

Jefferson County  
Board of Commissioners  
Agenda Request

**To:** Board of Commissioners  
Philip Morley, County Administrator

**From:** Frank Gifford, Public Works Director *FG*

**Agenda Date:** September 27, 2010

**Subject:** Cash Security Agreement

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**Statement of Issue:**

Jefferson County Solid Waste requires transportation of cash and checks from the Waste Management Facility to the Bank of America.

**Analysis/Strategic Goals/Pro's & Con's:**

This contract addresses the county goals to provide effective and efficient government and responsible stewardship of county funds.

**Pro's:** Loomis is an establish security firm with over 80 years of experience. This service provides a safe working environment for County employees and protects county funds.

**Con's:** N/A

**Fiscal Impact/Cost Benefit Analysis:**

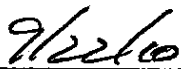
Estimated Budget impact is (\$4,800) Four thousand and Eight Hundred Dollars per year. This item was approved in the 2010 Solid Waste Fund budget.

**Recommendation:**

Approve and sign the attached Agreement.

**Reviewed By:**

  
Philip Morley,  
County Administrator

  
Date



**SERVICE AGREEMENT**

The following paragraphs of this Service Agreement (the "Agreement") outline the agreements and understandings by and between

**LOOMIS ARMORED US, LLC**  
("LOOMIS")  
a Texas Limited Liability Company  
with offices at:  
2500 City West Blvd. Ste. 900,  
Houston, TX 77042

and

**JEFFERSON COUNTY SOLID WASTE**  
("CUSTOMER")  
P O BOX 2070  
Port Townsend, WA 98368

This Agreement expresses and outlines the services, roles, and responsibilities of the parties. If additional locations are added to the scope of this Agreement, consistent terms and services will be maintained. These promises for such services and their related payments form the basis of this Agreement, made **September 2010**.

**Term:** Service will begin on / in **October 2010** and shall continue for a period of two (2) year(s). At the expiration of this Agreement, this Agreement shall automatically be extended for successive like term periods unless terminated by either party on sixty (60) days written notice prior to the next anniversary date. CUSTOMER agrees that LOOMIS is the exclusive provider for these services for the facilities contained herein. It is expressly understood that this agreement contains no provision for early termination in whole or part. Either party may terminate this agreement within 5 days written notice in the event of bankruptcy, or insolvency of the other party. Loomis may terminate this agreement with 30 days written notice in the event of a material reduction or cancellation of insurance.

**CUSTOMER and LOOMIS agree to the following:**

Schedule for Services: Conjunctive, sequential, on route pickup and delivery of items at the following location(s) to/from CUSTOMER's designated, mutually agreed-upon location(s):

<u>LOOMIS BRANCH</u>	<u>UNIT #/ LOCATION</u>	<u>MAX LIABILITY COVERAGE</u>	<u>SERVICE FREQUENCY</u>	<u>BANKING INSTITUTION</u>	<u>FEE for SERVICE</u>
1680 1057726	Jefferson County Solid Waste 325 County Landfill Rd Port Townsend, WA 98368	\$100,000.00	Monday, Wednesday and Friday	B of A Port Townsend	\$333.52 / per month

**Waiting Time:** In the event the CUSTOMER requires additional time and LOOMIS agrees to stay, a charge of **\$3.85** per one (1) minute will be assessed after the first five (5) minutes. Over fifteen (15) minutes, LOOMIS may elect to depart from the CUSTOMER'S location. Should LOOMIS be requested to return, the pick-up will be rescheduled as a Special Pick-up and will be charged at an agreed to fee prior to rendering service.

**Research, Special Request and Supply Fee:** A fee of **\$75.00** per hour will be charged for research of LOOMIS' documents or receipts that have aged over sixty (60) days, unless it is determined to be solely an error of LOOMIS or the development at CUSTOMER's request custom reports or CUSTOMER special requests outside the scope of normal services referenced in Section 1. Supplies provided by LOOMIS to CUSTOMER will be charged back to CUSTOMER at LOOMIS current cost plus 1%.

**Excess Item Handling:** A fee of **\$1.25** per item is assessed when the number of items or containers exceed **5** items per shipment.

**Holiday Service Fee:** A fee of **\$95.00** will be charged for the service provided on those Holidays as listed in Section 11. **If service falls on a holiday, Loomis will service the next day at no additional charge.**

**Excess Liability:** A fee of **\$.40** per \$1,000 or fraction thereof for any amounts which exceed the Liability Coverage per Shipment Amount.

**Insurance Fee:** A fee of 7% will be assessed to all services provided within this agreement. (Waived)

**New Account Setup Fee:** \$50 (waived)

CUSTOMER does not desire this Excess Liability Coverage, CUSTOMER must decline Excess Liability Coverage by initialing the box below:



Decline

**Reconstruction Obligations:**

As explained in Section 7(c), of the Terms and Conditions, CUSTOMER has certain obligations regarding reconstruction of lost, damaged, destroyed checks or other events or items that provide an audit trail. If CUSTOMER prefers to opt-out of these reconstruction obligations, CUSTOMER must decline by initialing the box below.



Decline

If CUSTOMER does NOT agree to reconstruction obligations or cannot meet its reconstruction obligations contained within Section 7(c), LOOMIS' liability for all checks contained within the shipment is limited to Ten Thousand Dollars (\$10,000.) regardless of the face value of the checks in shipment.

The undersigned individual, signing this Agreement on behalf of the CUSTOMER acknowledges, accepts and understands that these services are provided by LOOMIS under the attached Terms and Conditions, which CUSTOMER hereby acknowledges receiving, and further represents that he or she has the authority to sign the Agreement on behalf of, and to bind, the CUSTOMER.

**LOOMIS**

By 

Printed Name Dan Rushing

Title District Manager

Date 9-14-10

Executed by the Contractor Sept 14th, 2010

Loomis  
Contractor

By: 

500001147  
State of Washington, Contractor Registration Number

SEAL:

COUNTY OF JEFFERSON  
BOARD OF COMMISSIONERS


\_\_\_\_\_  
David W. Sullivan, Chair

\_\_\_\_\_  
Phil Johnson, Member


\_\_\_\_\_  
John Austin, Member

ATTEST:

Approved as to form only this 31<sup>ST</sup>  
day of AUGUST, 2010.

  
David Alvarez  
Deputy Prosecuting Attorney

\_\_\_\_\_  
Lorna L. Delaney, Clerk of the Board

  
Frank Gifford  
Public Works Director

## TERMS AND CONDITIONS

1. **Service:** LOOMIS agrees to pick up, receive from, and/or deliver to CUSTOMER, or any designated agent, securely sealed or locked shipments which may contain any or all of the following: currency, coin, checks, securities, or other valuables. If the shipment container(s) does not appear to be securely locked or sealed, LOOMIS reserves the right to refuse to accept such container(s) and will not receive said container(s) from the CUSTOMER or its designated agent. If LOOMIS accepts sealed container(s), LOOMIS will give CUSTOMER a receipt for said sealed container(s), transport and deliver such sealed container(s) to the consignee designated by the CUSTOMER. CUSTOMER agrees that it will not conceal or misrepresent any material fact or circumstances concerning the property delivered to LOOMIS pursuant to this Agreement. The fee payable by CUSTOMER to LOOMIS is based upon the agreed upon liability limit(s) and level(s) of service provided by LOOMIS as stated in this Agreement. If additional or special services are required, CUSTOMER and LOOMIS agree to negotiate fees for these other services. Before these other services commence, a written amendment will be attached to this Agreement confirming these additional services. If other services are provided prior to the execution of a written amendment, the fees to be charged will be the standard fees quoted for such service by LOOMIS.

2. **Billing and Payment:** CUSTOMER agrees to pay LOOMIS within thirty (30) days of receipt invoices which shall include any applicable federal, state or local taxes. In addition, LOOMIS may, at its discretion, impose a service charge of one and one-half percent (1.5%) per month or eighteen percent (18%) per annum or such lesser rate as may be required by law, of the amount unpaid by CUSTOMER, as is due and payable to LOOMIS on all invoices not paid in full by invoice due date. CUSTOMER further agrees that undisputed portions of any invoice shall be remitted to LOOMIS in accordance with normal payment terms. However, should CUSTOMER fail to pay any undisputed amounts within thirty (30) days of the invoice date, LOOMIS may, at its sole option, terminate this Agreement upon ten (10) days written notice to CUSTOMER. CUSTOMER agrees to notify LOOMIS of dispute(s) arising from any invoice within thirty (30) days after such invoice has been presented to CUSTOMER, or else such claim shall be deemed waived. All amounts due hereunder shall be paid by cash, check or ACH unless otherwise agreed on the signature page of this Agreement.

3. **Rate Adjustment:** LOOMIS shall annually increase the service fee(s) based upon the year to year changes in the Consumer Price Index (CPI) or other applicable economic factor(s).

To account for future movements in the price of diesel fuel, up and down, LOOMIS will henceforth adjust the monthly fuel fee based on U.S. average diesel prices as measured and published by the Department of Energy (WWW.EIA.DOE.GOV). LOOMIS' established baseline is \$1.31. Any cost above the \$1.31 baseline cost and will be adjusted on a monthly basis by 0.5% on price movements of 10 cents per gallon (i.e. if diesel prices rise to \$1.41, the corresponding fuel fee is increased by 0.5%) Each party will be able to monitor and keep track of the adjustments easily. The fuel fee rate change reflected on the invoice will be based on national average diesel prices published on the Department of Energy Website. The calculation is the average of the national prices for the first four Mondays of the month rounded to the next cent. The table is for reference only and as such, does not reflect the maximum rate which might be assessed.

Minimum	Maximum	Per Gallon	Fee (%)
\$4.91	\$5.00	\$ .10	18.00%
\$4.81	\$4.90	\$ .10	17.50%
\$4.71	\$4.80	\$ .10	17.00%
\$4.61	\$4.70	\$ .10	16.50%
\$4.51	\$4.60	\$ .10	16.00%
\$4.41	\$4.50	\$ .10	15.50%
\$4.31	\$4.40	\$ .10	15.00%
\$4.21	\$4.30	\$ .10	14.50%
\$4.11	\$4.20	\$ .10	14.00%
\$4.01	\$4.10	\$ .10	13.50%
\$3.91	\$4.00	\$ .10	13.00%
\$3.81	\$3.90	\$ .10	12.50%
\$3.71	\$3.80	\$ .10	12.00%
\$3.61	\$3.70	\$ .10	11.50%
\$3.51	\$3.60	\$ .10	11.00%
\$3.41	\$3.50	\$ .10	10.50%
\$3.31	\$3.40	\$ .10	10.00%
\$3.21	\$3.30	\$ .10	9.50%
\$3.11	\$3.20	\$ .10	9.00%
\$3.01	\$3.10	\$ .10	8.50%
\$2.91	\$3.00	\$ .10	8.00%
\$2.81	\$2.90	\$ .10	7.50%
\$2.71	\$2.80	\$ .10	7.00%
\$2.61	\$2.70	\$ .10	6.50%
\$2.51	\$2.60	\$ .10	6.00%
\$2.41	\$2.50	\$ .10	5.50%
\$2.31	\$2.40	\$ .10	5.00%
\$2.21	\$2.30	\$ .10	4.50%
\$2.11	\$2.20	\$ .10	4.00%
\$2.01	\$2.10	\$ .10	3.50%
\$1.91	\$2.00	\$ .10	3.00%
\$1.81	\$1.90	\$ .10	2.50%
\$1.71	\$1.80	\$ .10	2.00%
\$1.61	\$1.70	\$ .10	1.50%
\$1.51	\$1.60	\$ .10	1.00%
\$1.41	\$1.50	\$ .10	.50%
\$1.31	\$1.40	\$ .10	.00%

3a. LOOMIS reserves the right in times of global economic downturn or due to changes in regulatory obligations to renegotiate rates and fees in good faith with customer. In the event that CUSTOMER refuses to consent to such adjustment(s) or fee(s), LOOMIS shall have the right to terminate this Agreement upon Thirty (30) days written notice to CUSTOMER.

4. **Liability:** LOOMIS agrees to assume the liability for any loss, according to the terms of this Agreement of the securely sealed container(s) from the time LOOMIS signs for and receives physical custody of the sealed container(s). LOOMIS' responsibility terminates when the CUSTOMER or its designated consignee takes physical possession of the sealed container(s) and signs LOOMIS' receipt. If it is impossible to complete the delivery, LOOMIS shall be responsible for any loss until the sealed container(s) is returned to the CUSTOMER or its designated agent and a signed receipt obtained. While the sealed container(s) is stored in the CUSTOMER'S premises, LOOMIS does not assume the liability for any loss. If CUSTOMER conceals or misrepresents any material fact or circumstance concerning the property or container, or the contents thereof, LOOMIS will have no liability for any loss in any way related to such fact or circumstance. LOOMIS reserves the right to take any and all action as may be reasonably necessary to prevent money laundering to the extent permitted under law or as may be required by any regulatory body that may exert a right of control over LOOMIS.

**UNDER NO CIRCUMSTANCES WILL LOOMIS BE LIABLE TO THE OTHER PARTY FOR LOST PROFITS OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING FROM THE SUBJECT MATTER OR SERVICES OF THIS AGREEMENT, REGARDLESS OF THE TYPE OF CLAIM AND EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; SUCH AS, BUT NOT LIMITED TO LOSS OF REVENUE, LOSS OF INTEREST, LOST DATA, DATA TRANSPORTATION OR TRANSMISSION ERROR OR ANTICIPATED PROFITS OR LOST BUSINESS. EXCEPT FOR THE CARGO LIABILITY SPECIFIED WITHIN SECTION 4, IN NO EVENT SHALL LOOMIS' LIABILITY TO CUSTOMER ARISING OUT OF THIS AGREEMENT EXCEED THE AMOUNT REPRESENTED BY THAT PORTION OF THE SERVICE CHARGE CONTAINED HEREIN FOR THE SERVICE(S) PAID BY CUSTOMER FOR SUCH SERVICES.**

5. **Excess Liability:** The following terms will apply if CUSTOMER did not decline excess liability coverage on the signature page. If LOOMIS shall accept tender of a shipment in excess of the Liability Coverage per Shipment Amount, CUSTOMER agrees to pay LOOMIS the excess liability fee set forth on the signature page. CUSTOMER, by paying this additional fee, will obtain full dollar coverage of any or all losses, subject to the other provisions of this Agreement. If CUSTOMER declines Excess Liability Coverage, liabilities covered under this Agreement are limited to the Liability Coverage per Shipment Amount.

6. **Indemnity:** CUSTOMER agrees to indemnify, defend and hold harmless LOOMIS from all claims, costs or expenses arising out of any third party's threatened or actual claim, suit, demand, garnishment or seizure of any funds or property provided by CUSTOMER hereunder that is in LOOMIS' custody due to a claim, demand or suit against CUSTOMER by such third party or through governmental seizure. LOOMIS agrees to give CUSTOMER prompt notice of any such claim, suit, demand or seizure and to provide CUSTOMER reasonable cooperation on the defense.

7. **Claim Procedures:** The following provisions shall control in the event of any loss or claim, notwithstanding anything to the contrary contained in this Agreement:

a) In the event of a loss, CUSTOMER agrees to notify LOOMIS in writing within four (4) calendar days after the loss is discovered or should have been discovered in the exercise of due care. CUSTOMER agrees that any loss shall be reported by CUSTOMER to LOOMIS within forty-five (45) days after the pick-up by LOOMIS of the securely sealed container in connection with which the loss is asserted. Unless such notice has been received by LOOMIS within this forty-five (45) day period, such claim shall be deemed waived and released by the CUSTOMER. It is agreed that both parties will work together to determine the extent of the loss, and if possible, the cause of loss.

b) The sole liability of LOOMIS (except as stated in this Agreement) in the event of a loss, from whatever cause, shall be subject to the Liability Coverage per Shipment Amount set forth in this Agreement or the Excess Liability Coverage, if not declined by the CUSTOMER.

c) Unless CUSTOMER has opted-out of its reconstruction obligations in writing above, CUSTOMER shall retain sufficient information to allow reconstruction of item(s) in the event of a loss. In addition, CUSTOMER agrees it will cooperate and assist in reconstructing lost, damaged, or destroyed items constituting a part of any loss. LOOMIS' liability, unless otherwise stated in this Agreement, shall be the payment to the CUSTOMER for the reasonable costs necessary to reconstruct the item(s), any necessary cost because of stop-payment procedures or reasonable costs associated with CUSTOMER providing information and assistance with recovery of loss. The term "Reconstruction" is defined to mean the identification of the item(s) only to the extent of determining the face amount of said item(s) and the identity of the maker or endorser of each or providing audit trail, foreign or internal network information, data, customer information or other relevant information to allow Loomis to recover any and/or all item(s) or cash associated with loss. CUSTOMER agrees in the event of a loss, that any liability of LOOMIS shall be reduced by the face value of reconstructed or recovered item(s).

d) Upon the request of LOOMIS, CUSTOMER will furnish a proof of loss to LOOMIS or its insurance carrier. Once reimbursement has been made to CUSTOMER, LOOMIS and its insurer shall receive any and all of the CUSTOMER'S rights and remedies of recovery.

8. **Limitations & Force Majeure:**

a) The CUSTOMER agrees that LOOMIS will not be liable for any loss or damage caused by or resulting from shortages claimed in the contents of the sealed or locked shipment(s), for, non-performance or delays, or for the breakage of statuary, marble, glassware, bric-a-brac, porcelains and similar fragile articles. Likewise, LOOMIS shall not be liable to CUSTOMER for failure to render service if in LOOMIS' judgment the same may endanger the safety of CUSTOMER'S property or personnel or LOOMIS' vehicles or employees.

b) It is further agreed that LOOMIS shall not be held accountable or liable for any damages or losses, caused by or resulting from illegal or fraudulent acts of CUSTOMER'S employees, agents, representatives, or third-party contractors.

c) CUSTOMER agrees that LOOMIS shall not have any liability for losses of any documentation carried by LOOMIS at CUSTOMER'S request without compensation.

d) CUSTOMER expressly understands and accepts that ownership (title) to of cash transported or stored by LOOMIS shall never transfer to LOOMIS.

e) It is further agreed LOOMIS shall not be held accountable or liable for any damages or losses, whether controlled or uncontrolled, and whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril(s) for which liability is assumed by LOOMIS, resulting from:

(i) Hostile or warlike action in time of peace or war, including action hindering, combating or defending against an actual, impending or expected attack: (1) by any government or sovereign power (de jure or de facto) or by any authority maintaining or using military, naval or air forces; or (2) by military, naval or air forces; or (3) by any agent of any such government, power, authority or forces.

(ii) Nuclear reaction, nuclear radiation, radioactive contamination or any weapon of war employing atomic fission or radioactive force or similar means, whether in time of peace or war.

(iii) Insurrection, rebellion, revolution, terrorist act, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence; seizure or destruction under quarantine or customs regulations; confiscation by order of any governmental or public authority; or risks of contraband or illegal transportation or trade.

(iv) Acts of God, named storms, tornadoes, flood, fire, earthquake, imposter pick-up or delivery, air piracy, strikes, labor disturbances, or other conditions or circumstances beyond LOOMIS' reasonable control.

9. **Disputes:** CUSTOMER and LOOMIS agree that except for non payment of services, any controversy or claim, including any claim of misrepresentation, arising out of or related to this Agreement, or the furnishing of any service by LOOMIS to CUSTOMER, shall be settled by arbitration under the then current rules of the American Arbitration Association. The arbitrator shall be chosen from a panel of persons knowledgeable in the fields of financial institution security operations and armored car services. CUSTOMER and LOOMIS agree to equally share in the cost and fees of this resolution process. The decision and award of the arbitrator shall be final, unappealable and binding. Judgment upon the award so rendered may be entered in any court having jurisdiction thereof. Any arbitration hereunder shall be held in Houston, Texas.

10. **Container Value Limitation:** CUSTOMER acknowledges and agrees that the maximum value which LOOMIS will transport in any individual container will not exceed two hundred fifty thousand dollars (\$250,000). If the total value of a shipment which CUSTOMER seeks to tender to LOOMIS exceeds two hundred fifty thousand dollars (\$250,000), such shipment must be broken down into separate shipment containers of two hundred fifty thousand dollars (\$250,000) or less.

11. **Holiday Service:** LOOMIS agrees to provide service as stated in the Agreement with the following holiday exceptions: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Columbus Day, Thanksgiving Day, Christmas Day, federal banking and any local applicable observed holiday. Charges for service on such days will be as stated upon page 1 of this Agreement, excluding Christmas Day. LOOMIS will not provide Christmas Day service.

12. **Specials:** Unscheduled pickups or deliveries are available under the same conditions and provisions of this Agreement. Prices are quoted upon request.

13. **Excess Liability Coverage:** LOOMIS reserves the right to refuse tender of a shipment in excess of the Liability Coverage per Shipment Amount as set forth in this Agreement.

14. **Confidentiality:** Each party receiving information (the "Receiving Party") undertakes to retain in confidence the terms of this agreement and all other non-public information, technology, materials and know-how of the other party disclosed or acquired by the Receiving Party pursuant to or in connection with this Agreement which is either designated as proprietary and/or confidential or, by the nature of the circumstances surrounding disclosure, ought in good faith to be treated as proprietary and/or confidential ("Confidential Information"). Neither party shall use any Confidential Information with respect to which it is the Receiving Party for any purpose other than to carry out the activities contemplated by this agreement. Each party agrees to use commercially reasonable efforts to protect Confidential Information of the other party, and in any event, to take precautions at least as great as those taken to protect its own confidential information of a similar nature. Each party shall also notify the other promptly in writing in the event such party learns of any unauthorized use or disclosure of any Confidential Information that it has received from the other party, and will cooperate in good faith to remedy such occurrence to the extent reasonably possible.

15. **Entire Agreement:** This Agreement: (a) shall be governed by and construed in accordance with the laws of the State of Texas without reference to conflict of laws principles; (b) constitutes the entire agreement and understanding of the parties with respect to its subject matter, except that the terms of any agreement regarding confidential information of the parties shall be deemed to be a part of this Agreement; (c) and the terms and conditions including fees set forth in it shall be treated as confidential information; (d) is not for the benefit of any third party; (e) may not be amended except by a written instrument signed by both CUSTOMER and LOOMIS; (f) may not be assigned by CUSTOMER without LOOMIS' prior written consent; (g) may be assigned by LOOMIS, provided that LOOMIS shall furnish written notice of such assignment to CUSTOMER; (h) shall be binding upon any assignees, and defined terms used in this Agreement to apply to either party shall be construed to refer to such party's assignee; (i) is the product of negotiation; (j) is subject to a contractually agreed one (1) year statute of limitations on all claims or the minimum allowable by applicable law; (k) shall not be deemed to have been drafted by either party; (l) may be executed in multiple counterparts, all of the same agreement which when taken together shall constitute one and the same instrument; (m) contains article and section headings which are for convenience of reference only and which shall not be deemed to alter or affect the meaning or interpretation of any provision of this Agreement; (n) does not make either party the agent, fiduciary or partner of the other; (o) does not grant either party any authority to bind the other to any legal obligation; (p) does not intend to nor grant any rights to any third party and (q) shall remain valid and enforceable despite the holding of any specific provision to be invalid or unenforceable, except for such specific provision. The waiver by either party of any rights arising out of this Agreement shall not cause a waiver of any other rights under this Agreement, at law or in equity. Any and all correspondence regarding this Agreement shall be delivered via certified mail (return receipt requested) or verifiable third-party courier (return receipt requested).