures 2 and 3);
 6. Stone tools or stone flakes (Figures 2 and 3);
 7. Perennially damp areas may have preservation conditions that allow for remnants of wood and other plant fibers; in these locations there may be remains including fragments of basketry, weaving, wood tools, or carved pieces (Figure 4); and
 8. Concentrations of historical period artifacts (> 50 years old) (Figure 5); and
 9. Human remains.

Figure 1: Shell Middens. These middens can extend into the intertidal zone in areas that have undergone sea level rise during the precontact period.



Figure 2: Examples of stone and bone tools.



Figure 3: Examples of stone flakes.



Figure 4: Examples of underwater/intertidal archaeological features including wood or stone fish weirs (left), clam gardens (bottom), sunken canoes (right) or other watercraft, and basketry.



Figure 5. Historical period sites (more than 50 years in age) are also protect by archaeology laws. These can include concentrations of broken ceramics, bottles, bricks, and metal objects.





Island County Planning and Community Development

Mary Engle, Director

Physical Address: 1 NE 6th St, Coupeville, WA 98239 Mailing Address: 1 NE 7th St, Coupeville, WA 98239

Ph: Whidbey 360-679-7339 | Camano 360-387-3443 | Fax: 360-679-7306

Email: PlanningDept@islandcountywa.gov | <https://www.islandcountywa.gov/207/Planning-Community-Development>

~ MEMORANDUM ~

TO: Board of County Commissioners
FROM: Mary Engle, Planning Director
DATE: March 6, 2024
SUBJECT: Comprehensive Plan – Land Use Element Goals & Policies Discussion

Long Range Planning staff will lead the Board of Island County Commissioners in a review of the 2016 Comprehensive Plan Land Use Element's goals and policies. Staff will provide Growth Management Act (GMA) required updates, department feedback, and public input to frame the conversation on what changes are needed for the 2025 periodic update.

Attachments:

- Excerpt from the Island County 2016 Comprehensive Plan – Land Use Element Goals and Policies



Island County Planning and Community Development

Mary Engle, Director

Physical Address: 1 NE 6th St, Coupeville, WA 98239 Mailing Address: 1 NE 7th St, Coupeville, WA 98239

Ph: Whidbey 360-679-7339 | Camano 360-387-3443 | Fax: 360-679-7306

Email: PlanningDept@islandcountywa.gov | <https://www.islandcountywa.gov/207/Planning-Community-Development>

EXCERPT FROM THE ISLAND COUNTY 2016 COMPREHENSIVE PLAN – LAND USE ELEMENT

LAND USE CONCEPTS & CONSIDERATIONS

Goal 1. Achieve a staged and orderly development pattern that accommodates growth, fosters a high quality living environment, and protects rural character, natural resources, and historic properties.

LU 1.1. Accommodate projected population growth in a manner which protects the established character of neighborhoods, preserves rural and environmental quality, promotes physical activity, and promotes economic growth.

LU 1.2. Prohibit the expansion of urban services in rural areas and guide urban growth into areas with adequate planned public facilities and services.

LU 1.3. Encourage infill of subdivided lands and the logical expansion of urban areas.

LU 1.4. Prohibit urban development in rural areas.

LU 1.5. Ensure residential developments are planned to minimize public expenditures for public facilities and services.

Goal 2. Assure general public health, safety, and welfare without unduly jeopardizing the rights of individuals.

LU 2.1. All levels of government will coordinate planning and decision making to ensure consistency.

LU 2.1.1. County wide planning policies will be given priority when conflicts arise between jurisdictions.

LU 2.1.2. Comprehensive planning must be adaptable to changing conditions.

LU 2.1.3. There should be efficient interdepartmental coordination on all major programs and projects to minimize unnecessary delays in public decision making.

LU 2.2. Private property will not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

EXCERPT FROM THE ISLAND COUNTY 2016 COMPREHENSIVE PLAN

- LU 2.3.** Applications for County permits should be processed in a timely and fair manner to ensure predictability.
- LU 2.4.** Require new development (including subdivisions, site plan approvals, and other development) within UGAs to be served by public sewer and water, except within the NMUGA where demonstrated topographical constraints or other unpreventable factors could support granting variances or waivers to allow private wells and septic systems.
- LU 2.5.** New urban services and facilities shall be limited to municipal UGAs, unless service extension is necessary to respond to a documented public health hazard caused by existing development which cannot otherwise reasonably be remedied.

Goal 3. Provide the opportunity for the intensification of development on lots in the rural area containing, or new development of, small scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting but that do not include new residential development (pursuant to RCW 36.70A.070(5)(d)(ii)).

- LU 3.1.** Provide for Small Bed and Breakfasts, Bed and Breakfast Inns, and small Country Inns in Rural land use designations, with appropriate screening, setbacks, and open space requirements. For developments in the shoreline areas, the visual impact from the water shall be considered and uses shall comply with the Shoreline Master Program.
- LU 3.2.** Provide for other small scale recreation and tourist uses in Rural land use designations, such as golf courses, model hobby parks, restaurants, wineries and breweries on parcels of an appropriate size. All activities shall be screened from the view of adjacent neighbors and the use shall not disrupt the character of any surrounding permitted uses. Residential development around golf courses, if any, must meet all requirements for residential development in the Rural land use designation.
- LU 3.3.** Continue to recognize and support the planned development of Existing Master Planned Resorts that were in existence on July 1, 1990 and developed, in whole or in part as a significant self-contained and integrated development that includes short-term visitor accommodations associated with a range of indoor and outdoor recreational facilities within the property boundaries in a setting of significant natural amenities pursuant to RCW 36.70A.362

URBAN GROWTH AREAS (UGAS)

Goal 4. Provide areas where urban land use activities may be concentrated in a manner which enables the efficient provision of public facilities and services.

- LU 4.1.** Increase the proportion of growth in municipal UGAs (compared to growth in

EXCERPT FROM THE ISLAND COUNTY 2016 COMPREHENSIVE PLAN

Rural areas) where adequate public facilities or services exist or can be provided in an efficient manner.

LU 4.2. Coordinate development within unincorporated municipal UGAs between the county, associated municipalities, and service providers through the following measures.

LU 4.2.1. Direct urban development first to areas within municipal boundaries, and then toward the unincorporated portion of municipal UGA;

LU 4.2.2. Non-urban development in the UGA should only be allowed if it will be compatible with future urban development;

LU 4.2.3. Encourage annexation of unincorporated areas within municipal UGAs

LU 4.2.3.1. Avoid non-contiguous annexation within the UGA;

LU 4.2.3.2. Prohibit annexation of land outside the municipal UGA.

LU 4.2.4. Minimize fiscal and environmental impacts of growth through urban development patterns.

LU 4.2.5. When possible, use the edges of major features, such as roads and drainageways, to help provide a clear and natural boundary between urban and rural areas.

LU 4.2.6. Use interlocal agreements (ILAs) as a method to guide development in the unincorporated portions of municipal UGAs.

LU 4.2.7. Provide open space corridors between UGAs as shown in the Natural Resources Element of this plan.

LU 4.2.8. Identify unincorporated portions of municipal UGAs and applicable municipal land use designation in the Future Land Use Map.

LU 4.2.9. Regulation of development in municipal UGAs is under County jurisdiction until annexation by the associated jurisdiction, at which time the associated municipality is responsible.

LU 4.2.10. The County will notify the affected municipality when applications are received for new development within municipal UGAs.

LU 4.2.11. Urban Holding areas will be limited to Rural zoning standards until annexation, and are subject to review to ensure that development will not hinder implementation of transportation and utility infrastructure plans.

LU 4.3. Growth and development within the municipal boundaries of Oak Harbor,

EXCERPT FROM THE ISLAND COUNTY 2016 COMPREHENSIVE PLAN

Coupeville and Langley must conform to their adopted comprehensive plans and adopted CWPPs.

- LU 4.4.** Modification of UGAs may be requested by a municipality or individual; however UGA expansion is prohibited unless reasonable alternatives have been considered, consistent with adopted CWPPs.

Goal 5. Joint Planning Areas (JPAs) provide an opportunity for long term planning beyond the 20 year planning horizon by reserving areas which may be necessary for future urban growth and for protection of areas of long term rural significance.

- LU 5.1.** Provide areas within JPA for municipal Urban Growth Area expansion which will allow for the future development of urban densities in an effective manner.

- LU 5.2.** Designate JPAs overlays, determined jointly by the County and associated municipality.

- LU 5.2.1.** Designate Potential Growth Area (PGA) overlays that are appropriate for future UGA expansion.

- LU 5.2.2.** Designate overlays for areas of Long-Term Rural Significance (LRS).

- LU 5.3.** JPAs shall be illustrated in the Comprehensive Plan Land Use Map and shown in the Zoning Atlas.

- LU 5.4.** Municipal and County land use and Capital Facility Plans shall be coordinated within JPAs.

- LU 5.5.** Cities, Towns and the County shall jointly develop implementation strategies for the Open Space Corridors identified within JPAs in the Natural Lands Element of the County Comprehensive Plan.

- LU 5.6.** Development and amendment of the JPA boundaries, overlays, and joint planning processes should be coordinated between the County and associated municipalities.

- LU 5.6.1.** With narrow exceptions per CWPP, amendments to the JPA boundaries and overlays should only occur during the periodic update process.

- LU 5.7.** Land development decisions shall be managed in Joint Planning Areas to not preclude the future expansion of UGAs.

- LU 5.8.** Discourage siting of public facilities and buildings within a JPA unless their function or service area is best served by a location outside of a UGA.

RURAL DESIGNATIONS, RURAL AREA OF MORE INTENSIVE DEVELOPMENT (RAIDs)

EXCERPT FROM THE ISLAND COUNTY 2016 COMPREHENSIVE PLAN

Goal 6. Designate Rural Areas of More Intensive Development (RAIDs) per RCW 36.70A.070(5)(d) with non-expandable logical outer boundaries.

LU 6.1. RAID land use designations are adopted as described in Section 1.5.2.1 and Table 1-7.

LU 6.1.1. In Rural Center (RC) areas:

LU 6.1.1.1. Require consolidated access to the highway for all adjacent RC parcels to minimize traffic disruption.

LU 6.1.1.2. Develop RC highway shopping and service centers as compact units to prevent highway sprawl.

LU 6.1.2. In Rural Village (RV) areas:

LU 6.1.2.1. Manage access to the State Highway proactively, and consider consolidating access points where feasible.

LU 6.1.3. In Light Manufacturing (LM) areas:

LU 6.1.3.1. Provide for light industry and manufacturing, assembling, fabrication, storage, wholesaling, distribution, auto repair/ salvage and related activities that do not entail frequent visits of clientele.

LU 6.1.3.2. Design and develop LM areas to have minimal environmental and community impact and require mitigation of potentially adverse impacts by the developer so that air, light, noise, and water pollution, open storage, and similar undesirable effects are controlled, contained or screened so as not to detract from surrounding uses.

LU 6.1.3.3. Cluster structures within LM areas and provide adequate expansion space for compatible activities.

LU 6.1.3.4. Manage access proactively. Require common arterial accesses, internal circulation systems, and cross connectivity. Consider consolidation of non-arterial access points where feasible.

LU 6.1.3.5. Protect surrounding uses from adverse effects by providing adequate landscape buffers and open space, and designating compatible surrounding uses.

LU 6.1.4. In Rural Service (RS) areas:

LU 6.1.4.1. Prohibit a change in use that results in a greater

EXCERPT FROM THE ISLAND COUNTY 2016 COMPREHENSIVE PLAN

intensity than the existing use.

LU 6.1.4.2. Require landscaping and other site improvements, on a case by case basis, for changes or expansions to existing uses.

LU 6.1.5. In Airport (AP) Areas:

LU 6.1.5.1. Ensure compatibility with existing uses in Wes Lupien Air Park, Whidbey Air Park or Camano Island Air Field.

LU 6.1.5.2. Design and develop AP areas to have minimal environmental and community impact, including low levels of air, light, noise, odor and water pollution, and require mitigation of potentially adverse impacts by the developer.

LU 6.1.5.3. Protect surrounding uses from adverse effects by providing adequate landscape buffers and open space, and designating compatible surrounding uses with a focus on protecting critical lands, residential, rural and resource areas.

LU 6.1.5.4. Cluster structures within AP areas and provide adequate expansion space for compatible activities.

LU 6.1.5.5. Manage access proactively. Require common arterial accesses and internal circulation systems, and consider consolidation of access points where feasible.

LU 6.1.5.6. Implement site development standards according to the needs of each site.

LU 6.1.5.7. Protect existing AP areas from encroachment by incompatible land uses.

LU 6.1.6. In Rural Residential (RR) Areas:

LU 6.1.6.1. Raising of large livestock shall be provided for conditioned on the approval of an Animal Management Plan.

LU 6.1.6.2. A proactive planning approach shall be used for access management onto State Highway. Possible consolidation of access points should be explored.

LU 6.1.7. In the Camano Gateway Area

LU 6.1.7.1. Establish sustainable building practices, use of low impact development, reduction in water

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consumption, sensitive design, minimizing bulk and mass, participation in local economic development strategies, and reduction in traffic. Incentives should be provided to developers so that the benefits outweigh the costs.

LU 6.1.7.2. A proactive planning approach should be used for access management into State Highway 532. Possible consolidation of access points shall be explored consistent with Island County Code and Washington State Department of Transportation regulations.

LU 6.1.7.3. Mixed Uses involving a combination of Residential and Non- Residential components are encouraged, especially with long-term village residence above business activities or that are detached but functionally and physically connected to each other.

LU 6.1.7.4. Overnight lodging shall be designed to fit into and enhance the rural island landscape through effective design, orientation, siting, signage, lighting and landscaping. Overnight Lodging should be designed in a manner that does not utilize and distribute water resources beyond the capacity of the resources available in the RAID.

LU 6.2. Provide for the infill, development, or redevelopment of existing residential areas, pursuant to RCW 36.70A.070(5)(d).

LU 6.3. Ensure compatibility with adjacent uses through compliance with rural design guidelines.

LU 6.3.1. Provide for appropriate permitted and conditional uses including accessory uses.

LU 6.3.2. Encourage clustering of uses, where compact design promotes a physical activity and community orientation.

LU 6.3.3. Provide for the conditional expansion of existing businesses in a manner which protects environmental quality, rural character, unique scenic features and community amenities and values.

LU 6.3.4. Reflect the local knowledge, experience, preferences and character of the rural community in RAID land use designations.

LU 6.3.5. Ensure appropriate landscaping, screening, signing and shielded lighting to promote compatibility.

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- LU 6.4.** Consider the long term availability of known and/or verifiable water supplies, the general suitability of the area for on-site septic systems, the presence of geologically unstable areas, and the presence of flood or tsunami hazards when establishing density.
- LU 6.5.** Facilitate pedestrian orientation through site design that incorporates common areas, pedestrian pathways, access to public transit, landscaping, clustering, small parks and compact design.
 - LU 6.5.1.** Encourage mixed uses, with dwelling units above businesses, in the RC, RV, RS, and CVG designations.
- LU 6.6.** Discourage public facilities and buildings unless their function or service area is best served by a location outside of a UGA.
- LU 6.7.** Prohibit the creation of new lots unless they have adequate area outside of tsunami hazards, flood areas, geohazards, and other critical areas.
- LU 6.8.** Encourage shared water and wastewater services between adjacent structures.
- LU 6.9.** Provide the opportunity for the intensification of development on lots in the rural area containing existing isolated non-residential uses or new development of isolated cottage industries and isolated small scale businesses that are not principally designed to serve the existing and projected rural population and non-residential uses, but do provide job opportunities for rural residents (pursuant to RCW 36.70A.070(5)(d)(iii)).
 - LU 6.9.1.** Isolated Non Residential. The intensification of development on lots in the rural area containing existing isolated non-residential uses shall be permitted according to development standards which address impacts on surrounding properties.
 - LU 6.9.2.** Home Occupations. Allow the intensification or development of home occupations in RAIDs.
 - LU 6.9.3.** Home Industries. Allow the intensification or development of home industries in RAIDs taking into account the size of the parcel where it is permitted and the associated impacts of the use. Provided that if a home industry grows too large or adversely impacts neighbors, it shall be required to relocate to a non-residential or mixed use land use designation.

RURAL DESIGNATIONS, GENERAL

Goal 7. Encourage clustered residential development where appropriate. All residential development should preserve the community feel of an area and further the protection of rural character in Island County.

- LU 7.1.** Standards for subdivisions and Planned Residential Developments shall

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encourage clustering to avoid or minimize the adverse impacts to the visual or physical environment while still fostering rural lifestyles and rural character by maintaining low density rural areas.

- LU 7.2.** In a cluster development, lots should be grouped on a limited portion of the site and should be smaller than those in a conventional subdivision. As a result, part of the site shall remain undeveloped while retaining the same overall number of units.

LU 7.2.1. Setbacks, minimum area and related dimensional bonuses shall be available in cluster developments for providing the type of land and quality open space amenities which the community most values.

LU 7.2.2. Provide locational criteria for cluster subdivisions.

LU 7.2.3. Provide for flexible building envelopes.

LU 7.2.4. Provide for varied spacing between buildings. In some cases allow “zero lot lines” for single family residential developments. In other cases, such as cohousing projects, provide for greater spacing in clusters to foster rural living and privacy on individual lots as well as within clusters.

LU 7.3. Minimize impervious surfaces.

LU 7.4. Provide for duplexes, triplexes and fourplexes in the Rural Residential land use district.

LU 7.5. Provide for a variety of residential densities.

LU 7.6. Limit overall area which can be developed for large lot residential development.

LU 7.7. Street yard setbacks shall be based on road classifications.

LU 7.8. Innovative development concepts will be encouraged to buffer agricultural and mineral resource lands from development.

LU 7.9. Lot size averaging is allowed in subdivisions and short plats.

LU 7.10. Designate the siting of water storage facilities by public water systems as permitted in all land use designation subject to screening requirements.

Goal 8. Ensure Planned Residential Developments retain and incorporate natural features and open space and preserve rural character.

LU 8.1. Standards for subdivisions and planned residential developments shall encourage clustering and avoid or minimize the adverse impacts to the visual or physical environment while still fostering rural lifestyles and rural character.

LU 8.2. Planned Residential Developments shall require a landscaping plan that requires the retention of existing native vegetation.

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- LU 8.3.** Planned Residential Developments require identification of dedicated open space areas.
 - LU 8.4.** Permit the use of open space areas in Planned Residential Developments for off-site wells, septic systems, trails and walkways, and, where desired by applicants, permit trail systems through open space areas to neighboring properties as connections to other trail systems.
 - LU 8.5.** Develop guidelines which require Planned Residential Developments be separated from lands designated Commercial Agriculture and Mineral Resource by dedicated open space areas or by other buffering measures. Buffers may be provided by trees, but may also be separation by distance.
 - LU 8.6.** Both attached and detached housing units will be provided for in Planned Residential Developments with conditions which preserve rural character.
 - LU 8.7.** Preference shall be given to PRD cluster development consisting of either attached or detached housing in the event subdivision of land occurs.
 - LU 8.8.** A density bonus shall be given for PRDs as an incentive for allocation of permanent open space, provided the development meets parcel size, open space allocation, and other requirements, and there are no adverse impacts to critical areas or natural resource conservation areas. No PRD density bonus shall be given to PRDs created as part of a Farm/Forest Plan.
- Goal 9. Maintain low residential densities to preserve rural character and to provide buffers between urban activities and agricultural and forestry uses.**
- LU 9.1.** Maintain development patterns in Rural (R) areas that provide primarily for low density rural residential use, while also considering the long term availability of known and/or verifiable water supplies, the general suitability of the area for on-site septic systems, the presence of geologically unstable areas, and the presence of flood or tsunami hazards.
 - LU 9.2.** Lot size averaging shall be allowed for subdivision of parcels meeting minimum size requirements, provided minimum and average parcel size and density thresholds are met as set forth in the development regulations.
 - LU 9.3.** Encourage diverse economic opportunities and uses compatible with and supportive of a rural way of life as outlined under the goals and policies in this chapter for Home Occupations and Home Industries in the Rural Area.
 - LU 9.4.** Residential development near designated Commercial Agriculture lands must be designed to minimize potential conflict and prevent unnecessary conversion of farm land.
 - LU 9.5.** Minor or small scale agriculture activities are consistent with rural areas, support rural character, and should be protected and encouraged.

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- LU 9.6.** All non-residential uses within the Rural designation must comply with rural design guidelines to assure compatibility with adjacent uses.
- LU 9.7.** Discourage public facilities and buildings within rural areas unless their function or service area is best served by a location outside of a UGA.
- LU 9.8.** Prohibit the creation of new lots unless they have adequate area outside of tsunami hazards, flood areas, geohazards, and other critical areas.

Goal 10. Create an area where rural agricultural activities are encouraged to occur with residential uses while preserving rural character and maintaining open space as the dominant characteristic.

- LU 10.1.** Maintain parcel patterns in Rural Agricultural (RA) areas that provide for rural agricultural and rural residential use, while also considering the long term availability of known and/or verifiable water supplies, the general suitability of the area for on-site septic systems, the presence of geologically unstable areas, and the presence of flood or tsunami hazards.
- LU 10.2.** Maintain allowance and preference for PRD using clustering within RA areas whenever subdivision of land is proposed.
- LU 10.3.** Right to farm and forest measures shall protect the right to pursue farm and forestry activities.
- LU 10.4.** Measures shall be used to support roadside stands or farmers' markets which may help farmers who wish to directly market products to nearby residential areas.
- LU 10.5.** Encourage the conservation of lands suitable for agricultural use to support farming as an activity valued in the County.
 - LU 10.5.1.** Limit nonagricultural uses to lands with poor soils or areas otherwise not suitable for agricultural purposes.
 - LU 10.5.2.** Limit the allowable range of accessory uses to those allowed by state statute.
- LU 10.6.** Cooperative agricultural production and marketing will be encouraged.
- LU 10.7.** Encourage agricultural landowners to retain their lands in agricultural production and to utilize tax incentive programs.
- LU 10.8.** Support innovative public and private programs that provide farmers incentives to stay on the land.

Goal 11. Encourage preservation of natural resources and rural character through the Earned Development Unit (EDU) system.

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LU 11.1. Upon adoption of this plan, Rural Agriculture landowners will be allocated EDUs based on the time of commitment of their conservation easement in a Farm/Forest Management Plan. A schedule for the allocation of EDUs shall be shown in the development regulations with a clear relationship between number of earned units and time of commitment of conservation easement.

LU 11.2. EDUs may be used pursuant to an adopted Farm/Forest Development and Management Plan through boundary line adjustment, land division or PRD meeting lot size requirements.

LU 11.2.1. The plan will cover such items as the general location of earned development units, identify action to strengthen the farm or forest unit, shall encompass the entire farm or forest unit, shall commit at least 75% of the farm or forest unit to a conservation easement for no less than 10 years, and must protect the most productive portions of the farm or forest unit and enhance commercial productivity.

LU 11.2.2. All uses allowed in the Rural land use designation shall be allowed in the remaining 25%.

LU 11.2.3. EDUs may be used only on land that does not contain prime soils or is otherwise not suitable for farming.

LU 11.2.4. EDUs may be located on the Farm unit or other Rural, Rural Agriculture, Rural Forest or Commercial Agriculture lands owned by the farm or forest operator provided that at least 75% of the Farm unit is kept in a conservation easement.

RESOURCE LANDS

Goal 12. **Ensure the long-term conservation of natural resource lands, and preclude land uses and developments that are incompatible within natural resource lands, while allowing existing and ongoing resource management operations and preserving long-term commercial viability of those uses.**

LU 12.1. Create an area where rural forestry activities are encouraged to occur with residential uses while preserving rural character and maintaining open space as the dominant characteristic.

LU 12.2. Reserve lands which because of their size, soil type, and active management are part of an essential land base for continued commercial agriculture. Assure that these lands have continued viability to serve as a resource for food, fiber, feed and forage.

LU 12.3. Conserve long term mineral lands to ensure the continued supply of sand, gravel, and non-renewable minerals, and their protection from urban encroachment, as well as environmental protection through appropriate siting, operation, reclamation standards and groundwater protection

measures.

GENERAL LAND USE DESIGNATIONS & OVERLAYS

Goal 13. Ensure that future development in the Airport and Aviation Safety Overlay protects public health, safety and welfare.

Policies Applicable to All Airports:

- LU 13.1.** Ensure that the permitting process for any new or expanding airport is subjected to a thorough review. Potential benefits will be carefully considered as will potential adverse impacts.
- LU 13.2.** Ensure that public or private development around existing airports allows the continued use of that facility as an airport. Land within aircraft approach and departure zones will be protected from inappropriate development.
- LU 13.3.** Ensure that new land uses which would attract or accommodate large concentrations of people will not be permitted to locate within approach or departure zones and/or Accident Potential Zones of existing airports.
- LU 13.4.** Help to minimize the number of people exposed to very high aircraft noise levels in areas near airports through compatible land uses. In the highest airport noise level areas open/ undeveloped space will be encouraged and land use densities shall remain low. The objective is to achieve the greatest degree of compatibility and the least public annoyance which can be attained.
- LU 13.5.** Preserve the right of airport owners and operators to continue present operations and allow for future air transportation and airport facility needs. It is also important to consider the present and future use of private property and the rights of private property owners.
- LU 13.6.** New dwellings in moderate and high aircraft noise areas will be built to a noise level reducing standard that is higher than that which is obtained by building to current minimum building code standards. Structural noise attenuation standards in the higher noise areas (NAS/OLF) will be greater than that required in moderate aircraft noise areas.
- LU 13.7.** Island County will notify the airport operator, state and federal aviation agencies, at the time of initial application, of any proposed actions or projects, which would lead to development near an airport that is not compatible with the airport's operations. The airport operator shall notify Island County, and potentially affected citizens, of any proposed operational changes which would have a significant impact on existing land uses.
- LU 13.8.** Land use proposals, structures, or objects that would interfere with the safe operation of aircraft will be examined for compatibility as defined in CFR

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Title 14, FAR Part 77 and FAA Terminal Instrument Procedures (TERPS) Chapter 12, and WA 31. The object is to permit land uses which allow safe aircraft operations as defined in the documents referenced above.

- LU 13.9.** A public site plan review is required in the event airport operations exceed an operational growth rate of 30% in 3 years which necessitates expansion of existing airport boundaries.
- LU 13.10.** Island County will require a Comprehensive Plan Amendment for the establishment of any proposed new airport.
- LU 13.11.** Require advance notification of future owners or renters of properties within noise impact areas of potentially significant noise impacts.
- LU 13.12.** Overlay policies and development regulations shall be implemented in addition to those associated with the underlying land use designation. When there is a conflict in policy statements or development regulations, the more restrictive shall apply.

Policies Applicable to Military Airports Only:

- LU 13.13.** Island County will discourage residential development in Aircraft Accident Potential Zones (APZ). To protect the operational use of military airports, Island County will ensure that future development in Accident Potential Zones (APZs) around Ault Field and Outlying Field Coupeville is at the lowest possible density consistent with the underlying land use designation.
- LU 13.14.** If the Department of Defense should declare surplus any portion of NAS Whidbey Island, the County will work closely with federal and state officials, the City of Oak Harbor, and other appropriate entities to ensure that the base capital facilities are put to the best economic use, consistent with city and county comprehensive plans.
- LU 13.15.** Island County will continue to work with NAS Whidbey Island to ensure land use will remain compatible with the changing needs and uses of NAS Whidbey Island.

Goal 14. Provide for unique areas in the County where special review shall be required through the master plan process to protect lands and structures that have historical, archaeological or environmental significance.

- LU 14.1.** A master plan shall be required for all developments.
- LU 14.2.** Protect lands and structures that have historical, archaeological or environmental significance while allowing a unique combination of uses that enhance, conserve or highlight these features of significance.
- LU 14.3.** Discourage public facilities and buildings unless their function or service

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area is best served by a location outside of a UGA.

- LU 14.4.*** Prohibit the creation of new lots unless they have adequate area outside of tsunami hazards, flood areas, geohazards, and other critical areas.



Island County Planning and Community Development

Mary Engle, Director

Physical Address: 1 NE 6th St, Coupeville, WA 98239 Mailing Address: 1 NE 7th St, Coupeville, WA 98239

Ph: Whidbey 360-679-7339 | Camano 360-387-3443 | Fax: 360-679-7306

Email: PlanningDept@islandcountywa.gov | <https://www.islandcountywa.gov/207/Planning-Community-Development>

~ MEMORANDUM ~

TO: Board of County Commissioners
FROM: Mary Engle, Planning Director
DATE: 03.13.2024
SUBJECT: Comprehensive Plan – Housing Element Goals & Policies Discussion

Long Range Planning staff will lead the Board of Island County Commissioners in a review of the 2016 Comprehensive Plan Housing Element's goals and policies. Staff will provide Growth Management Act (GMA) required updates, department feedback, and public input to frame the conversation on what changes are needed for the 2025 periodic update.

Attachments:

- Excerpt from the Island County 2016 Comprehensive Plan – Housing Element Goals and Policies



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Mary Engle, Director

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EXCERPT FROM THE ISLAND COUNTY 2016 COMPREHENSIVE PLAN – Housing Element

Goal 1. Encourage preservation of existing housing stock capacity, subsidized affordable housing units, and the character of existing communities.

- H 1.1. Sustain and enhance the vitality, diversity, and quality of life within existing neighborhoods through the promotion of development that is sensitive to the quality, design, scale, and character of those neighborhoods.
- H 1.2. Preserve the existing housing stock to meet the changing needs of residents by continuing to improve the permitting process for remodels/additions, accessory dwelling units, and guest cottages.
- H 1.3. Monitor properties with expiring subsidies and identify strategies and resources to preserve their affordability.
- H 1.4. Identify and promote awareness of resources and programs available for housing repair and rehabilitation for homeowners with low incomes; examples may include, weatherization, septic repair or compliance with flood hazard regulations.
- H 1.5. Support the preservation of manufactured home parks in Island County as a component of the County's affordable housing stock.
- H 1.6. Develop strategies to encourage the re-use of existing housing structures in rural areas including potential incentives for relocation to other sites.
- H 1.7. Monitor the impacts of vacation rentals on housing availability in the County.
- H 1.8. Consider development regulations for the RAIDs and NMUGAs that are compatible with residential community character, that promote pedestrian connectivity and ensure the long term vitality of Island County neighborhoods.

Goal 2. Promote the development of different housing types, such as rentals and manufactured homes, to meet the needs of all demographic segments of the population, housing tenure choices, and income levels. Provide for these housing types in appropriate locations where infrastructure, public transit, and community services are readily accessible, planned in the near future, or are included as part of a new fully-contained

community as described in RCW 36.70A.350.

- H 2.1. Encourage the construction of multi-family units, primarily rentals, in areas where higher densities are permitted and where infrastructure, including public transportation, is already available.
- H 2.2. Encourage housing suitable to the needs of older adults, including independent and assisted living housing, in Mixed Use RAIDs and UGAs.
- H 2.3. Encourage the siting of duplexes, triplexes, and fourplexes in Rural Residential zones that are near Mixed Use RAIDs and UGAs.
- H 2.4. Identify innovative housing approaches for Camano Island where the predominance of rural zones and lack of a UGA presents challenges for meeting a diversity of housing needs.
- H 2.5. Evaluate and modify as needed, Planned Residential Developments and clustered housing code provisions to ensure that they provide adequate incentives to achieve desired densities.
- H 2.6. Evaluate regulations to determine appropriate locations, provide expanded opportunities, determine potential incentives, and remove unnecessary barriers and/or impediments to the development of the following housing types: permanent and seasonal farm worker housing; accessory dwelling units and guest cottages; manufactured housing communities and manufactured homes; small multi-unit structures; cottage housing; and other small dwelling unit types.
- H 2.7. Encourage infill development in RAIDs and UGAs through zoning regulations and incentives with specific attention to the incentives identified under RCW 36.70A.540.
- H 2.8. Explore options to allow temporary housing structures to accommodate short-term housing needs related to limited-term employment and the homeless population.
- H 2.9. Monitor Island County's housing development and periodically compare to housing development targets in the Comprehensive Plan and buildable land supply.
- H 2.10. Ensure that innovative housing options are considered and addressed in county housing policies, programs, funding, and local zoning regulations.
- H 2.11. Develop and allow "pre-approved" or "permit ready" house plans for accessory dwelling units, guest cottages, cottage housing and other potential housing types in appropriate locations.
- H 2.12. Identify opportunities to lower labor and materials costs by supporting and encouraging alternative housing designs, materials and construction, such as self-help/sweat-equity housing, owner-built housing, and the use of existing or reclaimed building materials.
- H 2.13. Provide additional locations for, and encourage the siting of, recreational vehicle parks as a temporary lodging option.

- H 2.14. Continue to identify and evaluate opportunities to streamline interdepartmental permitting review where possible.

Goal 3. Promote fair access to housing and shelter for all persons.

- H 3.1. Identify appropriate locations to support and facilitate transitional housing, coordinated with critical support services, for youth, adults, seniors, families, and those with disabilities.
- H 3.2. Identify appropriate locations to support and facilitate the development of emergency shelters and short-term housing for those in need.
- H 3.3. Ensure that community housing and shelter needs are considered and addressed in county housing policies, programs, funding, and local zoning regulations.
- H 3.4. Evaluate and consider implementing the recommendations of the Tri-County Consortium's 2018 Analysis of Impediments to Fair Housing Choice and successor Fair Housing Plans to affirmatively further Fair Housing in Island County.
- H 3.5. Promote community and landlord awareness of and compliance with federal and state Fair Housing laws.
- H 3.6. Promote diverse representation on boards and committees that make recommendations concerning housing-related policies, programs or funding.

Goal 4. Promote policies that facilitate the reduction in the share of cost burdened households by increasing the supply of subsidized housing.

- H 4.1. Define subsidized and low-income housing needs and establish measurable subsidized and low-income housing targets relative to those needs.
- H 4.2. Encourage a range of permanent subsidized housing options through small project-based structures, administration of rental assistance, and supportive housing.
- H 4.3. Ensure publicly-funded, low-income housing is located in appropriate locations where infrastructure, public transit, and community services are readily accessible, planned in the near future, or are included as a part of a new fully-contained community as described in RCW 36.70A.350.
- H 4.4. Review existing surplus public land owned by Island County and other public agencies to determine if any such lands are appropriate to be transferred to a non-profit housing agency for subsidized or low-income housing.

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- H 4.5. Evaluate opportunities to reduce or eliminate permit fees for subsidized and low-income housing.
- H 4.6. Implement incentives for subsidized housing projects within non-municipal urban growth areas and mixed use RAIDs.
- H 4.7. Ensure coordination between the policies addressed in the Comprehensive Plan and those outlined in Island County's Homeless Housing Plan.
- H 4.8. Collaborate with municipal jurisdictions to develop mutual policies and agreements that facilitate the siting and subsequent annexation of subsidized housing in unincorporated UGAs.

Goal 5. Collaborate with other jurisdictions and housing organizations to address county-wide housing issues.

- H 5.1. Actively convene committees to coordinate county-wide housing issues.
- H 5.2. Evaluate the potential for a Transfer of Development Rights (TDR) program for the Freeland NMUGA, or in conjunction with incorporated communities, that allows higher densities within city boundaries and urban growth areas.
- H 5.3. Continue to maintain partnerships and support collaboration with the Housing Authority of Island County, the Opportunity Council, local industries, major employers, and different groups including nonprofit, faith-based, public, and private interests in ongoing efforts to fund and sustain existing subsidized and low-income housing projects in Island County.
- H 5.4. Support collaboration between private developers, public agencies, and non-profit organizations so that a variety of housing options are dispersed throughout the county and develop these partnerships to collaboratively advocate for more financial resources from the federal and state government for subsidized, low-income housing.
- H 5.5. Continue to coordinate with, and provide staff support for the Housing Provider Network and other housing-related committees.
- H 5.6. Support applications for federal, Low-Income Housing Tax Credits and other available incentives for the acquisition, rehabilitation, or new constructions of rental housing targeted to lower-income households.
- H 5.7. The Board shall consider housing related policy implementation actions as part of the annual work plan review.

Low-Income Housing Tax Credits

A tax incentive intended to increase the availability of low-income housing. The program provides an income tax credit to owners of newly constructed or substantially rehabilitated low-income rental housing projects. Department of Housing & Urban Development

Transfer of Development Rights

Methods for protecting land from development by voluntarily removing the development rights from a sending area and transferring them to a receiving area for the purpose of increasing development density or intensity in the receiving area.

Workforce Housing

Workforce housing is housing that is affordable to workers and close to their jobs. It is homeownership, as well as rental housing, that can be reasonably afforded by a moderate to middle income, critical workforce and located in acceptable proximity to workforce centers. The most common definition of workforce housing comes from the Urban Land Institute, which defines workforce housing as: "housing that is affordable to households earning 60 to 120 percent of the area median income."

National Association of Realtors

New Fully-Contained Community Development proposed for location outside of the existing designated urban growth areas which is characterized by urban densities, uses, and services, and meets the criteria of RCW 36.70A.350

WAC 365-196-210 - The Growth Management Act Procedural Criteria