

G-250  
LTI, Inc

WHATCOM COUNTY  
CONTRACT NO.  
9312019

CONTRACT

SERVICES TO  
LOAD, TRANSPORT, AND DISCHARGE LEACHATE FROM THE CEDARVILLE LANDFILL  
TO THE CITY OF FERDALE WASTEWATER TREATMENT PLANT

This Contract, made and entered into this 15<sup>th</sup> day of Dec., 1993 by and between Whatcom County, Washington, a municipal Corporation and a Charter County in the State of Washington, hereinafter call the "County" and LTI, Inc.

hereinafter call the 'Contractor.'

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this Contract, the parties hereto covenant and agree as follows:

1. Scope of Services

The Contractor shall (a) load leachate from the truck loading area at the Cedarville Landfill, (b) transport the leachate to the pretreatment facility at the City of Ferndale Wastewater Plant and (c) discharge the leachate into the receiving station at the pretreatment facility, all in accordance with the terms and conditions set forth herein, and as more specifically described in Exhibit "A" which is attached hereto and made a part hereof. In addition, the Contractor shall comply with and conform to all applicable provisions of the Agreement between Whatcom county and the City of Ferndale executed December 31, 1986, which spells out the operation and maintenance of pretreatment facilities for pretreatment and disposal of leachate at the City of Ferndale Wastewater Treatment Plant.

2. Consideration

As consideration for the services provided by the Contractor, the County agrees to compensate the Contractor at a rate of 2.0 cents per gallon of leachate hauled and discharged. This figure includes all costs incidental to and necessary to undertaking the performance of the service, including all taxes. The leachate amount will be based on the monthly flow meter records maintained at the pretreatment facility by the City of Ferndale. In the event, the annual leachate volume falls below 1,000,000 gallons, the contractor shall be compensated at the rate of 2.5 cents per gallon. The difference, if any, shall be made in the billing for previous months of January to December services of which ends the Calendar year volume computation.

3. Billing Procedures

The Contractor shall submit to the Whatcom Solid Waste Division written claims for reimbursement for services provided upon a monthly basis. All payments shall be based upon services provided unless otherwise approved in writing by the County. Each request for payment shall be submitted and supported by documentation of the service actually performed. The County agrees to make payment for serviced provided promptly in accordance with the County's customary procedures.

4. Term of Contract

This Contract shall begin on January 1, 1994 and shall continue in effect through December 31, 1995, unless terminated or extended pursuant to the terms of this Contract.

5. Extension of Contract

This Contract may be extended annually or otherwise for up to an additional three year period through December 31, 1998, by mutual agreement of the parties.

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LAA \_\_\_\_\_  
Docket 11/6/94  
Other 1732  
By [Signature]

**5. Extension of Contract**

This Contract may be extended annually or otherwise for up to an additional three year period through December 31, 1998, by mutual agreement of the parties.

**6. Extent of Contract**

This Contract and Part III attached hereto contain all of the terms and conditions agreed upon by the parties hereto. The parties agree that there are no other understanding, oral or otherwise, regarding the subject matter of this Contract.

**7. Modification of Contract**

No change or additions to this Contract shall be valid or binding unless such change or additions be in writing and executed by both parties.

**8. Compliance with Laws and Regulations**

The Contractor agrees to comply with and conform to all applicable Federal, State, and County or Municipal laws and regulations relating to licensing, certification, of facilities, equipment and transportation, and accreditation and licensing of individuals covered by this Contract.

**9. Insurance**

The Contractor shall obtain and maintain during the life of the Contract, the following, or equivalent, public liability and property damage insurance:

"A broad form Contractor's Public Liability Insurance policy, naming the County as an additional insured, providing a single limit combined comprehensive liability policy with a total limit of not less than One Million Dollars (1,000,000.00) for all damages arising out of bodily injury or death of one or more persons in one accident and for all damages arising out of injury to or destruction of property in any one accident."

The Contractor shall direct its insurance company to provide the County with a current certificate of insurance to this effect. Upon request of the County, the Contractor shall furnish a copy of the insurance policy or policies for review.

**10. Assignment and/or Subcontracting**

The Contractor shall not assign or subcontract any portion of the services provided within the terms of this Contract without obtaining the prior written approval of the County, which consent shall not be unreasonably withheld. All terms and conditions of this Contract shall apply to any approved subcontract or assignment related to this Contract.

**11. Non-Waiver of Breach**

The failure of the County to insist upon strict performance of any of the covenants and agreements of this Contract or to exercise any option herein conferred in any one or more instances shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

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By [Signature]

12. Suspension/Termination

If either party fails to comply fully with the terms and conditions of this contract, or fails to cooperate in the performance of this contract so as to make completion substantially impracticable, the non-breaching party may pursue such remedies as are legally available, including, but not limited to, the suspension or termination of this contract in the manner specified herein.

- 12.1 Suspension: If either party is unable to substantiate full compliance with the provisions of this contract, or full cooperation in its performance, the non-breaching party may suspend the contract pending corrective acts or investigation, which suspension shall be effective upon seven (7) days' written notification to the other party.
- 12.2 Termination - Just Cause: For just cause, this Contract may be terminated by either party hereto upon thirty (30) days' advance notice to the other party. Said written notice shall include a detailed statement of "just cause."
- 12.3 Termination - Reduction in Funding: In the event that funding from the State, federal, local, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract, and prior to its normal completion, the County may summarily terminate this agreement as to the funds withdrawn, reduced, or limited not withstanding any other termination provision of this contract. If the level of funding withdrawn, reduced, or limited is so great that the County deems that the continuation of the programs covered by this contract are no longer in the best interest of the County, the County may summarily terminate this contract in whole, notwithstanding any other termination of this contract. Termination under this section shall be effective upon receipt of written notice as specified wherein.

In the event this Contract is terminated, the County will pay the Consultant for work performed in an amount equal to the gallons of leachate hauled at the rate stated in Section 2.

13. Hold Harmless

The Contractor agrees and covenants to indemnify, defend, and save harmless, the County Engineer, and those persons who were, now are, or shall be duly elected or appointed officials or members of employees thereof, hereinafter referred to as the "County" against and from any loss, damage, costs, charge, expense, liability, claims, demands or judgments, or whatsoever kind or nature, whether to persons or to property, arising wholly or partially out of any act, action, neglect, omission, or default on the part of the Contractor, his agents, successors, assignees, subcontractors and/or employees, except only such injury or damage as shall have been caused by or resulted from the sole negligence of the County. In case any suit or cause of action shall be brought against the County on account of any act, action, neglect, omission, or default on the part of the Contractor, his agents, successors, assignees, subcontractors, and/or employees the Contractor hereby agrees and covenants to assume the defense thereof and to pay any and all costs, charges, attorney's fees and other expenses and any and all judgments that may be incurred or obtained against the County.

In the event the County is required to institute legal action and/or participate in the legal action to enforce this Indemnification and Hold Harmless Clause, the Contractor agrees to pay the County's legal fees, costs and disbursements incurred in establishing the right to indemnification.

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By [Signature]

If the claim, suit, or action for injuries, death, or damages as provided for in the preceding paragraphs of this specification is caused by or results from the concurrent negligence of (a) the indemnitee or the indemnitee's agents or employees and (b) the indemnitor or the indemnitor's agents or employees the indemnity provisions provided for in the preceding paragraphs of this specification shall be valid and enforceable only to the extent of the indemnitor's negligence.

Contractor hereby specifically and expressly waives any immunity under Industrial Insurance, Title 51 RCW and acknowledges that this waiver was mutually negotiated by the parties herein. In the event of litigation between the parties to enforce the rights under this paragraph reasonable attorney's fees shall be allowed to the prevailing party.

14. Relationship of the Parties

The parties intend that an independent Contractor-County relationship will be created by this Contract. The County is interested only in the results to be achieved, the implementation of the work will lie solely with the Contractor. No agent, employee, servant, or representative of the Contractor shall be deemed to be an employee, agent, servant, or representative of the County for any purpose. Employees of the Contractor are not entitled to any of the benefits the County provides for County employees. The Contractor will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subcontractors, or otherwise during the performance of this Contract, in the performance of the work herein contemplated, the Contractor is an independent Contractor with regard to the performance of the details of the work; however, the components of and the results of the work contemplated herein must meet the approval of the County and shall be subject to the County's general rights of inspection and review to secure the satisfactory completion thereof.

15. Partial Invalidity

It is understood and agreed by the parties hereto that if any part of this Contract is determined to be illegal, the validity of the remaining portions shall be construed as if the Contract did not contain the particular illegal part.

16. Force Majeure

Contractor shall be excluded for the period of any delay in the performance of any obligations hereunder when prevented from doing so by cause or causes beyond his control, including labor disputes, civil commotion, war, governmental regulations or control, fire or other casualty, inability to obtain any material or services or acts of God.

17. Prevailing Wages

Pursuant to the applicable laws of the State of Washington, the Contractor shall pay its employees not less than the prevailing rates for the same trade or occupation in the area. In the event only dispute arises as to whether the rates paid are the prevailing rates for such area, and dispute cannot be resolved by the parties involved, the matter shall be referred for arbitration to the Director of the Department of Labor and Industries of the State of Washington in accordance with RCW 39.12.060

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18. Binding Effect

This Contract shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. The Contractor shall be entitled to perform this Contract through any wholly owned subsidiary thereof.

19. Governing Law

This Contract has been and shall be construed as having been made and delivered within the State of Washington, and it is mutually understood and agreed by each party hereto that this Contract shall be governed by the laws of the State of Washington, both as to interpretation and performance. Any action in law, suit and equity or judicial proceedings for the enforcement of this contract, or any provisions thereof, shall be instituted and maintained in the courts of competent jurisdiction located in Whatcom County, Washington.

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Other 1732

By [Signature]

IN WITNESS WHEREOF, the Contractor has executed this instrument, on the day and year first below written and the County Executive has caused this instrument to be executed by and in the name of the said County, the day and year first above written.

Executed by the Contractor this 14 day of December, 1993.

By: Ruth L. Thron  
Title: Secretary-Treasurer  
Contractor: LTI, Inc.

STATE OF WASHINGTON)  
COUNTY OF Whatcom) ss.

On this 14 day of Dec, 1993, before me personally appeared Ruth L. Thron to me personally known to be the person described in and who executed the above instrument and who acknowledged to me the act of signing thereof.



Kalene M. Hastings  
NOTARY PUBLIC, in and for the State of Washington, residing at:  
Whatcom County  
My commission expires June 19, 1996

Executed by Whatcom County this 15<sup>th</sup> day of Dec, 1993.

By: Shirley Van Zanten  
Shirley Van Zanten  
Whatcom County Executive

STATE OF WASHINGTON)  
COUNTY OF Whatcom) ss.

On this 15<sup>th</sup> day of Dec, 1993, before me personally appeared SHIRLEY VAN ZANTEN W.C. EXECUTIVE to me personally known to be the person described in and who executed the above instrument and who acknowledged to me the act of signing thereof.

Drane L. O'Connell  
NOTARY PUBLIC, in and for the State of Washington, residing at:  
Bellingham  
My commission expires 10/1/95

Approved as to form Randall H. [Signature]  
Civil Prosecuting Attorney

APPROVED

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[Signature]

3. Normally, vehicles delivering leachate shall not enter the City of Ferndale wastewater treatment plant before 7:00 a.m. or after 5:30 p.m. of any weekday.

4. Normally, no more than ten (10) vehicles per day shall be allowed to deliver leachate to the pre-treatment facility at the City of Ferndale wastewater treatment plant, but exceptions may be granted by the City for more deliveries per day during periods of heavy rain or other emergencies at Cedarville Landfill.

5. The Contractor shall furnish operators and adequate equipment to transport leachate from the Cedarville Landfill to the pre-treatment facility. The equipment shall be in good working order and able to negotiate the turning movements at the landfill and the pre-treatment facility. It is expected that the Contractor will utilize truck tankers, possible with trailers, to haul the greatest legal load.

**C. DISCHARGING LEACHATE INTO PRETREATMENT FACILITY**

1. The leachate discharge rate shall be monitored so it does not exceed 1,000 gpm so as not to overburden the flow meter and flow recorder. The amount of leachate hauled will be based on information provided by the flow recorder.

2. The Contractor shall conform to all rules and regulations as established by the City of Ferndale regarding access to the pre-treatment facility through the wastewater treatment plant, hours of disposal, sampling, and other activities of this operation.

3. The pre-treatment facility shall not normally receive more than a average daily flow of 20,000 gallons of leachate during any single calendar month nor more than an average daily flow of 12,050 gallons of leachate during any twelve month period.

4. The Contractor delivering leachate to the pre-treatment facility shall spray the facility with clean water after each delivery to assure maximum cleanliness and containment of leachate within the facility.

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Eff. 12/21/94

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By [Signature]

**EXHIBIT "A"**

**SPECIFICATIONS**

**SCOPE OF WORK**

This proposal shall consist of hauling leachate from the Cedarville Landfill located approximately nine miles east of Bellingham on Cedarville Road to the City of Ferndale wastewater treatment plant on Ferndale Road. The round trip from Cedarville to Ferndale is approximately 40 miles.

Leachate from Cedarville Landfill has been collected and treated since 1987. Phase II closure improvements were completed in September 1993 and the annual leachate volume, based on normal rainfall, is expected to decrease.

The Contractor shall be responsible for loading leachate collected at Cedarville Landfill, transporting it to the pretreatment facility at the City of Ferndale wastewater treatment plant, and discharging it into the receiving manhole station at the pretreatment facility.

**SPECIAL CONDITIONS**

**A. LOADING LEACHATE**

1. The Cedarville Landfill leachate collection system includes a 10,000 gallon reservoir with a 6-inch transmission pipe extending to the truck loading pad. The loading pad is shown on page 2 in the Appendix. The Contractor can gravity load or pump the leachate from the 6-inch pipe by way of a 6-inch flange coupling. Contractor shall furnish necessary fitting and connections for connecting to coupling.
2. The Contractor will monitor the leachate level in the reservoir and be responsible for loading the leachate when the reservoir is full.
3. The Contractor shall be responsible for maintaining an adequate leachate removal schedule to avoid pressure build up in the system.
4. The Contractor shall be responsible for cleaning up only spills at either the loading station or pretreatment facility as well as on the haul roads between the two locations.
5. The Contractor will normally load leachate from the collection system after 6:30 a.m., and before 5:00 p.m., of any weekday, Monday through Friday (except legal holidays) to correspond with the leachate treatment agreement between Whatcom County and the City of Ferndale.

**B. TRANSPORT OF LEACHATE**

1. Vehicles delivering leachate to the leachate pre-treatment facility shall not normally use any City of Ferndale streets in traveling to or from said facilities. Exceptions may be granted by the City if the County roads are impassable due to flooding or other obstructions.
2. Normally, vehicles delivering leachate shall not enter the City of Ferndale wastewater treatment plant on Saturdays, Sundays, and legal holidays.

APPROVED

BY: 10/21/94

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