402-07-001

2a
02/06/07

INTERLOCAL AGREEMENT REGARDING

REGIONAL SOLID WASTE EXPORT AND TRANSFER SYSTEM

COOPERATION AND IMPLEMENTATION

THIS AGREEMENT is executed by and among Clallam County ("County"), and the City of Sequim and the City of Port Angeles (the "Cities"); (the County and the Cities are collectively referred to herein as "the Parties") for the purposes of providing for competitively-priced regional solid waste export and transfer system facilities and services; promoting the health, safety and welfare of the County's and City's residents; and protecting the natural environment throughout the County. The Parties enter into this Interlocal Agreement ("Agreement") effective as of the date set forth in Section 10(A) for the purposes and under the terms contained herein.

WHEREAS, the Parties have cooperated in developing and implementing the County's Comprehensive Solid Waste Management Plan ("the Plan") pursuant to Chapters 35.21, 36.58 and 70.95 RCW on behalf of the County and the City; and

WHEREAS, the Plan recommends exporting solid waste to meet future disposal needs of the residents, businesses, visitors and institutions within the Cities and the County; and

WHEREAS, the Plan recommends using interlocal agreements to create the institutional arrangements needed to implement the Plan; and

WHEREAS, the Plan recommends closing the Port Angeles Sanitary Landfill, the only operating municipal solid waste landfill in Clallam County serving the area from Lake Crescent eastward, as depicted in the map and legal description attached hereto as Exhibit A, when it reaches capacity (projected by the end of 2006), and citing a transfer station at the Port Angeles Sanitary Landfill, for the purposes of exporting solid waste for final disposal after the landfill is closed; and

WHEREAS, in anticipation of the closure of the Port Angeles landfill and in recognition of the absence of alternative local landfill sites, the Parties desire to cooperate to provide for a Regional Solid Waste Export and Transfer System consistent with the Plan; and

WHEREAS, by entering into an interlocal agreement providing for each Party's cooperation, the Parties can more effectively and efficiently implement the Plan and procure management of the Regional Solid Waste Export and Transfer System; and

WHEREAS, the Plan anticipates that the Regional Solid Waste Export and Transfer System facilities will be located at the current site of the Port Angeles Sanitary Landfill, will be operated by the City of Port Angeles or a private company under contract with the City of Port Angeles, and will be utilized by the City of Port Angeles, City of Sequim, and the County and by the private solid waste collection companies that serve the City and unincorporated area of the County from Lake Crescent eastward; and

WHEREAS, the City of Port Angeles has been responsible for accumulating closure and post-closure funds as required by law for the Port Angeles Landfill; and whereas the Parties intend for the Regional Solid Waste Transfer and Export System funding arrangement to provide for any additional funds related to unmet or unanticipated Port Angeles Landfill requirements provided, however, that this shall not make Clallam County or the City of Sequim separately or individually obligated for liabilities arising from Port Angeles' landfill site; and

WHEREAS, the Parties intend that a portion of the tipping fees for the Blue Mountain Transfer Station be collected to continue to pay for the lease fee and upkeep costs for this site presently being covered by the Blue Mountain Drop Box fees collected by the County; and

WHEREAS, the Parties are authorized and empowered to enter into this Agreement pursuant to Chapters 39.34 and 70.95 RCW.

THEREFORE, in consideration of mutual promises and covenants herein, and in order to implement the terms of the County's Comprehensive Solid Waste Management Plan, the Parties agree:

Section 1.

Definitions: Except for the terms defined in this section, and unless the context indicates otherwise, for the purposes of this Agreement and any related agreements, the Parties shall use the definitions found in RCW 70.95.030 and WAC 173-350, as they may be amended.

"Agreement" means this interlocal agreement.

"Cities" means the City of Port Angeles and the City of

Sequim, Washington.

"County" means Clallam County, Washington.

"Ecology" means the Washington State Department of Ecology or its successor agency.

"Plan" means the Clallam County Comprehensive Solid Waste Management Plan as amended in accordance with this Agreement.

"Solid Waste Advisory Committee" is an advisory committee whose members are appointed by the County Commissioners to advise them on solid waste matters.

"Regional Solid Waste Export and Transfer System" means the facilities owned by and/or contracted by, the City of Port Angeles, where deposit, processing, recycling, composting, moderate-risk waste handling, and transfer of solid waste for disposal through a long-haul contract occurs. This will include the Blue Mountain drop-box site, facilities, and operations, unless the Board of Clallam County Commissioners determines in its sole discretion at any time during the term of this agreement that the Blue Mountain drop-box facilities should no longer be operated.

"Vendor" means either the City of Port Angeles or any company or person with whom the City of Port Angeles contracts for any or all of the design, construction, ownership, or operation of the Regional Solid Waste Export and Transfer System.

Section 2. Responsibilities of the County. The County shall:

A. Process consideration of amendments to the Plan that are submitted by the Joint Solid Waste Advisory Board to the Solid Waste Advisory Committee to provide for disposal of all non-recyclable solid waste generated in the unincorporated areas of the County from Lake Crescent eastward at the Regional Solid Waste Export and Transfer System site(s) to the extent permitted by law. The Regional Solid Waste Export and Transfer System will be the only designated Export and Transfer System in the County East of Lake Crescent for the term of this Agreement.

B. Process consideration of amendments to the County's zoning code, solid waste facility permitting process ordinance, and other applicable ordinances to prohibit solid waste transfer and export facilities that are not consistent with the Plan and to designate the Regional Solid Waste Export and Transfer System as the County's solid waste system consistent with the Plan and RCW 36.58.040, to the extent permitted by law.

C. Make a good faith effort to negotiate and execute with Jefferson County an interlocal agreement requiring each county to amend its comprehensive solid waste management plan and other related ordinances and agreements, to the extent permitted by law, to prohibit accepting waste generated outside its boundaries at disposal sites within said county; unless approved as an emergency.

D. Consider forming a solid waste disposal district in the eastern part of the County, to the extent it may become necessary to provide a dedicated source of funds to help finance the capital and operations and maintenance costs associated with the Solid Waste Export and Transfer System.

E. Shall not construct or have constructed any municipal solid waste export and transfer system in the eastern part of Clallam County without the approval of the Joint Solid Waste Advisory Board.

F. Participate in developing the request for qualifications/proposals and selecting the contractor(s), for designing, building and if appropriate operating the Solid Waste Export and Transfer System facilities, disposal services, and long haul services.

G. Appoint representatives to the Joint Solid Waste Advisory Board.

H. Negotiate and administer the land lease between the County and the Washington Department of Natural Resources enabling the continuation of drop box services at Blue Mountain.

I. Encourage recycling efforts to the maximum extent possible for yard debris, special wastes, and CDL (construction, demolition, and land clearing waste) programs to minimize the amounts of material for waste export.

Section 3. Responsibilities of the City of Port Angeles. The City of Port Angeles shall:

A. Conduct a procurement process for selecting one or more Vendors to provide solid waste export and transfer system facilities, services to operate the facilities if appropriate, disposal services, and long-haul services consistent with the Plan;

B. In consultation and cooperation with the County, either provide itself, or enter into and administer a contract with one or more Vendors for, solid waste export and transfer system, and disposal services for the Parties consistent with the Plan; and

C. In consultation and cooperation with the County establish a Joint Solid Waste Advisory Board that will review policies, procedures, costs, rates and will operate as an advisory group to the City of Port Angeles.

D. Provide administrative service related to the operation of the Regional Solid Waste Export and Transfer System site(s) and long-haul service including but not limited to:

1. Act as custodian of the Regional Solid Waste Export and Transfer System/landfill enterprise fund created under this Agreement.

2. Incorporate in its annual budget the budget for Regional Solid Waste Export and Transfer System services under this Agreement including, but not limited to revenues, administrative costs of the Parties, direct costs, indirect costs according to approved cost allocation plans, personnel services, insurance and land leases.

3. For facilities that are operated by the City of Port Angeles as part of the solid waste export and transfer system, provide for administrative service including, but not limited to personnel services and insurance.

E. Provide a site at the existing site of the Port Angeles Sanitary Landfill for the regional Solid Waste Export System facilities at no cost to the Parties.

F. The Blue Mountain operations and facilities will be included in the enterprise fund of the Regional Solid Waste Export and Transfer System with consideration of increased service, if approved by the Joint Solid Waste Advisory Committee.

G. Direct solid waste collected within the City of Port Angeles (whether collected directly by the City of Port Angeles or by a solid waste collection company) to the Vendor selected through the procurement process; take reasonable action to enforce such direction, including but not limited to entering into a long term contract that requires disposal of solid waste generated in the City of Port Angeles at the Regional Solid Waste Export and Transfer System facilities; and if the City of Port Angeles ceases to operate its own solid waste collection system, then the City shall require that any contract with solid waste haulers provides that solid waste hauled is disposed of at the Regional Solid Waste Export and Transfer System facilities consistent with the Plan.

H. Process consideration of an ordinance designating the Regional Solid Waste Export and Transfer System as the City's solid waste system consistent with the Plan and RCW 35.21.120, and amendments to the City's zoning code and other applicable ordinances to prohibit solid waste facilities that are not consistent with the Plan.

I. Cooperate with the County in the formation of a disposal district to the extent the district includes incorporated areas of the City of Port Angeles.

J. Encourage recycling efforts to the maximum extent possible for yard debris, special wastes, and CDL (construction, demolition, and land clearing waste) programs to minimize the amounts of material for waste export.

Section 4. Responsibilities of the City of Sequim. The City of Sequim shall:

A. Direct solid waste collected within the City of Sequim (whether collected directly by the City of Sequim or by a solid waste collection company) to the Regional Solid Waste Export and Transfer System facilities consistent with the Plan.

B. Appoint representatives to the Joint Solid Waste Advisory Board.

C. Encourage recycling efforts to the maximum extent possible for yard debris, special wastes, and CDL (construction, demolition, and land clearing waste) programs to minimize the amounts of material for waste export.

Section 5. Responsibilities of additional parties. Additional parties to this Agreement shall:

A. Direct solid waste (except yard debris and composting operations and materials) collected within the jurisdictional area of the additional party (whether collected directly by the additional party or by a solid waste collection company) to the Vendor selected through the procurement process; take reasonable action to enforce such direction, including but not limited to entering into a long term contract with the City of Port Angeles for disposal of solid waste generated in the jurisdictional area of the additional party at the Regional Solid Waste Export and Transfer System facilities; and if the additional party ceases to operate its own solid waste collection system, then the additional party shall require that any contract with solid waste haulers provides that solid waste hauled is disposed of at the Regional Solid Waste Export and Transfer System facilities consistent with the Plan; and

B. Cooperate in implementing Plan elements.

C. Adopt a resolution by the additional party's governing body approving the designation of the Regional Solid Waste Export and Transfer System as the additional party's solid waste system consistent with the Plan and RCW 35.21.120, and amendments to the additional party's zoning code and other applicable ordinances to prohibit solid waste facilities that are not consistent with the Plan. The resolution and amendments to zoning code and other applicable ordinances shall be made concurrent with or prior to the additional party accepting an amendment to this Agreement to include the additional party.

D. Cooperate with the County in the formation of a disposal district including adoption of a resolution by the additional party's governing body approving the district to the extent the district includes incorporated areas of the additional party. The resolution shall be made concurrent with or prior to the additional party accepting an amendment to this Agreement to include the additional party. Incorporated areas of Sequim shall not be included in said disposal district.

E. Encourage recycling efforts to the maximum extent possible for yard debris, special wastes, and CDL (construction, demolition, and land clearing waste) programs to minimize the amounts of material for waste export.

Section 6. Duration of Agreement:

A. Except as provided in paragraph 6.B, this Agreement shall be in full force and effect from and after its effective date, as set forth in Section 10(A), and shall remain in force for 20 years from the date the Regional Solid Waste Export and Transfer System first commences commercial operations. Any changes to this Agreement must be agreed upon by all Parties. This Agreement shall automatically be extended for a period of five (5) years unless notice is given by any Party to the other parities within eighteen (18) months prior to the expiration of the original twenty (20) year term, and in writing, that they do not desire to extend the agreement.

B. The City of Sequim, at their option, may withdraw from the Agreement at the end of 5th, 10th, or 15th year from the date of signature of the Agreement by providing 6 month prior written notice of such intent to the Joint Solid Waste Advisory Board. Otherwise, the City of Sequim will automatically remain a party to the Agreement through at a minimum the next 5 year interval.

Section 7. Governance and Rates.

A. Joint Solid Waste Advisory Board: A Joint Solid Waste Advisory Board (JSWAB) shall be established. The Board will be composed of staff from the Parties to this Agreement. The Board will act as an advisory committee to the Port Angeles City Council, the Sequim City Council, and the Clallam County Solid Waste Advisory Committee and others as necessary. Although Clallam County, the City of Sequim, and the City of Port Angeles may each be represented by multiple members on the JSWAB in accordance with 7(B), each Party shall only be entitled to a single vote on recommendations to the Port Angeles City Council, the Sequim City Council, and the Clallam County Solid Waste Advisory Committee and others as necessary.

B. Membership Body: The JSWAB shall consist of the following members: (1) Director of Public Works Clallam County, (2) Director of Public Works and Utilities City of Port Angeles, (3) Director of Public Works and Utilities City of Sequim (4) Solid Waste Superintendent City of Port Angeles, (5) Utilities Division Manager or designee from Clallam County. The Board shall draw upon other staff members from the agencies as necessary and appropriate to assist is carrying out its duties.

C. Officers and Procedures: The JSWAB shall select a chair and such other officers as deemed necessary to conduct business. The Board shall adopt rules and procedures it deems necessary for the proper and efficient conduct of its business.

D. Meetings: The JSWAB shall be responsible to fix a time and place for its meetings.

E. Powers and Duties: The JSWAB shall have the following powers and duties:

1. Make recommendations for the management and operation of the Regional Solid Waste Export and Transfer System operated under this Agreement.

2. Submit budget recommendations to the participating jurisdictions for action.

3. Review and recommend fees and charges and for services related to disposal, operation of facilities, transfer and disposal of solid waste associated with the Regional Solid Waste Export and Transfer System, and for disposal districts.

4. Review and recommend amendments to the Plan to the Solid Waste Advisory Committee. Review and recommend amendments to this Agreement to the Parties of this Agreement.

F. Enterprise Fund: There shall be maintained an enterprise fund separate from all other funds within the City of Port Angeles into which revenues received from the Parties to this Agreement, fees, charges, and any other revenues associated with the operation and management of the Regional Solid Waste Export and Transfer System shall be deposited. This fund shall be part of the City of Port Angeles annual budget and administered in accordance with the City of Port Angeles budget regulation and guidelines. Expenditures from the fund shall be made only for the Solid Waste Export and Transfer System and landfill projects and closure and post closure costs not captured during the operation of the landfill activities, including actual administrative costs of the Parties pursuant to

their obligations under this agreement, the comprehensive solid waste plan, state and federal laws.

G. Costs: The costs of solid waste disposal and management of all Parties to this Agreement not otherwise reimbursed shall be included in the operation of the enterprise fund. These costs shall include, but not be limited to, operation of transfer sites, long haul, recycling operations, composting, capitalization of facilities and equipment, administrative costs, planning, and other costs directly related to regional Solid Waste Export and Transfer System/Landfill operations. The JSWAB shall determine inclusive costs which shall be fair, reasonable and equitable to all Parties of this Agreement when making budget recommendations to the City of Port Angeles City Council.

H. Fees and Charges: Fees for disposal shall be fair, reasonable and equitable and shall be applied equally throughout the jurisdiction of all participating Parties at the Port Angeles regional site. Fees shall be determined based on the cost of service and may be set in various amounts based on differences in waste types, the type of facility receiving that waste, commercial and self-haulers, and for any other fair, reasonable and equitable reason permitted by law. A separate fee structure may be developed for the Blue Mountain site, which shall be sufficient to cover all costs associated with operation of the Blue Mountain site. A surcharge or higher rate may be charged for solid waste collected within jurisdictions that are not signatories to this Agreement.

Section 8. Access to Records: Duly authorized representative of the Parties to this Agreement shall have the right to inspect the records of the JSWAB and the accounts and records of the City of Port Angeles relating to solid waste disposal and transfer operations at any reasonable time.

Section 8. Assets and Liabilities: On termination of this Agreement, any assets owned separately by a Party shall remain the property of that Party. In entering into this Agreement, no Party assumes liability for the actions or activities of the other, except as provided by law or as may be agreed by the Parties.

Section 10. Miscellaneous Provisions

A. Effective Date: This Agreement shall take effect the first date on which all Parties have taken all necessary action to authorize and execute this Agreement.

B. Amendment. This Agreement may be amended only in writing and only by agreement of all Parties except as set forth in this section. The Parties hereby agree that this Agreement may be amended to allow any other governmental entity within Clallam County, tribes and the Town of Forks, to join as an additional party. Additional parties joining shall not be members of the JSWAB. Additional parties shall be bound by all provisions

of this Agreement.

C. Withdrawal: A Party may withdraw from this Agreement only upon unanimous agreement of all Parties (except as provided in paragraph 6.B of this agreement).

D. Non-Waiver: No waiver by any Party of any term or condition of this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach whether of the same or of a different provision of this Agreement.

E. No Third-Party Beneficiary: This Agreement is entered into to protect the public health, safety and welfare of the residents of the Cities and County and to promote the effective and efficient disposal or other handling of solid waste in the Cities and the County. This Agreement is not entered into with the intent that it shall benefit any party not signing this Agreement, and no other person or entity shall be entitled to be treated as a third-party beneficiary of this Agreement.

F. Assignment: Upon the creation of a solid waste disposal district pursuant to Ch. 36.58 RCW, the County and any City opting into such a disposal district may assign its rights and obligations under this Agreement to the solid waste disposal district. No other assignment of this Agreement is permitted without the prior written consent of all Parties.

G. Severability: If any provision of this Agreement is determined to be invalid, the remaining provisions shall continue in full force and effect.

H. Counterparts: This Agreement may be executed in two or more counterparts, and each such counterpart shall be deemed to be an original instrument. All such counterparts together will constitute one and the same Agreement.

I. Risk Allocation - Liability: As among the Parties, the City of Port Angeles shall assume the risk for all activities and liabilities arising from the ownership and operation of the Regional Solid Waste Export and Transfer System and the Port Angeles landfill and shall hold harmless from the defense costs and liability Clallam County and the City of Sequim, except that Clallam County shall assume the risk from all activities and liabilities arising from the ownership and operation of the Blue Mountain facility. It is agreed among the Parties that the cost of liability insurance for such risk shall be considered an operation cost of the Regional Solid Waste Export and Transfer System and that any uninsured risk which results in a cost to the City and or County may be recovered by an appropriate increase in rates to cover any uninsured loss.

IN WITNESS HERE OF, this agreement is executed by Clallam County and by the City of Port Angeles, Washington.

Dated this 27th day of Feb., 2007.

CITY OF PORT ANGELES

Karen A. Rogers, Mayor

Attest:

Becky Upton, City Clerk

Approved As To Form:

William E. Bloor, City Attorney

CITY OF SEQUIM

Walt Schubert, Mayor

Attest:

Karen Kuznek-Reese, City Clerk

Approved As To Form:

Craig Ritchie, City Attorney

Dated this 6th day of Feb, 2007.

CLALLAM COUNTY BOARD OF COMMISSIONERS

Stephen P. Tharinger, Chair

Michael C. Chapman, Commissioner

Howard V. Doherty Jr., Commissioner

Attest:

Trish Holden, CMC
Trish Holden, Clerk of Board

Approved As To Form:

Mark Nichols, County Attorney