

AGREEMENT BETWEEN THE CITY OF SHELTON AND AAA SEPTIC, LLC RELATED TO FURTHER TREATMENT OF DIGESTED SEWER SLUDGE

THIS AGREEMENT is made and entered into by and between the City of Shelton (City), a municipal corporation of the State of Washington, and AAA Septic, LLC (AAA Septic), an active limited liability company of the State of Washington, together referred to as the Parties.

WHEREAS, AAA Septic transports digested sewage sludge produced by third-party wastewater treatment facilities, including facilities for the Squaxin Island Tribe and Alderbrook Resort, among others, that is in need of further treatment; and

WHEREAS, the City of Shelton Wastewater Treatment Plant has capacity to convert digested sewage sludge into Class A biosolids.

NOW, THEREFORE, in consideration of their mutual covenants, conditions and promises, THE PARTIES AGREE as follows:

1. **PURPOSE OF AGREEMENT:** The purpose of this Agreement is to establish the responsibilities of the City and AAA Septic in further treatment of digested sewage sludge that AAA Septic transports from third-party wastewater treatment plants. The City will treat digested sludge delivered by AAA Septic, and AAA Septic will compensate the City at either a per gallon rate or a per dried pound rate:

When the digested sludge delivered to the City is greater than 1.5% solids, AAA Septic will compensate the City \$0.69 per dry pound of digested sludge treated.

When the digested sludge delivered to the City is 1.5% solids or less, AAA Septic will compensate the City \$0.092 per gallon.

The agreed rate of compensation for both measures will be increased by a factor of 3% annually, on January 1st of each year, until the duration of this Agreement is complete. The City reserves the right to periodically review and adjust the agreed rate of compensation, although proposed changes shall be mutually agreed upon by the parties and incorporated by written amendment to this Agreement.

2. **SCOPE OF AGREEMENT/WORK:**

A. Responsibilities of the City of Shelton shall be as follows:

- 1) Provide adequate infrastructure at the City's wastewater treatment plant to accept delivery of digested sludge via tanker/pump truck.
- 2) Provide further treatment of digested sludge delivered to the City's wastewater treatment plant.

B. Responsibilities of AAA Septic shall be as follows:

- 1) Ensure that all third-party waste treatment operators perform all required lab tests through a DOE approved lab on sewer sludge from all third party-owned or third party-used wastewater treatment locations within a window of thirty days prior to delivery of the sludge to the City, and ensure that the City is provided with the lab test results at least 48 hours prior to delivery.
- 2) Ensure that sludge meets all Washington State DOE requirements for Class "B" digested sludge and Class "A" metals testing, and ensure that third parties share results of testing with the City in accordance with the timeframes of subsection (B)(1) above.
- 3) Ensure that all digested sludge delivered to the City has been screened to a minimum standard of 6 millimeters.
- 4) Sludge delivered for treatment should be less than 4% solids. In the event solid content in the sludge is greater than 4%, the maximum amount of sludge the City will accept is 10,000 gallons per day. In no case, will the City accept sludge that is greater than 6% solids.
- 5) Schedule at least two weeks in advance for delivery.
- 6) Deliver only Tuesday-Thursday between the hours of 8:00 am PST and 3:00 pm PST on non-City observed holidays.
- 7) Require that sludge haulers check-in at the main office of the City's wastewater treatment plant before and after offload of sludge.
- 8) Maintain all certificates, licenses, or other permits necessary to lawfully handle and/or transport solid waste.
- 9) Maintain status as active Washington State limited liability company.

3. ADMINISTRATION OF AGREEMENT: The Shelton Public Works Department will administer this Agreement for the City. AAA Septic will administer this Agreement for itself.

4. DURATION OF AGREEMENT: This Agreement shall take effect upon execution of the agreement by both the City and AAA Septic, and it shall remain in effect until December 31, 2026.

5. TERMINATION OF AGREEMENT:

A. AAA Septic may terminate this Agreement for any reason upon 10 days advance notice to the City.

B. The City may terminate this Agreement for any reason upon 365 days advance notice to AAA Septic and may terminate earlier as provided in subsection (C) below.

C. The City may immediately suspend its acceptance of sludge if AAA Septic is out of compliance with any of its obligations under this Agreement or if any of the third parties for

which AAA Septic transports waste are out of compliance with any federal or state laws or regulations related to solid waste and/or wastewater treatment operations or permitting or any other Washington State DOE requirements relevant to the matters covered in this Agreement. If acceptance is suspended, the City shall give AAA Septic notice and an opportunity to cure any failures of AAA Septic's obligations or any third-party failures. If AAA Septic fails to cure or demonstrate that a third party cured after a reasonable opportunity to do so, the City may terminate this Agreement at that time.

6. LEGAL/ADMINISTRATIVE ENTITY: No separate legal or administrative entity is created by or pursuant to this Agreement.

7. INDEMNIFICATION:

A. AAA Septic shall defend, indemnify, and hold harmless the City, its officials, officers, employees, and agents for all claims, liabilities, damages, expenses, reasonable attorney fees, and suits arising out of or in connection with the performance of this Agreement, including any claims arising from the AAA Septic's use of contractors to perform any of the obligations of this Agreement, except for injuries and damages caused by the sole negligence of the City. Furthermore, AAA Septic specifically agrees to defend, indemnify, and hold harmless the City in any challenge to the validity of this Agreement.

B. Solely for purposes of the indemnification provisions, each party waives its immunity under Title 51 (Industrial Insurance) of the Revised Code of Washington and acknowledges that this waiver was mutually negotiated by the parties.

C. The indemnification provisions shall survive the expiration or termination of this Agreement.

8. COMPLIANCE WITH REGULATIONS AND LAWS: The Parties shall comply with all applicable rules and regulations pertaining to them in connection with the matters covered herein.

9. ASSIGNMENT: The Parties shall not assign this Agreement or any interest, obligation, or duty herein without the express written consent of the other party.

10. ATTORNEY'S FEES: In the event of litigation to enforce any of the terms or provisions herein, each party shall pay all its own costs and attorney fees.

11. NOTICES:

All notices and payments hereunder shall be sent or delivered to the following respective addresses:

To AAA Septic:
Debra Lovely
2272 Brockdale Rd.
Shelton, WA 98584
Phone: (360) 427-6110

To Shelton:
City of Shelton
Attn: City Clerk
525 W. Cota Street
Shelton, WA 98584

or to such other respective addresses as either Party may hereafter designate in writing. All notices and payments mailed by regular post (including first class) shall be deemed to have been given on the second business day following the date of mailing, if properly mailed and addressed. Notices and payments sent by certified or registered mail shall be deemed to have been given on the day next following the date of mailing, if properly mailed and addressed. For all types of mail, the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing.

12. **INSURANCE REQUIREMENT:** Each party shall obtain and maintain liability coverage in minimum liability limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate for general liability, errors and omissions, and auto liability, despite when the claim was made.

The City shall be named as an additional insured under AAA Septic's Automobile Liability and Commercial General Liability insurance policies using ISO Additional Insured-Vendors Endorsement CG 20 15 04 13 or a substitute endorsement providing equivalent coverage. AAA Septic's Commercial General Liability insurance policy or policies are to contain or be endorsed to contain that they shall be primary insurance as respects the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the AAA Septic's insurance and shall not contribute with it.

Each party to this Agreement agrees to provide the other with evidence of insurance coverage in the form of a certificate or its equivalent from a solvent insurance provider confirming coverage from a solvent insurance company or pool that is sufficient to address the insurance obligations set forth above. AAA Septic shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of AAA Septic before any digested sludge will be accepted by the City. AAA Septic shall provide the City with written notice of any policy cancellation, within 2 business days of AAA Septic's receipt of such notice.

13. **NON-DISCRIMINATION POLICY:** AAA Septic and the City agree not to discriminate in the performance of this Agreement because of race, color, national origin, sex, sexual orientation, age, religion, creed, marital status, disabled or Vietnam era veteran status, the presence of any physical, mental, or sensory handicap, or any other status protected by law.

14. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Parties, and the Parties acknowledge that there are no other agreements, written or oral, that have not been set forth in the text of this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

DATED this 3rd day of January, 2017.

CITY OF SHELTON COMMISSIONERS
SHELTON, WASHINGTON

AAA Septic, LLC

Gary H. Cronce
Gary Cronce, Mayor

Debra Lovely
Debra Lovely, Owner

Tracy Moore
Tracy Moore, Commissioner

Kathy McDowell
Kathy McDowell, Commissioner

ATTEST:

Vicki Look
Vicki Look, City Clerk
Approved as to form:



STATE OF WASHINGTON)

) ss.
COUNTY OF Mason)

ON THIS 3rd day of January, 2017, before me, personally appeared Gary Cronce, Kathy McDowell and Tracy Moore, to me known to be the Mayor and Commissioners of the City of Shelton, being a municipal corporation that executed this instrument, and they acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument, and the seat of said municipal corporation is affixed hereon.

WITNESS my hand and official seal hereto the day and year in this certificate first above written.

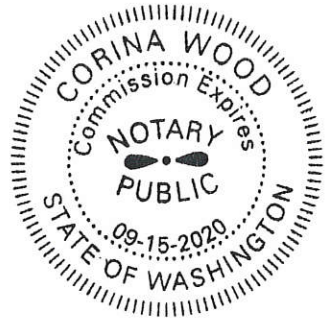


Corina Wood
Notary Public in and for the State of Washington,
Residing at Elma, WA
My commission expires 9/15/20

STATE OF WASHINGTON)
) ss.
COUNTY OF Mason)

I certify that I know or have satisfactory evidence that Dobra Lovely is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the owner of AAA Septic, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

WITNESS my hand and official seal hereto the day and year in this certificate first above written.



Corina Wood
Notary Public in and for the State of Washington,
Residing at Elma, WA
My commission expires 9/15/20

