SJC Agreement No.
13CC.001

INTERLOCAL AGREEMENT

BETWEEN SAN JUAN COUNTY
AND
LOPEZ SOLID WASTE DISPOSAL DISTRICT

THIS Agreement is made and entered into at Friday Harbor, Washington, pursuant to
RCW 39.34.080 between San Juan County ("COUNTY"), and LOPEZ SOLID WASTE
DISPOSAL DISTRICT ("PUBLIC AGENCY").

WHEREAS, the PUBLIC AGENCY desires to operate a solid waste facility on Lopez
Island at the property where the COUNTY has operated a solid waste facility for many years;
and

WHEREAS the PUBLIC AGENCY and the COUNTY desire to describe the terms and
conditions for the use of real property, the acquisition of equipment and other matters all as set
forth in this agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and
performance contained herein, the parties hereto agree as follows:

1. Scope; Compliance with Laws.

All work done under this Agreement will be performed and done in a manner that is consistent
with the duly adopted San Juan County Solid Waste Disposal Plan, as amended, and in
compliance with the laws and regulations pertaining to the operation of a facility for the handling
solid waste and recyclable materials of the size and scale of the Lopez Island Solid Waste
Facility. PUBLIC AGENCY is responsible for securing all permits necessary for operation of
the facility.
2. **Term**

This Agreement is made as of January 1, 2013 and will expire by its terms on December 31, 2023 unless it is extended by written agreement.

3. **Solid Waste Program Fee**

In addition to the mutual consideration provided under this Agreement, PUBLIC AGENCY shall pay to COUNTY a solid waste program fee in the amount of thirty-eight thousand one hundred ninety dollars ($38,190.00) for the calendar year 2013, in four installments with nine thousand five hundred forty seven and 50/100 dollars ($9,547.50) or more, on or before March 31, June 30, September 30 and the balance of the annual payment to be paid on or before December 31.

The Solid Waste Program Fee includes: the licenses to use the Lopez Solid Waste Facility under the terms of this agreement, and an amount that represents a fair contribution by the people of Lopez Island for oversight of this Agreement, legacy costs incident to the Orcas Island landfill closure and post-closure expenses, and legacy debt and bond payments related to Solid Waste Disposal in San Juan County that existed and were incurred by the COUNTY and/or the predecessor in interest to the PUBLIC AGENCY.

The following components of the Public Agency’s share of the Solid Waste Program Fee are established based on 15.6% of the following COUNTY expenses in the year 2012. Public Agency share are numerated below:

<table>
<thead>
<tr>
<th>Program/Item</th>
<th>Public Agency Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Litter Control Program</td>
<td>$546.00</td>
</tr>
<tr>
<td>Coordinated Prevention Grant</td>
<td>$5,226.00</td>
</tr>
<tr>
<td>Solid Waste Bonds</td>
<td>$13,416.00</td>
</tr>
<tr>
<td>Landfill monitoring</td>
<td>$13,260.00</td>
</tr>
<tr>
<td>2013 Contract Oversight</td>
<td>$5,742.00</td>
</tr>
</tbody>
</table>

Effective January 1 of each year, the contract oversight component will be increased by three percent. The initial contract oversight component is $5,742.00. Other components will be increased or decreased depending on the actual expenses of the COUNTY. PUBLIC AGENCY will not be responsible for additional bond payments for solid waste program expenses, except to the extent that such expense apply to Post closure costs of the Orcas Landfill.

In November of each year, COUNTY will deliver to PUBLIC AGENCY a letter showing adjustments for the next year.

4. **License to Use Lopez Solid Waste Facility**

The Lopez Solid Waste Facility is located on the property commonly known as 2419 Fisherman Bay Road, Lopez, Washington, which property consists the Northern Portion of Tax Parcel No. 252322004000, which property is more fully described in Exhibit A, and includes all utilities, buildings, structures, fixtures and improvements thereon. The boundaries of the Lopez Solid
Waste Facility are shown on the map attached as *Exhibit B* as the area located inside the heavy dark line. The COUNTY hereby grants to the PUBLIC AGENCY a license to use the Lopez Solid Waste Facility for solid waste operations for the management and/or disposal of solid waste, hazardous solid waste and recyclable materials and related purposes, subject to all covenants, conditions, and restrictions of record and this Agreement.

5. **License To Use South Boundary Road For Ingress And Egress**

The COUNTY hereby grants to PUBLIC AGENCY a nonexclusive license to use the internal road located along the South boundary of the Lopez Solid Waste Facility, shown on Exhibit B as “Shared Access Road,” for the purpose of ingress and egress to the Lopez Solid Waste Facility and for turning around vehicles. COUNTY and PUBLIC AGENCY will keep the road and turn around area open and not allow any employee, volunteer or member of the public to obstruct the Shared Access Road.

6. **License to Use Lopez Island Public Works Shop Parking Lot**

The COUNTY hereby grants to the PUBLIC AGENCY a nonexclusive license to use the Lopez Island Public Works Shop parking lot for the limited purposes of:

A. For trucks which need space during the time the drivers are picking up and dropping off roll-off boxes;

B. To temporarily place roll off boxes during the time that such boxes are being exchanged on the site, but in no case for more than one hour per day; and

C. Parking for the employees and customers of the Lopez Island Solid Waste Services Site on such days the Public Works shop is not in operation. The PUBLIC AGENCY is aware that operation of the shop can occur on any day of the week and at any time, and that historical use or past use creates no expectation that this license will apply on any particular day or type of day, such as on a weekend or holidays. Parking is limited to areas that are striped for parking purposes and the remaining area of the parking lot is to remain open for ingress, egress and vehicle travel.

7. **License to Use Guardrail for Signs**

The COUNTY hereby grants to the PUBLIC AGENCY a nonexclusive license to attach to the guardrail located on the south size of the south access road as shown on Exhibit B such signs related to the function of and activities at the Lopez Solid Waste Facility. The parties agree that the this location on the access road is not a traditional public forum and the size, shape and content of each sign is subject to prior approval by the COUNTY. The COUNTY hereby approves of the signs existing as of the date of this Agreement.

8. **Maintenance of Landscaping South of Guardrail**
The PUBLIC AGENCY shall maintain, mow, trim, and replace as necessary grass and landscape vegetation located within five (5) feet South of the guardrail along the south boundary of the access road shown on Exhibit B.

9. **Greenbelt/Buffer On North Boundary**

The area shown on Exhibit B2 as “greenbelt/buffer” is retained under COUNTY ownership and control. It is intended to provide a landscaped buffer between the Lopez Solid Waste Facility and the neighbor to the North. This area will be retained as a greenbelt and not used by PUBLIC AGENCY for solid waste or recycling operations or any other purpose.

10. **Sharing Of Utilities Expenses**

The site used by PUBLIC AGENCY is served by electricity and water. The COUNTY will maintain the water well servicing the Lopez Solid Waste Facility in normal working order. Unless otherwise agreed by the COUNTY, the PUBLIC AGENCY will limit water use to the volume commonly used for domestic purposes.

11. **Mutual Obligations Regarding Stormwater**

Each party’s use of the property under their control should not negatively influence or affect the runoff of stormwater from that property. The parties agree to cooperate in making adjustments and protect the property under their control and to remedy any problem in a timely manner. If damage to the property occurs, prompt notice of the damage will be provided to the other party and a plan of action to remedy the problem will be made. The parties will divide the financial responsibility for damages and corrective action in proportion to the extent which actions occurring on the property under their control contributed to the damage.

12. **Maintenance of Buildings and Grounds**

The PUBLIC AGENCY shall keep the Solid Waste Facility buildings and grounds maintained, in good repair and functional condition, ordinary wear and tear excepted. PUBLIC AGENCY is responsible for all exterior and interior walls, roof, electrical and paint on buildings. The grounds should be maintained in a neat and clean condition which is customary for a solid waste facility. The PUBLIC AGENCY shall operate the facility in such a way that litter is cleaned up promptly, deposits of materials are protected from wind, and the facility is not an attraction to birds or vermin.

The COUNTY will give notice to the other party 30 days in advance of making any significant alterations or repairs to the Solid Waste Facility buildings and grounds. The COUNTY will collaborate with the PUBLIC AGENCY as to the timing, necessity and design of any alteration or repairs.
13. **After Hours Use By San Juan County**

The COUNTY will have access to the Lopez Solid Waste Facility on terms that are agreed to by the Parties.

14. **Cooperation: Shared Use of Equipment and Facilities**

From time to time, the PUBLIC AGENCY may request work to be completed by the COUNTY. Such request will be subject to billing on a monthly cycle and payment at the usual rate. Such request shall be made to the County Solid Waste Program Administrator.

From time to time, the COUNTY and PUBLIC AGENCY may have need to use the shared access road or property of the other in a way that may cause interference or inconvenience or otherwise impact the other party. Any such use should be done with the cooperation and consideration of the needs of the other party and always with prior notice that is reasonable considering the circumstances.

15. **Fuel**

The County has a fuel depot at the Public Works site. The PUBLIC AGENCY may refuel its equipment and vehicles at the fuel depot and pay a rate that accounts for the cost of fuel to the COUNTY, plus an administration fee either as a flat rate or per unit of fuel. The COUNTY will notify PUBLIC AGENCY of the fuel rate and administrative fee whenever such rate changes.

16. **Vector Truck Services**

The COUNTY will inform the PUBLIC AGENCY when Vector Truck Services are scheduled for the storm water system.

17. **Right of Access.**

The COUNTY may enter the Lopez Solid Waste Facility with reasonable notice in advance if possible or at the time of entry for the purpose of determining whether the facility is in compliance with this agreement and laws pertaining to solid waste handling facilities.

18. **Purchase and Sale of Equipment and Materials**

The COUNTY will sell and the PUBLIC AGENCY agrees to purchase the equipment listed on Exhibit C at the price indicated. The total for all items is $32,015.71 Interest will accrue on the unpaid balance beginning on January 1, 2013 at the interfund rate (currently 0.93%). One payment of $18,982 or more is due on or before December 31, 2013, which payment will be applied first to interest and then to principal. The remaining balance of principal and interest will be paid on or before December 31, 2014.

All recycling containers listed in EXHIBIT C were purchased with financial assistance of the Washington State Department of Ecology. PUBLIC AGENCY assumes all responsibility for
complying with the limits and restrictions that the Department of Ecology has imposed on the purposes for which the containers may be used including the obligation to verify purpose of use, track usage, or make reimbursement to the Department of Ecology.

In addition, the County has will transfer ownership of additional unusable solid waste boxes. These boxes have been previously surplused and found to have no market value. Public Agency agrees to take possession of these boxes and will be responsible for any transportation costs.

19. **Administration and Notices**

This Agreement shall be administered by and notices required by this agreement shall be provided to:

<table>
<thead>
<tr>
<th>For the County:</th>
<th>For the Public Agency:</th>
</tr>
</thead>
<tbody>
<tr>
<td>San Juan County Public Works Director</td>
<td>Page Read, Ph.</td>
</tr>
<tr>
<td>Attn: Solid Waste Program Administrator</td>
<td>Chair, Lopez Solid Waste Disposal District</td>
</tr>
<tr>
<td>P. O. Box 729</td>
<td>Managing Board</td>
</tr>
<tr>
<td>Friday Harbor, WA 98250</td>
<td>2419 Fisherman Bay Road</td>
</tr>
<tr>
<td>360-370-0500</td>
<td>P. O. Box 922</td>
</tr>
<tr>
<td>Email: <a href="mailto:samg@sanjuanco.com">samg@sanjuanco.com</a></td>
<td>Lopez Island, WA 98261</td>
</tr>
<tr>
<td></td>
<td>360-468-2555</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:emerald@alert2.com">emerald@alert2.com</a></td>
</tr>
</tbody>
</table>

20. **Indemnification**

Each party agrees to be responsible and assume tort liability for its own wrongful acts or omissions, or those of its officers, agents, or employees to the fullest extent required by law, and agrees to save indemnify, defend and hold the other party harmless from any such tort liability. In the case of negligence or wrongful acts by both the COUNTY and the PUBLIC AGENCY, any damages allowed shall be levied in proportion to the percentage of fault attributable to each party, and each party shall have the right to seek contribution from the other party in proportion of the percentage of negligence attributable to the other party.

The PUBLIC AGENCY shall also indemnify the COUNTY against all liability and loss in connection with, and shall assume full responsibility for, payment of all federal, state and local taxes or contributions imposed or required under unemployment insurance, workman's compensation, social security and income tax laws, for the PUBLIC AGENCY and any employees or volunteers of the PUBLIC AGENCY.

21. **Insurance**

A. The PUBLIC AGENCY will carry and maintain throughout the period of the Agreement at its own expense the following minimum insurance which must be primary and non-contributory:
1. Comprehensive commercial general liability insurance in the amount of no less than $1,000,000 for combined, single-limit bodily injury, including wrongful death, or property damage to defend and indemnify all activities and services covered by this Agreement with a commercial insurance carrier protected under the State of Washington Guaranty Fund or with a risk pool approved by the Insurance Commissioner. Such insurance shall be endorsed to include San Juan County, its officers, elected officials, employees and agents as an additional insured, and shall not be reduced or cancelled without thirty (30) days prior written notice to the COUNTY.

Each insurance shall be endorsed to include language containing a “cross liability” or “separation of insureds” indicating essentially that except with respect to the limits of insurance, and any rights or duties specifically assigned in the 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 a claim is made or a suit is brought. Any payment of a deductible or self-insured retention shall be the sole responsibility of the PUBLIC AGENCY.

2. Auto liability insurance with limits of no less than $1,000,000 for each person and/or $1,000,000 for each occurrence for owned, hired and non-owned automobiles used for any activities and services covered by this Agreement. Such insurance shall be endorsed to include San Juan County, its officers, elected officials, employees and agents as an additional insured, and shall not be reduced or cancelled without thirty (30) days prior written notice to the COUNTY.

3. Standard professional liability insurance covering damages resulting from errors or omissions of the PUBLIC AGENCY or his employees or agents. The limit of liability shall not be less than $1,000,000 per claim and annual aggregate. Notwithstanding paragraph 5, professional liability insurance is not required to hold harmless or defend the COUNTY for any claim.

4. Statutory workers’ compensation insurance and employer’s liability insurance to cover employees and volunteers as required by state and federal law.

B. The PUBLIC AGENCY shall provide the COUNTY evidence of insurance in the form of a Certificate of Insurance satisfactory to the COUNTY, executed by a duly authorized representative of each insurer showing compliance with the insurance requirements set forth above. Upon the request of the COUNTY, the PUBLIC AGENCY shall also provide a duplicate (photocopy) of each insurance policy and endorsements noted above and the name, address and telephone number of the broker who issued each one as evidence of coverage. Approval of insurance is a condition precedent to full execution, including continued compensation, of this Agreement. The maintenance of said insurance will not in any manner affect the PUBLIC AGENCY’S obligation to hold harmless and indemnify the COUNTY as provided in this Agreement.

22. Maintenance and Inspection of Records
A. The PUBLIC AGENCY shall maintain books, records and documents, which sufficiently and properly reflect all work related to the performance of the Agreement. In addition, the PUBLIC AGENCY shall maintain all accounting records in a form necessary to assure proper accounting of all funds paid pursuant to this Agreement. All of the above shall be subject at all reasonable times to inspection, review, or audit by the COUNTY, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

B. The PUBLIC AGENCY shall retain all books, records, documents and other material relevant to this Agreement for six (6) years after its expiration. The PUBLIC AGENCY agrees that the COUNTY or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

23. **Termination**

A. **Termination for Convenience.** The COUNTY may terminate this Agreement, in whole or in part, at any time, by at least 360 days written notice to the PUBLIC AGENCY. The PUBLIC AGENCY may terminate this Agreement, in whole or in part, at any time, by at least 360 days written notice to the COUNTY. The PUBLIC AGENCY shall be paid for work performed and expenses incurred to the date of termination. If the PUBLIC AGENCY has any property in its possession belonging to the COUNTY, the PUBLIC AGENCY will account for the same, and dispose of it in the manner directed by the COUNTY.

B. **Termination for Cause.** If the PUBLIC AGENCY fails to perform in the manner called for in this Agreement, or if the PUBLIC AGENCY fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within ninety (90) days written notice thereof, the COUNTY may terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the PUBLIC AGENCY setting forth the manner in which the PUBLIC AGENCY is in default. The PUBLIC AGENCY will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.

24. **Mediation**

The parties shall attempt to resolve any controversies or disputes arising out of or relating to this Agreement through a good faith attempt at mediation. Each party will pay its own attorneys’ fees and costs.

25. **Arbitration**

A. Any controversy or claim arising out of or relating to this Agreement that is not resolved through mediation, shall be resolved by final and binding arbitration pursuant to RCW 7.04A. Demand for arbitration shall be made in writing to the other party. The arbitration shall be held in San Juan County before a single arbitrator selected by the Agreement of the parties. If the parties cannot agree upon an arbitrator within fifteen (15) days after the demand for arbitration is made, the arbitrator shall be selected by a judge in the Superior Court of San Juan County in accordance with the procedures set out in RCW 7.04A.110.
B. Unless the parties agree otherwise in writing, the arbitration hearing shall occur no later than sixty (60) days after the date the arbitrator is appointed.

C. The parties agree that, with the exception of the circumstances set out in RCW 7.04A.230, the arbitrator's decision shall be binding, final and not appealable to any court of law.

D. Each party shall pay its own costs of arbitration including attorneys' fees. The arbitrator's fee and any administrative expenses imposed by the arbitrator shall be shared equally by the parties.

E. This Agreement shall be governed by laws of the state of Washington, both as to interpretation and performance.

26. **Waiver**

The waiver by, or the failure to take action with respect to, breach of any term, covenant or condition of the Agreement shall not be deemed to be a waiver of such term, covenant or condition on any subsequent breach. All remedies afforded in this Agreement shall be taken as cumulative; that is, in addition to every other remedy provided herein or by law.

27. **Severability**

It is understood and agreed by the parties that if any term or provision of this Agreement is held by any court to be illegal or in conflict with any law of the state of Washington, the validity of the remaining portions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term, part or provision held to be invalid.

28. **Entire Agreement**

This instrument contains the entire Agreement between the parties and statements, promises, or inducements made by any party or agent of that party that are not contained in this Agreement shall not be valid or binding. This Agreement may not be enlarged, modified, or altered except in writing signed by all parties.

29. **Non Assignment**

The rights and privileges are granted to the PUBLIC AGENCY for its exclusive use and the use of its contractors and the public, but the rights, privileges and obligations may not be assigned or granted to others without the prior written consent of the COUNTY.
Exhibit A: Legal Description

The following descriptions describe Tax parcels 252322004 & 252322005

A one (1) acre portion of the NW ¼ of the NW ¼ of Section 23, Township 35 North, Range 2 West, W.M. described as follows:

Beginning at a point on the East side of County Road No. 103 which is 819 feet South and 26 feet East of the section corner to Sections 14, 15, 22 and 23, T35N, R2W, W.M.; thence East 381 feet; thence North 114.33 feet; thence West 381 feet to the East boundary of County Road No. 103; thence South along the East boundary of the county road to the point of beginning. Containing 1.0 acres, more or less.

The above land is conveyed and accepted for use primarily as a green belt area to be kept as nearly as practicable in its native wooded state. It may be used in the future for buildings or other uses not inconsistent with its primary purpose as a buffer green belt.

ALSO,
Beginning at a point 1099 feet South and 20 feet East of the section corner common to Sections 14, 15, 22 and 23, Township 35 North, Range 2 West, W.M.; thence East 387 feet; thence South 25 feet; thence West 387 feet; thence North 25 feet to the point of beginning.

ALSO,
Beginning at a point on the East side of the County Road, which is 774 feet South and 20 feet East of the section corner common to sections 14, 15, 22 and 23, Township 35 North, Range 2 West, W.M.; thence East 387 feet; thence South 325 feet; thence West 387 feet to the East boundary of the County Road; thence North along the East boundary of the County Road, 325 feet to the point of beginning. Containing 2.84 acres.
Exhibit B: Maps
## Exhibit C: List of Equipment

<table>
<thead>
<tr>
<th>Equipment #</th>
<th>Description</th>
<th>LSWD Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>G1161SW</td>
<td>1994 John Deere 310D Backhoe</td>
<td>$10,128.00</td>
</tr>
<tr>
<td>J3061SW</td>
<td>1998 Hyster H50-XM Forklift</td>
<td>$4,220.00</td>
</tr>
<tr>
<td>SW038</td>
<td>40 cu yd Garbage Container</td>
<td>$2,613.78</td>
</tr>
<tr>
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<td>SW004</td>
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<td>SW008</td>
<td>20 cu yd (former glass box)</td>
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</tr>
<tr>
<td>No Numbers</td>
<td>4 quantity - 3 cu yd Tipplers</td>
<td>$0.00</td>
</tr>
<tr>
<td>No Numbers</td>
<td>2 quantity - 4 cu yd Tipplers</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

**Total** | **$32,015.71**
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of this __30th__ day of __July__ 2013.

APPROVED BY:
LOPEZ SOLID WASTE DISPOSAL
DISTRICT MANAGING BOARD

By: [Signature]
Page Read, Chair

GOVERNING BODY
LOPEZ SOLID WASTE
DISPOSAL DISTRICT

Jamie Stephens, Chair
District 3

Bob Jarman, Member
District 1

Rick Hughes, Member
District 2

RANDALL K. GAYLORD
APPROVED AS TO FORM ONLY

By: [Signature]
Date __8/5/2013__

ADOPTED this __30th__ day of __July__ 2013.

ATTEST: Clerk of the Council

Ingrid Gabriel, Clerk
Date __7.30.2013__

COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON

Jamie Stephens, Chair
District 3

Bob Jarman, Member
District 1

Rick Hughes, Member
District 2

REVIEWED BY
COUNTY MANAGER

Michael Thomas
Date __7/30/13__

RANDALL K. GAYLORD
APPROVED AS TO FORM ONLY

By: [Signature]
Date