



**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA REQUEST**

TO: Board of County Commissioners
Mark McCauley, County Administrator

FROM: Alisa Hasbrouck, Environmental Public Health Manager
Laura Tucker, Education and Outreach Coordinator

DATE: June 26, 2023

SUBJECT: Agenda item – Food Recovery Enhancement Personal Property Lease with Port Townsend School District #50; term: June 30, 2023 – continuing for the expected life of the leased property; \$50.00

STATEMENT OF ISSUE:

Jefferson County Public Health, Community Health Division, requests Board approval of this Food Recovery Enhancement Personal Property Lease with Port Townsend School District #50; term: for the expected life of the leased property; \$50.00

ANALYSIS/STRATEGIC GOALS/PROS and CONS:

The purpose of this Lease is to enhance food recovery consistent with the Use Food Well Washington Plan, which is the result of RCW 70A.205.715. This agreement is for the purchase by Lessor Jefferson County of three commercial upright refrigerators, two kitchen cabinets, one utility cart and one cardboard shredder to be used by Lessee Port Townsend School District #50 for the purpose of collection and distribution of surplus edible food.

FISCAL IMPACT/COST BENEFIT ANALYSIS:

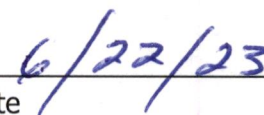
Grant funds are provided by the Washington Department of Ecology. There is no impact upon the general fund.

RECOMMENDATION:

JCPH management requests approval of the Food Recovery Enhancement Personal Property Lease with Port Townsend School District #50; term: June 30, 2023 for the expected life of the leased property; \$50.00

REVIEWED BY:


Mark McCauley, County Administrator


Date

CONTRACT REVIEW FORM

Clear Form

(INSTRUCTIONS ARE ON THE NEXT PAGE)

CONTRACT WITH: Port Townsend School District #50

Contract No: AD-23-045

Contract For: Food Enhancement Program (kitchen equip, rent) Term: 6/30/2023 - until terminated

COUNTY DEPARTMENT: Public Health

Contact Person: Laura Tucker

Contact Phone: x 491

Contact email: ltucker@co.jefferson.wa.us

AMOUNT: \$50.00

Revenue: \$50.00

Expenditure:

Matching Funds Required:

Sources(s) of Matching Funds

Fund # 127

Munis Org/Obj 12756200

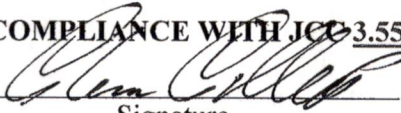
PROCESS:

☐ Exempt from Bid Process
☐ Cooperative Purchase
☐ Competitive Sealed Bid
☐ Small Works Roster
☐ Vendor List Bid
☐ RFP or RFQ
☐ Other:

APPROVAL STEPS:

STEP 1: DEPARTMENT CERTIFIES COMPLIANCE WITH JCC 3.55.080 AND CHAPTER 42.23 RCW.

CERTIFIED: ☒ N/A: ☐


Signature

June 21, 2023

Date

STEP 2: DEPARTMENT CERTIFIES THE PERSON PROPOSED FOR CONTRACTING WITH THE COUNTY (CONTRACTOR) HAS NOT BEEN DEBARRED BY ANY FEDERAL, STATE, OR LOCAL AGENCY.

CERTIFIED: ☒ N/A: ☐


Signature

June 21, 2023

Date

STEP 3: RISK MANAGEMENT REVIEW (will be added electronically through Laserfiche):

Electronically approved by Risk Management on 6/21/2023.

STEP 4: PROSECUTING ATTORNEY REVIEW (will be added electronically through Laserfiche):

Electronically approved as to form by PAO on 6/21/2023.
PAO prepared the template.

STEP 5: DEPARTMENT MAKES REVISIONS & RESUBMITS TO RISK MANAGEMENT AND PROSECUTING ATTORNEY(IF REQUIRED).

STEP 6: CONTRACTOR SIGNS

STEP 7: SUBMIT TO BOCC FOR APPROVAL

FOOD RECOVERY ENHANCEMENT PERSONAL PROPERTY LEASE

This Food Recovery Enhancement Personal Property Lease (this Lease) is between Jefferson County, Washington, a municipal corporation (Lessor) and Port Townsend School District #50 (Lessee). Lessee hires from Lessor, all personal property described in Schedule A, attached to and made a part of this Lease or as in any subsequent schedules which may be make a part of this Lease (the Leased Property), on the terms and conditions in this Lease.

SECTION ONE – PURPOSE

The purpose of this Lease is to enhance food recovery consistent with the Use Food Well Washington Plan (UFWW Plan), which is the result of RCW [70A.205.715](#). Using grant funding from the Washington Department of Ecology, Lessor purchases personal property to enhance food recovery and leases it to eligible recipients, such as Lessee.

SECTION TWO – TERM

The term of this Lease shall be for the expected life of the Leased Property, which is 60 months, for a period beginning June 30, 2023.

SECTION THREE – RENT

In consideration for the leasing of the equipment identified in Schedule A, Lessee agrees to pay to Lessor, as rent for the Leased Property, a total sum of Fifty Dollars (\$50.00), payable upon the execution of this Lease, receipt of which is acknowledged, in payment of the rent for the term of this Lease.

SECTION FOUR – USE

Lessee shall use the Leased Property in a careful and proper manner and shall comply with all laws, ordinances, and regulations relating to the possession, use, or maintenance of the Leased Property. The Leased Property shall be used only for the purpose of collection and distribution of surplus edible food. If at any time during the term of this Lease, Lessor supplies Lessee with labels, plates, or other markings stating the Leased Property is owned by Lessor, Lessee shall affix and keep them in a prominent place on the equipment.

SECTION FIVE – INSPECTION BY LESSEE

Lessee shall inspect the Leased Property within 72 hours after receipt of the Leased Property. Unless Lessee within such period of time gives written notice to Lessor specifying any defect in or other proper objection to the Leased Property, Lessee agrees that it shall be conclusively presumed, as between Lessor and Lessee, that Lessee has fully inspected and acknowledged that the Leased Property is in a well maintained condition, and that Lessee is satisfied with and has accepted the Leased Property in a well maintained condition.

SECTION SIX – INSPECTION BY LESSOR

Lessor shall at all times during the business hours have the right to enter on the premises where the Leased Property may be located for the purpose of inspecting it or observing its use. Lessee shall give Lessor immediate notice of any attachment or other judicial process affecting any item leased and shall, whenever requested by Lessor, advise Lessor of the exact location of the Leased Property.

SECTION SEVEN – ALTERATIONS

Lessee agrees that it shall make no alterations to the Leased Property without obtaining prior written permission from the Lessor. All additions to and improvements of the Leased Property of any kind shall immediately become the Leased Property of the Lessor and subject to the terms of this Lease.

SECTION EIGHT – MAINTENANCE AND REPAIR OF PROPERTY

Lessee, at its own cost and expense, shall keep the Leased Property in a well maintained condition and working order. Lessee shall not remove, alter, disfigure, or cover up any numbering, lettering, or insignia displayed upon the Leased Property, and shall see that the Leased Property is not subjected to careless or needlessly rough usage.

SECTION NINE – LOSS AND DAMAGE

Lessee assumes all risk of loss of and damage to the Leased Property from any cause. No loss or damage to the Leased Property shall impair any obligation of Lessee under this Lease, which shall continue in full force and effect. In the event of loss of or damage to the Leased Property, Lessee at the option of the Lessor shall:

- (A) Place the Leased Property in a well maintained condition;
- (B) Replace the Leased Property with like property in a well maintained condition, which property shall then become subject to this Lease; or
- (C) Provide monetary compensation to Lessor equivalent to the market value of the depreciated property.

SECTION TEN – INSURANCE

- (A) Lessee, at its own expense for the entire term of this Lease, shall maintain all-risk property insurance on the Leased Property for the total value of the Leased Property. Lessee shall maintain a loss payable endorsement in favor of Lessor affording Lessor such additional protection as Lessor may require. The loss payable endorsement shall provide that all amounts payable by reason of loss of or damage to the Leased Property shall be payable only to Lessor. If loss or damage occurs under circumstances in which Lessee is not in violation of the terms of this Lease, and if Lessee has fulfilled its obligations under Section Nine of this Lease, and is not otherwise in default under this Lease, Lessor shall pay Lessee so much of any insurance proceeds received by Lessor

as the result of such loss as shall fully reimburse Lessee for the net expense of fulfilling its obligations under Section Nine.

- (B) Lessor shall be named as an "additional named insured" under all insurance policies required by this Lease.
- (C) Such insurance coverage shall be evidenced by one of the following methods: (a) Certificate of Insurance; or, (b) Self-insurance through an irrevocable Letter of Credit from a qualified financial institution.
- (D) Lessee shall furnish Lessor with properly executed certificates of insurance that, at a minimum, shall include: (a) The limits of overage; (b) The project name to which it applies; (c) The certificate holder as Jefferson County, Washington and its officers, officials, employees, agents and volunteers (and their marital communities) with the address of Jefferson County Public Health 615 Sheridan Street, Port Townsend, WA 98368, and, (d) A statement that the insurance policy shall not be canceled or allowed to expire except on thirty (30) days prior written notice to Lessor. If the proof of insurance or certificate indicating Lessor is an "additional insured" to a policy obtained by Lessee refers to an endorsement (by number or name) but does not provide the full text of that endorsement, then it shall be the obligation of Lessee to obtain the full text of that endorsement and forward that full text to Lessor. Certificates of coverage as required by this section shall be delivered to the Jefferson County Public Health Contracts Manager within fifteen (15) days of execution of this Lease.
- (E) Insurance companies issuing the policy or policies shall have no recourse against Lessor (including its employees and other agents and agencies) for payment of any premiums or for assessments under any form of policy.
- (F) All deductibles in the above described insurance policies shall be assumed by and be at the sole risk of Lessee.
- (G) Lessee shall maintain all required insurance policies in force from the time services commence until services are completed. Certificates, insurance policies, and endorsements expiring before completion of services shall be promptly replaced. All the insurance policies required by this Lease shall provide that thirty (30) days prior to cancellation, suspension, reduction or material change in the policy, notice of same shall be given to the Jefferson County Public Health Contracts Manager by registered mail, return receipt requested.
- (H) Lessee shall place insurance with insurers licensed to do business in the State of Washington and having A.M. Best Company ratings of no less than A-.

SECTION ELEVEN – DISPOSITION OF LEASED PROPERTY

After the term of this Lease, the Lessee must provide for disposition of the Leased Property. Disposition of the Leased Property shall be:

- (A) Leased Property with a current per unit fair market value of \$1,999 or less shall be retained as property of the Lessee or disposed of with no further obligation to the Lessor.
- (B) Leased Property with a current per unit fair market value of \$2,000 or more shall be sold by the Lessee using a sales procedure to ensure the highest possible return. The amount received by the Lessee shall be paid to the Lessor within 30 days of the sale.
- (C) In cases where the Lessee fails to take appropriate disposition actions, the Lessor may direct the Lessee to take disposition actions.

SECTION TWELVE – TAXES AND FEES

Lessor understands and agrees that Lessee may claim immunity from taxation based on Lessee's non-exempt status. However, if unsuccessful in making such a claim, Lessee shall pay all license fees, assessments, and sales, use, property, and other taxes now or in the future imposed on the Leased Property by reason of ownership, leasing renting, sale, possession or use, whether they be assessed to Lessor or Lessee, together with any penalties or interest.

SECTION THIRTEEN – LESSEES FAILURE TO MAINTAIN INSURANCE OR PAY TAXES

Should Lessee fail to make any payment or do any act as provided in Sections 10 or 11 of this Lease, then Lessor shall have the right, but not the obligation, without notice to or demand on Lessee, and without releasing Lessee from any obligations under this Lease, to make or do the same, and to pay, purchase, contest, or compromise any encumbrance, charge, or lien that in the judgement of the Lessor appears to affect the Leased Property, and in exercising any such rights, incur any liability and expend whatever amounts in its discretion it may deem necessary therefore. All expenses so incurred by Lessor shall be without demand immediately due and payable.

SECTION FOURTEEN – WARRANTIES

Lessee acknowledges that the Leased Property is of a size, design, capacity, and manufacture selected by the Lessee. LESSOR IS NOT A MANUFACTURER OF THE LEASED PROPERTY OR A DEALER IN SIMILAR PROPERTY AND HAS NOT MADE AND DOES NOT MAKE ANY REPRESENTATION, WARRANTY, OR COVENANT, EXPRESSED OR IMPLIED, WITH RESPECT TO THE CONDITION, QUALITY, DURABILITY, SUITABILITY, OR MERCHANTABILITY OF THE LEASED PROPERTY. Lessor shall, however, take any steps reasonably within its power to make available to Lessee any manufacturers or similar warranty applicable to the Leased Property. Lessor shall not be liable to Lessee for any liability, loss, or damage caused or alleged to be caused directly or indirectly by the Leased Property by any inadequacy of such property or defect therein or by any incident in connection therewith.

SECTION FIFTEEN – INDEMNITY

Lessee shall defend, indemnify and hold Lessor, its officers, officials, employees, agents and volunteers (and their marital communities) harmless from any claims, injuries, damages, losses or suits, including attorney's fees, arising out of or resulting from the acts, errors or omissions of Lessee in performance of this Lease, except for injuries and damages caused by the sole negligence

of Lessor. Should a court of competent jurisdiction determine this Lease is subject to RCW 4.24.115 if liability for damages occurs arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of Lessee and Lessor, its officers, officials, employees, agents and volunteers (and their marital communities) Lessee's liability, including the duty and cost to defend, shall be only for Lessee's negligence. It is further specifically understood that the indemnification provided constitutes Lessee's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. This section shall survive the expiration or termination of this Lease.

SECTION SIXTEEN – DISPUTES

The parties agree to use their best efforts to prevent and resolve disputes before they escalate into claims or legal actions. Any disputed issue not resolved under this Lease shall be submitted in writing within 10 days to the Jefferson County Risk Manager, whose decision in the matter shall be final, but shall be subject to judicial review. If either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this Lease, each party in such action shall pay for its own attorney's fees and court costs. Any legal action shall be initiated in the Superior Court of the State of Washington for Jefferson County. The parties agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court under the laws of the State of Washington. Lessee consents to the personal jurisdiction of the Superior Court of the State of Washington for Jefferson County.

SECTION SEVENTEEN – APPLICABLE LAW

It is understood and agreed this Lease is entered into in the State of Washington. This Lease shall be governed by and construed under the laws of the United States, the State of Washington and the County of Jefferson, as if applied to transactions entered into and to be performed wholly within Jefferson County, Washington between Jefferson County residents. No party shall argue or assert that any state law other than Washington law applies to the governance or construction of this Lease.

SECTION EIGHTEEN – DEPOSIT OF SECURITY

Lessor acknowledges that Lessee shall not be required to deposit a security payment for performance of Lessee's obligations under this Lease.

SECTION NINETEEN – DEFAULT

The occurrence of any of the following events shall, at the option of the Lessor, terminate this Lease and Lessee's right to possession of the Leased Property:

- (A) The default by Lessee under any other term, covenant, or condition of this Lease which is not cured within thirty days after notice from Lessor.
- (B) The subjection of any Lessee's property to any levy, seizure, assignment, application, or sale for or by any creditor or governmental agency.

On the happening of any of the above events, Lessor may without notice to or demand on Lessee:

- (A) Take possession of the Leased Property and lease the Leased Property or any portion of the Leased Property to such persons, for such period, and at such rental as Lessor shall elect, and apply the proceeds of any such leasing, after deducting all costs and expenses incurred in connection with the recovery, repair, storage, and leasing of the Leased Property, in payment of the rent and other obligations due from Lessee to Lessor hereunder, Lessee remaining responsible for any deficiency.
- (B) Take possession of the Leased Property and sell it or any portion of the Leased Property at public or private sale and without demand or notice of intention to sell, and apply the proceeds of any such sale, after deducting all costs and expenses incurred in connection with the recovery, repair, storage, and sale of property and any rentals and other obligations of Lessee then due under this Lease.

SECTION TWENTY – EFFECT OF WAIVER

No delay or omission to exercise any right, power, or remedy accruing to Lessor on any breach or default of Lessee under this Lease shall impair any such right, power, or remedy of Lessor, nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default. Any waiver, permit, consent, or approval of any kind or character on the part of Lessor of any breach or default under this Lease, or any waiver on the part of Lessor of any provision or condition of this Lease, must be in writing and be effective only to the extent in such writing specifically set forth. All remedies, either under this Lease or by law, or otherwise afforded to the Lessor, shall be cumulative and not alternative.

SECTION TWENTY-ONE – ASSIGNMENT OF SUBLEASE

Without the prior written consent of the Lessor, Lessee shall not:

- (A) Assign, transfer, pledge, or hypothecate this Lease, the Leased Property, or any part of such property, or any interest in it;
- (B) Sublet or lend the Leased Property or any part of such property; or
- (C) Permit the Leased Property or any part of such property to be used by anyone other than Lessee or Lessee's employees. Lessor may not assign its interest, or a part of such interest, in this Lease.

SECTION TWENTY-TWO – LOCATION OF PROPERTY LEASED

Lessee shall not, without prior written consent of Lessor, permit the Leased Property to be removed from the Lessee's premises.

SECTION TWENTY-THREE – OWNERSHIP

The Leased Property is and shall be at all times remain the sole property of the Lessor, and Lessee shall have not right, title, or interest therein except as expressly set forth in this Lease.

SECTION TWENTY-FOUR – PERSONAL PROPERTY

The Leased Property is, and shall at all times remain, personal property, notwithstanding that it or any part of it may now be, or may in the future become, in any manner attached to, or embedded in, or permanently resting on, real property or any building on such real property, or attached in any manner to what is permanent as by means of cement, plaster, nails, bolts, or screws.

SECTION TWENTY-FIVE – NOTICES

Any communications between Lessor and Lessee, payments, and notices provided herein to be given or made, may be given or made by mailing them to:

Lessor at:

Director, Department of Public Health
615 Sheridan Street
Port Townsend, WA 98358

and to

Lessee at:

Linda Rosenbury, Superintendent
Port Townsend School District #50
1610 Blaine Street
Port Townsend, WA 98368

(SIGNATURES FOLLOW ON THE NEXT PAGE)

JEFFERSON COUNTY WASHINGTON

Board of County Commissioners
Jefferson County, Washington

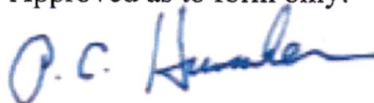
By: _____
Greg Brotherton, Chair Date

SEAL:

ATTEST:

Carolyn Gallaway Date
Clerk of the Board

Approved as to form only:

 _____
June 21, 2023

Philip C. Hunsucker, Date
Chief Civil Deputy Prosecuting Attorney

**PORT TOWNSEND SCHOOL
DISTRICT #50**

By: _____
Signature

Name: _____

Title: _____

Date: _____

SCHEDULE A

Leased equipment by the Port Townsend School District #50 from Jefferson County:

1) 6.5 cu. ft. Commercial Upright Merchandiser Display Refrigerator Glass Door Beverage Cooler in Black

Quantity: Three

2) Shaker 30 in. W x 12 in. D x 36 in. H assembled wall kitchen cabinet in satin white

Quantity: Two

3) Tubstr Hybrid | Large Flat Top Utility Cart | Heavy Duty Service Cart Holds Up to 200 lb. | Lipped Top Shelf & Deep Tub Bottom Shelf | Ideal for Warehouse, Cleaning & More (32in x 24in)

Quantity: One

4) HSM Profipack C400 Cardboard Shredder / Packing Material Machine

Quantity: One