

INTERGOVERNMENTAL AGREEMENT BETWEEN SNOHOMISH COUNTY
AND THE SNOHOMISH HEALTH DISTRICT
FOR ACTIVITIES RELATED TO SOLID WASTE IN SNOHOMISH COUNTY

This Intergovernmental Agreement Between Snohomish County and the Snohomish Health District for Activities Related to Solid Waste in Snohomish County (this “Agreement”), is made by and between Snohomish County, a political subdivision of the State of Washington (the “County”), and the Snohomish Health District, a Washington special purpose district established pursuant to chapter 70.46 RCW (the “District”).

RECITALS

A. The County and District recognize the importance and necessity for ensuring the proper handling and disposal of solid waste in Snohomish County; and

B. The County seeks the services of the District to monitor and inspect County owned solid waste facilities and provide technical assistance with regard to regulatory compliance of solid waste facilities and closed landfills; and

C. The County and District wish to establish a contractual relationship to implement the activities identified herein;

AGREEMENT

NOW, THEREFORE, in consideration of the respective agreements set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the District agree as follows:

1. DURATION OF AGREEMENT

This Agreement shall govern services from January 1, 2020, through December 31, 2023, (the “Term”) unless terminated sooner as provided herein. The County’s obligations after December 31, 2021, are contingent upon local legislative appropriation of necessary funds in accordance with applicable laws and the Snohomish County Charter. In the event funding becomes unavailable for work to be performed pursuant to this Agreement, all work shall terminate in accordance with provisions of this Agreement upon the last day of funding.

2. PURPOSE OF AGREEMENT

The purpose of this Agreement is for the County to contract with the District for professional services as described in Appendix A, attached hereto and incorporated herein by this reference.

3. ADMINISTRATION OF AGREEMENT

Each party to this Agreement shall designate an individual who may be designated by title or position to oversee and administer such party’s participation in this Agreement. The parties’ initial Administrators shall be the following individuals:

County's Initial Administrator:
Matthew Zybas, Solid Waste Director
Snohomish County Public Works
3000 Rockefeller Ave M/S 607
Everett, WA 98201

District's Initial Administrator:
Ragina Gray, Environmental Health Director
Snohomish Health District
3020 Rucker Ave. #306
Everett, WA 98201

Either party may change its Administrator at any time by delivering written notice of such party's new Administrator to the other party.

4. ENTIRETY OF AGREEMENT

- A. This Agreement constitutes the entire agreement between the County and the District and supersedes all proposals, oral and written, and all other communication between the parties in relation to the subject matter of this Agreement. No other agreement exists between the County and the District with regards to the instant subject matter except as expressly set forth in this instrument. Except as otherwise provided herein, no modification of this Agreement shall be effective until reduced to writing and executed by both parties.
- B. Any revisions or alterations to this Agreement shall be negotiated as an amendment requiring the written approval of both parties.

5. SCOPE OF WORK

- A. The District shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to the performance of the work set forth in Appendix A, attached hereto and incorporated herein.
- B. The District agrees to perform each Task in accordance with the schedule as presented in Appendix B.
- C. The District will not be required to perform work for the County in excess of work specified in the Appendix A except by agreement in a written amendment to this Agreement or as otherwise required by law.

6. COMPENSATION

The County agrees to pay the District for services provided under this Agreement a quarterly sum equal to \$1.00 per ton of solid waste exported by the County's waste export provider; provided however, that solid waste generated from a natural disaster, war, acts of terrorism, civil unrest and other acts of a similar nature will be excluded from inclusion in the per ton calculation.

7. PERFORMANCE

The District agrees to satisfy all aspects of this Agreement, including Appendix A, in a timely and professional manner. The District shall comply with all other applicable federal, state, and local laws, rules, and regulations in performing this Agreement. At any time that the District cannot fulfill its responsibilities under this Agreement, the District shall notify the County thereof in writing, together with an explanation of why said responsibilities cannot be fulfilled. Failure to perform shall be cause for the County to terminate. A decision by the County not to terminate after

a failure by the District to meet its responsibilities shall not constitute a waiver of the right to terminate based on such failed responsibility nor a forfeiture of the County's right to terminate in the future.

8. SUBCONTRACTING

- A. The District shall not enter into any subcontracts for any of the work contemplated under this Agreement without the prior written approval of the County. In no event shall the existence of the subcontract operate to release or reduce the liability of the District to the County for any breach in the performance of the District's duties. This clause does not include contracts of employment between the District and personnel assigned to work under this Agreement.
- B. The District is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this Agreement are carried forward to any subcontracts. The District and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the County or as provided by law. Additionally, the County and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized person personal information without the express written consent of the District or as provided by law.
- C. If, at any time during the progress of the work, the County determines in its sole judgment that any subcontractor is incompetent, the County shall notify the District, in writing the basis for the determination and the District shall take immediate steps to terminate the subcontractor's involvement in the work. The rejection or approval by the County of any subcontractor or the termination of a subcontractor shall not relieve the District of any of its responsibilities under this Agreement, nor be the basis for additional charges to the County.

9. RIGHTS AND RESPONSIBILITIES OF THE COUNTY

A. Monitoring.

Upon the District's submittal of any report, invoice or other information required by the scope of work, the County may accept, reject, request modifications to, or request additions to the work, as the County deems appropriate.

B. Compensation.

- (1) The payment shall be due and payable to the District within thirty (30) days after the last day of the calendar quarter commencing March 31, 2020, and each calendar quarter thereafter throughout the term of this Agreement. In addition to each quarterly payment, the County will provide documentation to the District stating the total tons of solid waste being exported to the County's contracted waste export provider.
- (2) The District will submit reports in accordance with the schedule set forth in Appendix B.

10. AUDIT AND INSPECTION

The District shall maintain records pursuant to this Agreement in accordance with generally accepted accounting principles and practices consistently applied. The District's records shall be

available for inspection and audit by the County, the State Auditor, federal auditors, and any persons duly authorized by the parties. The District shall preserve and make such records available to said parties until expiration of six (6) years from the date of final payment under this Agreement.

11. DELAYS, REVISIONS AND TERMINATION

- A. After providing a minimum of 10 days' notice and an opportunity to correct any deficiencies, the County may suspend this Agreement or refuse payments hereunder for failure of the District's work or products to fulfill any requirements of Appendix A, for failure of the District to submit products in a timely fashion, or for any delays, errors or omissions attributable to the District. Failure by the County to suspend the Agreement, or failure by the County to refuse payment of an invoice, shall not constitute a waiver of the County's right to suspend or to refuse payment nor a forfeiture of the County's future right to suspend or refuse payment. At the County's option, all finished or unfinished work products prepared by the District under this Agreement shall become County property, provided the District is compensated as specified in this Agreement and that such products are satisfactory to the County.
- B. Either party may terminate this Agreement at any time by providing thirty (30) days' written notice to the other party. If this Agreement is terminated by the County as provided herein, the District will be paid for services performed prior to the time of termination or work stoppage, whichever comes first, in accordance with the current billing rates, provided that the work performed fulfills all requirements under this Agreement and Appendix A.
- C. This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

12. RIGHTS AND REMEDIES

- A. In no event shall any payment by the County to the District constitute a waiver by the County of any breach of covenant or any default that may exist on the part of the District. The making of any such payment by the County while any such breach or default exists shall in no way impair or prejudice any of the County's rights and remedies, hereby expressly recognized, to recover payments or portions thereof, to which the District was not entitled under this Agreement, where any payments were made by mistake, or to pursue any other remedy available to the County with respect to breach or default of this Agreement.
- B. In the event the County withdraws from or terminates this Agreement, the County will not be held liable for any monetary loss incurred by the District due to termination.

13. HOLD HARMLESS

Each party will defend, indemnify, and hold harmless the other Party, its officers, officials, employees, agents and volunteers from and against any and all claims, injuries, damages, losses or suits, including any attorney fees and legal costs and expenses, arising from its own negligent acts, errors, or omissions in performance of this Agreement. Further, each Party shall be responsible for any claims, injuries, damages, losses or suits, including any attorney fees and legal costs and expenses arising from its own negligent acts, errors, or omissions in performance of the

Agreement. If Parties are concurrently negligent, each Party's obligation to defend, indemnify and hold harmless the other Party, its officers, officials, employees, agents, and volunteers shall be limited to the extent of each Party's negligence or the negligence of each Party's officers, officials, employees, agents, and volunteers. For the purposes of this indemnification, the Parties specifically and expressly waive any immunity granted under the Washington Industrial Insurance Act, Title 51 RCW. This waiver has been mutually negotiated and agreed to by the Parties. The provision of this section shall survive the expiration or termination of the Agreement. In no event shall either party be liable for consequential damages.

14. RELATIONSHIP TO EXISTING LAWS

The laws of the State of Washington shall govern this Agreement. The parties stipulate that any lawsuit regarding this Agreement must be brought in Snohomish County, Washington.

16. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of the Agreement as determined by the County.

17. INSURANCE

Each party has provided the other with Evidence of Coverage from their respective risk pools. For the duration of this Agreement, each Party shall maintain the same coverage and/or amounts of insurance that it currently has. If either Party should make changes that decrease the coverage or amounts, that Party shall notify the other in writing at least 30 days before the effective date of the change.

18. PUBLIC RECORDS ACT

This agreement and all public records associated with this agreement shall be available from the County for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Health District are needed for the County to respond to a request under the Act, as determined by the County, the Health District agrees to make them promptly available to the County. If the Health District considers any portion of any record provided to the County under this agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Health District shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Health District and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Health District (a) of the request and (b) of the date that such information will be released to the requester unless the Health District obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Health District fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

19. INDEPENDENT CONTRACTOR

The District will perform the services under this Agreement as an independent contractor and not as an agent, employee, or servant of the County. The parties agree that the District is not entitled to any benefits or rights enjoyed by employees of the County. The District specifically has the right to direct and control the District's own activities in providing the agreed services in accordance with the specifications set out in this Agreement. The County shall only have the right to ensure performance.

20. NON-DISCRIMINATION

The District shall comply with the Snohomish County Human Rights Ordinance, Chapter 2.460 SCC, which is incorporated herein by this reference. Execution of this Agreement constitutes certification by the Health District of its compliance with the requirements of Chapter 2.460 SCC. If the District is found to have violated this provision or furnished false or misleading information in an investigation or proceeding conducted pursuant to Chapter 2.460 SCC, this Agreement may be subject to a declaration of default and termination at the County's discretion. This provision shall not affect the District's obligations under other federal, state or local laws against discrimination.

21. MISCELLANEOUS

- A. No obligation in this Agreement shall limit the District in fulfilling its responsibilities otherwise defined by law.
- B. No obligation in this Agreement shall limit the County in fulfilling its responsibilities otherwise defined by law.

22. EXECUTION IN COUNTERPARTS

This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

IN WITNESS WHEREOF, the County and the District have executed this Agreement as of the date of the last party to sign.

“County”

SNOHOMISH COUNTY

“District”

SNOHOMISH HEALTH DISTRICT

By _____
County Executive

By _____
Title: _____

Approved as to Form Only:

/s/ George Marsh
Deputy Prosecuting Attorney

Approved as to Form Only:

Attorney

Approved as to Insurance Provision:

Risk Management

APPENDIX A SCOPE OF WORK

Activity	Description
Inspections	The Health District will inspect County owned permitted solid waste handling facilities at least annually, as specified in WAC 173-304 and 173-350. Inspections may include visual observations, sampling of media such as soil (for landfill gas migration), ground or surface water, review of data pertinent to facility operations and environmental monitoring.
Consultations and technical assistance	The Health District will consult with County on regulatory rule interpretations.
Annual permit application review	In accordance with RCW 70.95.190, WAC 173-304 and 173-350 the Health District will review and act on all permits for solid waste handling facilities.
Plan reviews	The Health District will review applications and issue permits for the maintenance, establishment or alteration of solid waste disposal sites or facilities in accordance with RCW 70.95.170 and WAC's 173-304 and 173-350.
Groundwater / methane gas monitoring evaluations	The Health District is responsible for determining whether solid waste handling facilities are in compliance with ground water and methane monitoring regulations in WAC 173-304 and 173-350.
Closed Landfill Activities	The Health District will conduct inspections of closed landfills to determine compliance with WAC 173-304 and Sanitary Code 3.1. Also, the Health District will evaluate closed landfills to determine if landfills have stabilized or determine if changes can be made to the current ground water monitoring plans.
Ensure Proper Disposal of Solid Waste	Investigate complaints & take appropriate enforcement actions regarding improper disposal of solid waste in violation of WAC 173-350-025 & SHD Code Chapter 2.15

APPENDIX B SCHEDULE

	Deliverables	Frequency
County Owned Facilities	<ul style="list-style-type: none">• Facility Inspection Reports• Complaint Records• Technical Assistance Summary Reports• Solid Waste Permits Issued• Plan Review Summary Report• Groundwater/Gas monitoring results• Reports on closed landfill reviews/inspections/evaluations	Individual Facility Reports will be sent as completed. All other reports/deliverables will be on a monthly basis.
	<ul style="list-style-type: none">• Summary of District activities related to County owned facilities	Annually