

OKANOGAN COUNTY
DEPARTMENT OF PUBLIC WORKS
SOLID WASTE DIVISION

2021 LEASE AGREEMENT FOR THE TWISP RECYCLING FACILITY

This Lease Agreement is made and entered into between OKANOGAN COUNTY, a Municipal Corporation in the State of Washington, hereafter referred to as the "Owner" and _____ hereafter referred to as the "Leaser". The parties recognize that the County is vested with the primary responsibility for providing Okanogan County with a system for handling solid waste, and to provide for the adoption and enforcement of basic minimum performance standards for solid waste handling as provided in RCW 36.58, RCW 70.95 and Chapter 173-350 WAC.

The Owner intends to lease to the leaseholder a portion of the property located at 12 Twisp Airport Road, Twisp, Washington, also known as the "Twisp Transfer Station." Property to be leased (at this time) is designated by the shaded area on the attached Aerial Map. (Attachment A).

It is understood and Agreed by and between the Owner and the leaseholder that said property and existing structures shall be used for the purpose of receiving, processing and storing recyclables. No Automotive or scrap metal recycling will be allowed. Special grade metal recycling such as copper, Brass or similar items may be recycled, but must be stored in Gaylord boxes or its equivalent. Other Reuse, last chance program, or other programs that redirect materials from the landfill will be considered by the County on a case by case base.

NOW, THEREFORE, the Parties hereby agree as follows:

1.0 Definition of Recycling Facility. The parties agree that for the purposes of this Agreement, the Okanogan County Twisp Recycling Facility hereinafter referred to as the "System" refers to Twisp Recycling Facility.

1.1 Contract Administrator. The contract administrator shall be the Director of Public Works of Okanogan County, or his designee, and shall be the Owners direct contact for interpretation of this Agreement, notices required under the Agreement, audits, inspections and enforcement of Agreement provisions. All communications shall be addressed to the Director, or his designee, at the Okanogan County Department of Public Works, 1234 A 2nd. Avenue South, Okanogan, WA 98840.

1.2 Permit Administrator. The permit administrator shall be the Director of Public Health Okanogan County who is the administrator of the Solid Waste Site Operating Permit System and regulations under the Okanogan County Solid Waste Regulations, the Minimum Functional Standards for Solid Waste Handling, WAC 173-350; the Solid Waste Management-Recovery and Recycling Act, Ch. 70.95 RCW and other environmental health-related regulations. The Permit Administrator will act as inspection and enforcement officer of the Solid Waste Site Operating Permit.

2.0 Termination, and Effective Date. The term of this Agreement shall be for 10 years. The effective date shall be July 1st, 2021. During the 9th year of this contract, the tenant may give the Owner notice of intent to exercise its option to renew this contract for an additional five (5) years. The County reserves the right to reject the option, renegotiate the conditions or re-bid the contract in total.

- A. The County hereby reserves the right to terminate this Agreement, at each year interval during the term of this Agreement dating from the Agreement effective date; provided, that any termination shall be preceded by at least 60 days written notice to the Company of the County's intent to terminate.
- B. This section does not apply to termination by either party under Section 23.0.

2.1 Payments. The total annual payments shall be \$_____ per year payable by the Leaser to the Owner.

3.0 Operation of the Recycling Facility. Except as provided below, the Leaser shall provide operating personnel, equipment, utilities, and management to staff and operate the recycling facility as defined herein and shall accept all the recyclables delivered by the public, the commercial hauler, and public agencies and other sources within the service area of the System.

3.1 Sources of Wastes. Recyclables shall be accepted only from within Okanogan County unless otherwise approved by the Owner.

3.2 Prohibited Wastes. The Company shall not accept wastes which would cause it to be in violation of state regulations. Hazardous waste containers which are empty may be accepted provided they have been triple-rinsed as provided by the state regulations. The Company shall require the depositor of empty containers to sign an affidavit identifying the specific container and stating that the container has been triple-rinsed, and shall provide a copy of such affidavit to the County. The Company shall not accept for disposal any of the following:

- A. Liquid wastes except in metal containers, and then not over five gallons per container.
- B. Hazardous wastes as defined in RCW 70.105 and WAC 173-303.

3.3 Compliance With All Laws. The Company, in operating the Recycling Facility agrees to comply with any and all Federal, State and Local regulations including, but not limited to the following:

State Solid Waste Regulations, including Ch 70.95 and 70.105 RCW, Ch 173-350 and 173-303 WAC, and all other applicable environmental rules and regulations, as now existing or hereafter amended.

- A. State Employment Security, Labor and Industries, and WISHA Regulations.
- B. State Motor Vehicle Regulations.
- C. State Utilities and Transportation Commission Regulations
- D. State and local fire regulations.
- E. Okanogan County Health Regulations.

3.4 Personnel. The Company agrees to provide sufficient qualified personnel to operate the system in the manner required by the permits and by regulation. The personnel shall be on-site and available to serve the public at all times the recycling facility is open to the public. The on-site personnel shall, at all times, have communications to report emergencies, whether during open public use periods, or other times when Company personnel are on the site.

All workers employed shall be competent and skilled in the performance of the work to which they have been assigned. Failure or delay in the performance of the Agreement due to the Company's inability to obtain workmen of the number and skill required shall constitute a default of the Agreement subject to the provisions of section (23) herein. The Company shall not discriminate against any person hired in terms or conditions of employment because of such person's age, sex, marital status, race, creed, color, national origin, or handicap.

3.5 Litter, Contamination, Vegetation. The Company agrees to keep the recycling facility and access roads litter-free, paved surfaces well swept, and surrounding areas free of weeds or other growth. No conditions of unsatisfactory cleanliness, litter, or contamination will be permitted to persist or go uncorrected.

- A. Runoff from containers, roof lines, other operational programs shall be contained on site. Further, effective efforts shall be made by the Company to prevent and contain any liquids which have been in contact with waste materials at the recycling center.

3.6 Snow Removal. The Company shall be responsible for snow removal, which includes the Recycling Facility drive way and aprons and for removal of snow and ice buildup on the remainder of the site including, but not limited to, buildings, equipment, walkways and employee parking shown in (Attachment A).

4.0 Utilities. The Company shall be responsible for all charges for heat, light, telephone, water and any other utilities at the transfer site, and shall pay charges for said utilities before delinquency. Failure to pay said utilities charges shall be cause for termination of this agreement. Termination shall occur if after 30 days written notice to the Company it fails to correct said delinquencies.

5.0 Maintenance. The Company agrees to maintain in good working order all the facilities and utilities including but not limited to, fences gates, locks, signs, buildings, roads, lights, emergency fire control equipment, landscaping, and to maintain telephone service at the site.

The County shall make normal and necessary structural repairs to the foundation, exterior and roofs of buildings unless damage thereto is caused by the negligence of the Company, in which event, the Company shall repair said structural damage, to the satisfaction of the County.

6.0 Days of Operation.

- A. The Recycling facility shall be made available to the commercial waste haulers using the facilities on a schedule mutually acceptable to the Company and the hauler on days the site is normally closed to the public or would be closed due to a holiday.
- B. At all times the site is open to the public, there shall be an attendant capable of correctly assessing the charge, performing as cashier, and assisting the public to use the facility safely and correctly.
- C. At all times the site is closed and unattended, the Company shall be responsible for assuring that the gate is closed and locked. Unauthorized personnel shall be charged with trespass or otherwise discouraged when the site is unattended. The main gate at the transfer station shall be closed at such times as there are Company personnel or others at the site, but is not open to the public.

7.0 Public Relations. The Company and its personnel shall conduct themselves in a manner to create a positive image of the Company and the County in the eyes of the public. Attention to safety and convenience to the public shall be given the highest priority.

- A. The facility shall be maintained in a neat and orderly manner at all times. To the extent practical, the attendants shall present a neat and clean appearance.
- B. All contacts with the public by the Company's personnel shall be by responsible individuals who are knowledgeable about the regulations and their interpretations. In case of dispute, courtesy must be maintained.
- D. The Company shall take responsibility for the safety of customers at the facility. Such responsibility shall include, but is not limited to, effective measures to reduce the hazards of snow and ice on the aprons, such as shoveling, chipping, sanding or use of chemical ice treatments with the County's approval; and during the entire year, the Company shall retain responsibility for keeping installed safety devices in a functional mode.

8.0 Equipment and Machinery. County will provide no equipment to the Leaser.

- A. Equipment required to perform this Agreement shall be furnished and maintained by the Company.
- B. The Company may at its sole expense, supply, operate, or maintain any equipment which it deems necessary to operate the System. Any trade fixtures, machinery, equipment or temporary structures installed by the Company, which are not removed within thirty (30) days of the termination of this Agreement shall at the option of the County either become County property or may be removed by the County at the Company's expense.

9.0 Reclamation. The Company shall be required to operate a center of recycling and reclamation of reusable material delivered by members of the public. All materials accumulated for recycling shall be stored in an enclosed facility and in a manner to not become a nuisance or disease vector. Further, the Company may choose to process portions of the waste stream in such a manner that the resulting product may be utilized in compliance with all health and solid waste regulations, thereby reducing the transport expense. The opportunities to do so are encouraged, provided that: no such material remains on-site; that no unsightly accumulations shall be permitted at any location; and provided no nuisances are created. It is understood that all recyclables shall become the property of the Company.

10.0 Use of the Premises. The company shall use the Facility as shown in (Attachment A), herein for the purpose of operating the Twisp recycling facility. The Company shall be permitted to use the facility for any legal purpose as shown in as long as the operation as a recycling facility is satisfactorily maintained as deemed appropriate by the County and that such use is consistent with the conditional use permit issued for this site.

11.0 Use of Transfer Station. Company will have access to the recycling facilities shipping and receiving door through the Twisp Transfer Station. No other access to the transfer station is granted, other than during normal transfer station hours of operation.

12.0 Warranties. The Company has examined the site and building, and accepts them as is, without reliance on the County as to the fitness or efficiency of the facilities herein described.

13.0 Alterations. Subject to prior written consent of the County, the Company shall have the right to make alterations, changes, and improvements to the facilities or buildings; provided the same is done at no expense to the County, and further, that any such alterations, changes, or improvements shall be accomplished in a workmanlike manner, aesthetically compatible with existing facilities, and in conformity to all applicable building codes and regulations of the State and County.

14.0 Insurance and Workman's Compensation. The Company shall secure and maintain throughout the duration of the Agreement insurance of such types and not less than amounts as hereinafter listed.

A. Workman's' Compensation

The Company shall maintain workman's compensation insurance authorized under the laws of the State of Washington sufficient to protect himself against liability and in the amounts as required in the Washington Workman's Compensation Act and the Washington Occupational Disease Disability Law.

B. Vehicle Liability Insurance

The Company shall maintain a policy under a comprehensive form to insure the entire vehicle liability for his operation. The policy shall name Okanogan County as an additional insured with respect to the operation of vehicles owned or operated by the Company while performing work under the terms of this Agreement. All policies or certificates shall contain a provision that written notice of cancellation or of any material change in said policy by the insurer shall be delivered to County thirty days in advance of the effective date thereof.

C. General Liability

The Company shall maintain current through the term of this Contract a comprehensive liability insurance policy issued by a Company duly authorized to do business in the State of Washington, insuring both County and Company, with respect to the work performed by the Company under the terms of this Agreement. All policies or certificates shall contain a provision that written notice of cancellation or of any material change in said policy by the insurer shall be delivered to County thirty days in advance of the effective date thereof.

For the purpose of this Agreement, the Company shall carry the following types of insurance in at least the limits specified below:

<u>Coverage</u>	<u>Limits of Liability</u>
Worker's Compensation	\$ 100,000
Bodily Injury Liability (Except Automobile)	\$ 500,000 each occurrence; \$1,000,000 aggregate
Property Damage Liability (Except Automobile)	\$ 500,000 each occurrence; \$500,000 aggregate
Automobile Bodily Injury Liability	\$ 500,000 each person; \$1,000,000 each occurrence
Automobile Property Damage Liability	\$ 500,000 each occurrence

A Certificate of Insurance naming County as additional insured shall be furnished, for approval by the County on each aforesaid policy.

D. Regardless of such approval by the County, it shall be the responsibility of the Company to maintain adequate insurance coverage at all times, and its failure to do so shall not relieve it of any contractual obligations or responsibility. Failure on the part of the Company to maintain all required insurance in full effect will be considered as a default under this agreement and will be treated as such by the County.

E. The Company shall not commence work under the Agreement until it has obtained all insurance required and until such insurance has been approved by the County. Nor shall the Company allow any subcontractor to commence work until insurance identical to that required of the Company have been obtained and approved. Said insurance shall provide coverage to the Company, any subcontractor performing work provided by this Agreement, and the County. The County of Okanogan shall be named as an additional insured on any and all policies insofar as the work and obligations performed under the Agreement are concerned.

15.0 Company to Indemnify County. Company shall indemnify and save harmless County, its officers, employees, and agents from all claims, suits, or actions of every kind and character made upon or brought against the County, its officers, employees, and agents, for and account of any injuries or damage received or sustained by any party or parties by or from the acts of said Company or its employees, servants, agents and subcontractors in doing the work and rendering the service herein contracted for, or by or in consequence of any negligence in operation or any improper material or equipment used, or by, or on account of any act or omission of said Company or its servants, employees, agents, or subcontractors, as well as from all claims of damage for infringement of any patent in fulfilling this Agreement. The indemnity shall include attorney's fees and all other expenses incurred by the County and its officers and employees in the defense of any suit or the investigation thereof.

16.0 Contractor Assignment. The Company shall not sell, assign, delegate, transfer or convey any rights or obligations under or arising from this Agreement, either separately or collectively, to any other person, firm or entity, without the prior written consent of the County, which consent shall not be unreasonably withheld. Any attempt by the Contractor to sell, assign, delegate, transfer or convey any rights or obligations under or arising from the Agreement, without the County's

prior written consent, shall be null and void and unenforceable.

17.0 Change in Control or Ownership. Any direct or indirect change in control or the transfer of a direct or indirect controlling Interest in the beneficial ownership of the Company shall constitute a Company Event of Default under the terms of the Agreement, unless the County consents in writing to that transfer in accordance with Section 17.0, which consent shall not be unreasonably withheld. The "change in control" or "transfer of a direct or indirect Controlling Interest" of Company shall include but is not limited to the transfer or assignment of fifty-one percent (51 %) or more of the beneficial ownership of Company to or from a single entity; however, intra-company transfers in the form of transfers between different subsidiaries or branches of the Company shall not be construed as a "change in Control" or "the transfer of a Controlling Interest" of the Company.

18.0 Binding Effect. The Agreement shall Bind and inure to the benefit of the successors or assigns the parties hereto, whether by merger, consolidation, transfer of assets, change in control, or transfer of a direct or indirect controlling Interest or ownership of the party.

19.0 Company to Make Examination. The Company shall make its own examination, investigation and research regarding the proper method of doing work and all conditions affecting the work to be done, and the labor, equipment and materials needed therefore and the quantity of the work to be performed. The Company agrees that it will satisfy itself by its own investigation and research, and that it will make no claim against the County because of any of the estimates, statements, or interpretations made by any officer or agent of the County which may prove to be in any respect erroneous.

20.0 Access by County. It is understood and agreed that the Director of Public Works and his designees shall have full and complete access to all of the premises herein described. Any deficiencies in the operation noted by the County shall be immediately corrected to the satisfaction of the Director of Public Works.

21.0 Maintenance of Access Roads. The County shall maintain the main paved access roads up to the Twisp Transfer Station. County will not maintain, or remove snow and ice, from the recycle center driveway as designated on Attachment A.

22.0 Assignment. The Company shall not assign this Agreement nor any portion hereof, nor sublet any of the premises or equipment herein described without the written consent of the County. If the Company's ownership is changed, the County reserves the right to terminate this agreement in total, without damages.

23.0 Defaults and Remedies. The Parties agree that the operation of the recycling facility is of prime concern to the public and that the full and prompt performance of all of the terms and conditions of this Agreement and time are the essence of this Agreement.

- A. The Company shall be excused from performance herein only if the facilities be wholly destroyed by earthquake or other cause which the Company could not reasonably foresee, and upon occurrence of such event the Company and the County, having in mind the public needs, shall cooperate to restore services as soon as practical. Payment to be made by the Company to the County may be suspended upon occurrence of such an event during such time as the Recycling Facility is not operable.
- B. If the Company fails to comply with the State Minimum Functional Standards or other applicable rules and regulations or with any provisions of this Agreement, the Agreement may be terminated. Termination shall occur if after fifteen (15) days written notice to the Company, it fails to correct said deficiencies.
- C. In the event the Company shall fail to operate the recycling facility for more than two days or shall abandon the site, or if the Company or any of its creditors shall petition a Court for Bankruptcy, the County may declare the Company to be in default of this Agreement and notify the Company to discontinue any service pursuant to the Agreement. A copy of the "Notice of Default" shall be immediately sent to the Company.
- D. Upon receipt of a "Notice of Default" under the preceding paragraph, the Company shall promptly discontinue work under this agreement, whereupon the County may complete the work or any part thereof either by day labor or by contract, and the County shall have the right to take possession of and use any of the Company's vehicles, equipment, facilities or other property, and to procure other vehicles, equipment and facilities necessary for the completion of the work under this Agreement and to charge any and all costs incurred to the Company. The County shall be entitled to recover from the Company as damages all expenses incurred, including reasonable attorney fees, together with such additional sums as may be necessary to complete the work.

DATED this _____ day of _____, 2021.

Company

By

Date

BOARD OF COUNTY COMMISSIONERS
OKANOGAN COUNTY, WASHINGTON

Chris Branch, Chairman

Andy Hover, Vice Chairman

ATTEST:

Jim DeTro, Member

Lalena Johns, Clerk of the Board

APPROVED AS TO FORM:

INFORMATIONAL