

**WHATCOM COUNTY CONTRACT  
INFORMATION SHEET**

Whatcom County Contract No.

202202008

Originating Department:	Public Works - Maintenance and Operations
Division/Program: (i.e. Dept. Division and Program)	9060/90600 Maintenance and Operations
Contract or Grant Administrator:	Gina Miller, Maintenance and Operations Assistant Superintendent
Contractor's / Agency Name:	City of Bellingham
Is this a New Contract?    If not, is this an Amendment or Renewal to an Existing Contract?    Yes <input type="radio"/> No <input checked="" type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval?    Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____ Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process?    Contract _____ Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____ Cost Center: <u>108100</u>	
Is this agreement excluded from E-Verify?    No <input type="radio"/> Yes <input checked="" type="radio"/> If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below: <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input checked="" type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ <u>169.69/ton rate</u> This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	Council approval required for; all property leases, contracts or bid awards <b>exceeding \$40,000</b> , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, <b>except when:</b> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
Request authorization for the County Executive to renew an interlocal agreement between Whatcom County and the City of Bellingham for joint usage of the Vactor Waste Transfer Facility in the amount of \$169.96/ ton.	
Term of Contract: One (1) year with 5, annual renewals	Expiration Date: December 31st, 2022

Contract Routing:	1. Prepared by: <u>Gina Miller</u>	Date: <u>12/07/2021</u>
	2. Attorney signoff: <u>Christopher Quinn</u>	Date: <u>12/08/2021</u>
	3. AS Finance reviewed: <u>M Caldwell</u>	Date: <u>12/8/21</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____ ✓	Date: <u>12-28-21</u>
	6. Submitted to Exec.: _____ ✓	Date: <u>2/4/22</u>
	7. Council approved (if necessary): <u>AB2022-056</u> ✓	Date: <u>1-25-22</u>
	8. Executive signed: _____ ✓	Date: <u>2-7-22</u>
	9. Original to Council: _____ ✓	Date: <u>2-11-22</u>

**INTERLOCAL AGREEMENT  
CITY OF BELLINGHAM – WHATCOM COUNTY  
VACTOR WASTE FACILITY USE**

Pursuant to the Washington State Interlocal Cooperative Act, RCW Chapter 39.34, and to other provisions of law, this Interlocal Agreement is entered into by and between THE CITY OF BELLINGHAM (City), a municipal corporation of the State of Washington, and WHATCOM COUNTY (County), a municipal corporation of the State of Washington located in Whatcom County, Washington, for the purpose of utilization of certain operational services, to the mutual advantage of each jurisdiction.

WHEREAS, the County desires to utilize the City’s vactor waste facility located at 2140 Division Street, Bellingham, Washington for the purposes of disposing or recycling of their street sweeping and vactor waste,

WHEREAS, the City has available capacity at this time to store and process the County’s street sweeping and vactor waste,

WHEREAS, the County is being required by the Department of Ecology (DOE) and Whatcom County Department of Health (DOH) to dispose of this waste in a manner deemed appropriate by those agencies,

WHEREAS, RCW 39.34 permits governmental entities to enter into Interlocal Agreements to accomplish mutually beneficial purposes in the public interest;

NOW, THEREFORE, THE CITY OF BELLINGHAM AND WHATCOM COUNTY AGREE AS FOLLOWS:

1. **PURPOSE:** The purpose of the Interlocal Agreement is to authorize and to define the terms under which the City will provide certain services to the County as further delineated herein.
2. **TERM:** The term of this Interlocal Agreement shall commence on January 1, 2022 and upon full execution of this document by all parties and the filing of this Interlocal Agreement as set forth in RCW 39.34.040. This Interlocal Agreement shall terminate on the 31<sup>st</sup> Day of December, 2022, unless terminated or renewed as elsewhere provided in the Interlocal Agreement.
3. **RENEWAL:** Unless terminated sooner as otherwise provided herein, this Interlocal Agreement shall remain valid until December 31, 2022. Five (5), one (1) year (annual) renewals are allowed with mutual written agreement by both parties as to term of extension and any adjustments in Cost for Service.
4. **SCOPE OF SERVICES:** The scope of services is as provided in Exhibit "A" of this Interlocal Agreement, which is attached and incorporated herein, as may be amended from time to time.

5. PAYMENT: Payment to the City for services will be on a per ton basis and as outlined in Exhibit A, which is attached and incorporated herein, as may be amended from time to time.

Upon receipt of an invoice from the City, the County shall remit the above amount on a monthly basis to the City of Bellingham, Finance Department, 210 Lottie Street, Bellingham, Washington, 98225 for the duration of the Term of this Interlocal Agreement.

The County shall be responsible for payment of any taxes due to the Washington State Department of Revenue on any payments made under this Interlocal Agreement.

The City shall submit invoices to The County on a monthly basis for services performed the prior month. The invoice shall reference this Interlocal Agreement.

The City shall keep clearly detailed records covering all services authorized under this Interlocal Agreement.

6. RELATIONSHIP TO THE PARTIES: The parties agree that they are each independent entities operating pursuant to the terms and conditions of this Interlocal Agreement. No agent, employee, servant or representative of any party shall be deemed to be an employee, agent, servant or representative of any other party for any purpose. Each party will be solely and entirely responsible for its acts and for the acts of its agents, employees, and servants during the term of this Interlocal Agreement.

7. MUTUAL INDEMNITY: Each of the parties, shall protect, defend, indemnify, and save harmless the other party, its officers, officials, employees, and agents from any and all costs, claims, judgment and/or awards of damages, arising out of, or in any way resulting from, that party's own negligent acts or omissions which may arise in connection with its performance under this Agreement. No party will be required to indemnify, defend, or save harmless the other party if the claim, suit or action for injuries, death, or damages is caused by the sole negligence of the other party. Where such claims, suits, or actions result from the concurrent negligence of the parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of a party's own negligence. Each of the parties agrees that its obligations under this subparagraph extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents. FOR THIS PURPOSE, EACH OF THE PARTIES, BY MUTUAL NEGOTIATION, HEREBY WAIVES, WITH RESPECT TO THE OTHER PARTY ONLY, ANY IMMUNITY THAT WOULD OTHERWISE BE AVAILABLE TO IT AGAINST SUCH CLAIMS UNDER THE INDUSTRIAL INSURANCE PROVISION OF TITLE 51 RCW. In any action to enforce the provisions of the Section, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs incurred from the other party. The obligations of this Section shall survive termination of this Agreement. For purposes of this Section, the term "party" includes the party itself as well as its officials, employees, agents, and contractors.

8. EXTENT OF AGREEMENT: This Interlocal Agreement contains all of the terms and conditions agreed upon by the parties. The parties agree that there are no other understandings, oral or otherwise, regarding the subject matter of this Interlocal Agreement.

9. MODIFICATION: No changes or modifications of this Interlocal Agreement shall be valid or binding upon either party to this Interlocal Agreement unless such changes or modifications are in writing and executed by authorized representatives of both parties.

10. RESPONSIBLE PERSONS: The persons responsible for administration of this Interlocal Agreement on behalf of each party shall be the Bellingham Director of Public Works, and the Whatcom County Director of Public Works. All correspondence, letters or other notices shall be directed to the foregoing parties at the following addresses/phone numbers, or to their established agency designee:

Superintendent of Maintenance  
City of Bellingham Public Works  
2221 Pacific Street  
Bellingham, WA 98229  
(360) 778-7700

Superintendent of Maintenance  
Whatcom County Public Works  
901 West Smith Road  
Bellingham, WA 98226  
(360) 778-6400

11. TERMINATION: This Interlocal Agreement may be terminated by either party upon the giving of ninety (90) days' written notice to the other, at which time any remaining financial obligations for services rendered prior to termination shall be paid in full.

12. CONSEQUENTIAL DAMAGES: In no event and under no circumstances shall the City be liable to The County for any interest, loss of anticipated revenue, increased expense of operations, loss by reason of shutdown or non-operation, or for any consequential, indirect or special damages.

13. DIRECTION AND CONTROL: The parties hereto do not intend to create any separate or legal administrative entity by this Interlocal Agreement but, rather, intend for this mutual Interlocal Agreement to govern for the purposes contained herein.

14. PROPERTY AND EQUIPMENT: The ownership of all property and equipment utilized in association with this Interlocal Agreement shall remain with the original owner unless specifically and mutually agreed to by both parties.

15. STATUS OF AGREEMENT: This Interlocal Agreement is in addition to, and is not intended to replace, substitute, modify or otherwise amend any other agreement between the City and The County. This Interlocal Agreement is only limited to the purposes stated herein. Any other agreements continue in effect according to the specific terms of those agreements.

16. COMPLIANCE WITH LAW: All parties to this Interlocal Agreement shall comply with all applicable federal, state and local laws, rules and regulations in carrying out the terms and conditions of this Interlocal Agreement.

17. FURTHER COOPERATION: The parties shall fully and completely cooperate with one another in good faith at all times, so that the terms and spirit of this Interlocal Agreement may be fully implemented. All parties have had the ability to negotiate the terms of this Interlocal

Agreement on an equal basis. This Interlocal Agreement shall be reasonably interpreted and not weighed in favor of or against any party.

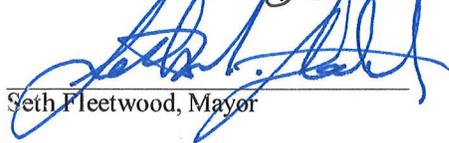
18. SURVIVABILITY: All covenants, promises, and performances which are not fully performed as of the date of termination shall survive termination as binding obligations.

19. WAIVER: No failure by any of the foregoing parties to insist upon the strict performance of any covenant, duty, agreement, or condition of this Interlocal Agreement, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. Any party hereto, by notice, and only by notice as provided herein may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party hereto. No waiver shall affect or alter this Interlocal Agreement, and each and every covenant, agreement, term, and condition of this Interlocal Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

20. SEVERABILITY: If any provision of this Interlocal Agreement is held to be invalid, illegal or unenforceable for any reason, that holding shall not affect or impair, in any manner, the validity, legality or enforcement of the remainder of this Interlocal Agreement.

**CITY OF BELLINGHAM**

Dated this 28 day of December 2021

  
Seth Fleetwood, Mayor

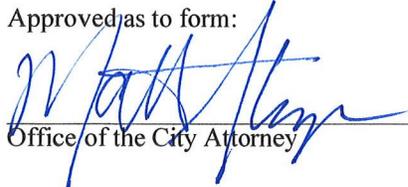
Attest:

  
Finance Director

Department Approval:

  
Director of Public Works

Approved as to form:

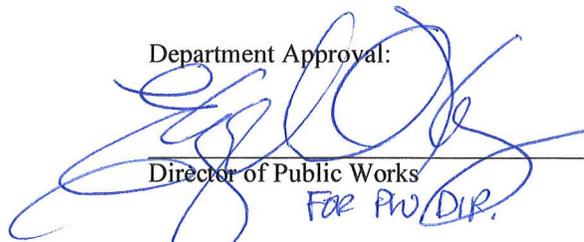
  
Office of the City Attorney

**WHATCOM COUNTY**

Dated this 7<sup>th</sup> day of February 2022

  
Satpal Singh Sidhu, County Executive

Department Approval:

  
Director of Public Works  
FOR PW/DIP.

Approved as to form:

Approved via Email - CA/SD  
Civil Deputy Prosecuting Attorney

STATE OF WASHINGTON }  
COUNTY OF WHATCOM } SS

I CERTIFY that I know or have satisfactory evidence that **SETH FLEETWOOD** is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the **MAYOR** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.



December 28, 2021  
DATED

*[Signature]*  
SIGNATURE OF NOTARY PUBLIC

S. Brooksana Raney  
NAME PRINTED

Notary Public  
TITLE

7/28/24  
MY APPOINTMENT EXPIRES

STATE OF WASHINGTON }  
COUNTY OF WHATCOM } SS

I CERTIFY that I know or have satisfactory evidence that **SATPAL SINGH SIDHU** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **EXECUTIVE** of **WHATCOM COUNTY** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

\_\_\_\_\_  
DATED

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC

\_\_\_\_\_  
NAME PRINTED

Notary Public  
TITLE

\_\_\_\_\_  
MY APPOINTMENT EXPIRES

## EXHIBIT "A"

### **Vactor Waste Facility Use**

In consideration for the use of the City of Bellingham's ("City") Vactor Waste Facility ("Facility"), Whatcom County, located at 901 West Smith Road, Bellingham, WA 98226 (hereinafter the "User"), covenants and agrees to comply with the following terms and conditions:

"Users":

Contact Person: Gina Miller

Phone Number: 360-778-6423

Email Address: gmiller@co.whatcom.wa.us

#### **Section 1 – Purpose**

The purpose of this Interlocal Agreement is to allow public sector use of the Facility. As further described herein, User's ability to use the Facility requires full compliance with this Interlocal Agreement's terms and conditions, including but not limited to:

- Dumping only "ACCEPTABLE WASTE" (Section 2 – ACCEPTABLE WASTE)
- Dumping in an appropriate manner (Section 3 – DUMPING OPERATION)
- Obtaining Training (Section 4 – REQUIRED TRAINING)
- Complying with Safety Rules and Regulations (Section 5 – SAFETY)
- Payment (Section 6 – COST OF SERVICE)
- Such other terms and conditions as contained herein.

#### **Section 2 – Acceptable Waste**

- 2.1 User shall be solely responsible to ensure that only Acceptable Waste is deposited at the facility. For purposes of this Interlocal Agreement "Acceptable Waste" is defined herein as:
- Street sweepings are wastes collected by utilizing a street sweeper to collect grit, dirt, vegetative waste and litter from roadway surfaces.
  - Vactor wastes includes, grit, dirt and vegetative waste collected by an eductor truck during the cleaning of storm water catch basins.
- 2.2 Any materials that are odorous or are from a chemical spill are specifically not considered Acceptable Waste products and shall not be deposited at the Facility.
- 2.3 In the event unacceptable waste or materials are dumped at the Facility, the responsible party shall pay all costs associated with the proper removal and deposition of the contaminated materials. Removal and depositing of unacceptable waste or materials shall

be in accordance with the approved practices and regulations of the State of Washington, including but not limited to the Washington State Department of Ecology, and the Whatcom County Health Department.

- 2.4 The City reserves the right to find any waste or material unacceptable in its sole discretion. Disposing of unacceptable materials may result in the loss of the privilege to use the Facility.

### **Section 3 – Dumping Operation**

- 3.1 The Facility has a limited capacity to accept Acceptable Waste products and User acknowledges that the City, State of Washington and Whatcom County, as the primary public users, have preference over all other users. In the event that the Facility capacity should become an issue all other users will be directed to cease usage of the site. The City shall have no obligation or duty to provide advance warning of this circumstance or to provide alternate dumping facilities. This contract is in no way a guarantee of service. The City of Bellingham may at any time and for any reason cease to offer this service to any and all users.
- 3.2 When depositing Acceptable Waste at the Facility, User agrees to follow the following “dumping operation”:
  - 3.2.1 The user truck shall be weighed to obtain the net weight of the material. A copy of the weight slip shall be placed in the drop box for every load dumped at the facility. Weight slips shall clearly identify username, vehicle number, gross weight, tare weight, and billable weight. Weight slips will be checked against the gate entry log. If there is no slip, the customer will be charged for a full load based upon the capacity of the vehicle. Users are not to use the site other than to dump. Gate access shall be monitored for billing purposes. If a user accesses the facility and there is no weight slip present for that access the user will be billed for a full load of the vehicle assigned to that access card; AND
  - 3.2.2 After obtaining the weight of the load, trucks shall back into the Facility to decant excess water into the settling trough. After the excess water is removed, the truck will dump the remainder of the load on the floor as far back in the facility as is practical to limit the amount of material that may spew out into the parking lot.
- 3.3 In addition to any other remedies that may be available to the City, the City may terminate this Interlocal Agreement and bar User from any future use of the Facility for failure to follow the procedures outlined in Section 3.2.

### **Section 4 – Required Training**

In order to ensure the proper and safe use of the Facility, training is required prior to use of the Facility. Training consists of a walkthrough of the Facility with a representative of the City to explain how the Facility operates and what is expected from those who use the Facility. The City shall issue a letter of fulfillment (“Letter”) that documents that the User has completed the

training requirement. User shall not be allowed to use the Facility until completing this training and receiving the Letter. Further, User shall not allow any of its employees or agents to use the Facility without receiving the training and Letter required hereunder.

**Section 5 – Safety**

All personal injury, including first aid incidents, or damage to vehicles or buildings must be reported immediately to the Safety Specialist at Bellingham Public Works (778-7700). Users shall follow all Washington State safety policies and regulations while inside the Facility. It is encouraged that a ground guide be used whenever operating a vehicle inside the Facility. The City shall not be responsible in any manner for User's use of the Facility, except to the extent of the City's sole negligence.

**Section 6 – Cost for Service**

The cost of depositing one ton of Acceptable Wastes is \$169.69 for 2022. This amount is subject to change at the end of the term of the Permit. The User will be billed monthly and User agrees to pay the bill in full within 30 calendar days of the date of the bill. Late payments will be charged a late fee of \$25 and returned checks are subject to a \$20 fee. In addition to any other remedies that may be available, User's failure to pay the bill after 60 calendar days shall automatically terminate this Permit and cause User to forfeit the privilege to use the Facility.

**WHATCOM COUNTY  
PUBLIC WORKS DEPARTMENT**



**MAINTENANCE & OPERATIONS DIVISION**

901 W. Smith Road  
Bellingham, WA 98226-9610  
Phone (360) 778-6400  
Fax (360) 778-6401

**Andy Bowler, Superintendent**

**RECEIVED**

FEB 4 2022

**WHATCOM COUNTY  
EXECUTIVE'S OFFICE**

**Jon Hutchings**

Director

**MEMORANDUM**

To: The Honorable Satpal Singh Sidhu, County Executive  
Through: Jon Hutchings, Public Works Director  
From: Andy Bowler, Maintenance and Operations Superintendent  
Gina Miller, Maintenance and Operations Assistant Superintendent  
Date: December 07, 2021  
Re: Interlocal Agreement - City of Bellingham  
Joint Usage of the Vactor Waste Transfer Facility

• **Requested Action**

Enclosed for your review is one Interlocal Agreement between Whatcom County Public Works and City of Bellingham for Vactor Waste Facility Use.

• **Background and Purpose**

Street wastes for all users of the City of Bellingham Vactor Waste Transfer Facility have increased due to NPDES/Stormwater environmental requirements and must be disposed in a sanitary facility given it being classified as a "special waste" which means "wastes collected from roadway and normal maintenance activities such as sweepings, cleanings from storm drainage systems and the like". In 2020, the Maintenance & Operations division disposed of a total of 1,121.12 tons of vactor waste.

Whatcom County and the City of Bellingham first entered into an Interlocal Agreement, dated November 5, 2001 (Whatcom County Contract 200110028, City Contract 2001-0295) to establish the terms and conditions under which they mutually agreed to provide funding for the joint installation, maintenance and operation of a beneficial re-use facility for street waste over a ten-year period. A "beneficial re-use facility" per Section 2.01 of this 2001 contract is defined as "a special waste handling facility designed for the specific intent of providing a place where street waste materials collected are processed, therein rendering the material suitable for re-use, recycling, or composting according to regulatory guidelines". Whatcom County contributed \$150,000 and the City of Bellingham contributed \$450,000 towards constructing the vactor waste facility.

The latest agreement was approved on February 14, 2018 (Whatcom County Contract 201602026-2) with subsequent contract renewals running through December 31, 2021. If approved, this will be a new contract with five contractually allowed annual renewals.