INTERLOCAL AGREEMENT

This Interlocal Agreement ("Agreement") is entered into between the **Puget Sound Clean Air Agency**, (hereinafter referred to as the "Agency"), a municipal corporation of the laws of the state of Washington, and **Port of Seattle**, (hereinafter referred to as the "Port"), Seattle-Tacoma International Airport, 17801 Pacific Highway South, #A6012M, Seattle, WA 98158.

WHEREAS, the United States Department of Energy (U.S. DOE) established the Clean Cities program in 1993 as a voluntary government-industry partnership program within the Office of Energy Efficiency and Renewable Energy's Vehicle Technologies Program; and

WHEREAS, the Puget Sound Clean Cities Coalition is a designated coalition under the U.S. DOE Clean Cities program and is an Agency program that promotes the use of alternative fuels and advanced vehicle technologies in fleet operations with the goal of eliminating the use of petroleum fuels and their associated emissions; and

WHEREAS, the Agency was awarded Grant No. DE-EE0002020 by the U.S. DOE using funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111--5) (Recovery Act) on December 3, 2009 to fund the Puget Sound Clean Cities Petroleum Reduction Project, which includes funding to the Port as a subrecipient to purchase and deploy battery electric ground support equipment with its tenant airlines at Seattle-Tacoma International Airport and to promote clean fuels and Clean Cities projects to the visitors of Seattle-Tacoma International Airport (SeaTac Airport); and

WHEREAS, the Board of Directors of the Agency deems it desirable to enter into an Agreement with the Port for the purposes of purchasing and deploying the electric ground support equipment; and

WHEREAS, the Port represents and warrants that it is available, experienced, and qualified to perform said services; and

WHEREAS, the parties enter into this Agreement pursuant to RCW 39.34 et. seq.; and

NOW, THEREFORE, the Agency and the Port mutually agree as follows:

1. **Purpose and Scope of this Agreement.**

The purpose of this Agreement is to provide partial funding to the Port to: (1) purchase battery electric ground support equipment (GSE) and (2) conduct marketing and outreach activities for Clean Cities-related projects at Sea-Tac Airport. The Agency received Grant No. DE-EE0002020 from the U.S. DOE to implement the Puget Sound Clean Cities Coalition Petroleum Reduction Project (Project). A copy of that grant award is included as Attachment A and its terms are incorporated herein by reference.

Under this Agreement, the Port shall oversee the purchase of up to 650 pieces of GSE; ensure that the GSE are deployed for use at Sea-Tac Airport: and evaluate the success of the deployed GSE. The Port will supply electricity for the operation of the GSE through the Port's tenant agreements with the airlines.

In order to promote the many Clean Cities projects at Sea-Tac Airport (GSE, Compressed Natural Gas shuttles, Clean Taxi program), the Port shall develop a video about the Clean Cities program and Sea-Tac airport's GSE program, which will play on screens located at each of SeaTac Airport's 16 baggage claim carousels. The Port shall also affix informational decals to windows at a minimum of 6 airplane viewing areas at Sea-Tac Airport explaining the GSE program, and install signage at taxi stands at Sea-Tac Airport to explain Sea-Tac Airport's Clean Taxi program.

The Project objectives are to:

1. Increase the use of electricity as a transportation fuel by replacing up to 650 pieces of gasoline and/or diesel fueled airport ground support equipment at Sea-Tac Airport.
2. Promote clean fuels and the Clean Cities projects to the visitors of SeaTac Airport.
3. Collect data on the success of the Project through collection of vehicle/equipment use and electricity consumption.
4. Create and retain jobs.

A. Duties of the Agency

Task 1: Kick-off Meeting

The Agency Project Manager shall, on a date agreeable to both parties, conduct a Project kick-off meeting between the parties to review the reporting requirements, invoicing procedures, timelines, budgets and answer questions related to this Project.

Deliverable for Task 1: Meeting at SeaTac Airport between Agency and the Port
Due Date for Task 1: No later than June 30, 2010

Task 2: Periodic Reporting Requirements

The Agency shall comply with the reporting requirements in Grant No. DE-EE0002020 and identified on the Federal Assistance Reporting Checklist, DOE F 4600.2 as a Recipient and on behalf of the Port (a Subrecipient).

Deliverable for Task 2: Quarterly and Annual Reporting per DOE F 4600.2
Due Date for Task 2: Per the schedule in DOE F 4600.2 (10 days after quarter for ARRA and 30 days after quarter for Progress Reports)

B. Duties of the Port

Task 3: Schedule GSE Procurement and Deployment

The Port shall prepare a GSE Procurement and Deployment Schedule document that includes:

i. The National Environmental Policy Act compliance date (to be provided by the Agency Project Manager);
ii. A description and schedule of planned procurement activities including dates for release of requests for proposals, and anticipated dates of purchase for each type and quantity of GSE.

iii. The planned deployment dates for the GSEs. This date can be no later than December 2, 2011.

iv. A description and schedule of planned charging infrastructure that meets the charging needs and timing of the GSEs deployed in Task 3(iii) above.

The GSE Procurement and Deployment Schedule must be approved by the Agency Project Manager before the Port proceeds to Task 4.

Deliverable for Task 3: GSE Procurement and Deployment Schedule document submitted electronically (Microsoft Word format) as an e-mail attachment to the Agency Project Manager.
Due Date for Task 3: July 1, 2010

Task 4: Competitive Solicitation for GSEs

a. When procuring equipment or labor for this Project, the Port shall adhere to all requirements described in Attachment A that relate to sub-recipients and their vendors. The Port shall use an open, competitive solicitation process for all GSE procurement. The Port shall submit evidence to the Agency Project Manager that all GSE procurement was subject to an open, competitive solicitation process. Prior to posting competitive solicitation(s) for GSE, the Port shall submit the solicitations to the Agency Project Manager for review and approval.

Deliverable for Task 4(a): The Port shall submit electronic copies of the solicitation(s) for all GSE by e-mail to the Agency Project Manager for approval after the solicitations have passed all internal reviews at the Port.
Due Date for Task 4(a): August 31, 2010

b. Consistent with Task 4(a), after all bids have been received and a bidder has been selected, the Port shall submit a copy of the successful bidder's contract or quote to the Agency Project Manager.

Deliverable for Task 4(b): The Port shall submit an electronic copy of the successful bidder's contract or quote by e-mail to the Agency Project Manager.
Due Date for Task 4(b): No later than November 1, 2010

c. The Port shall retain documents related to the competitive solicitation and the successful bid selection as described in Tasks 4(a) and (b) for a period of 3 years after the termination of this Agreement.

d. After submitting the successful bidder's contract or quote to the Agency Project Manager in Task 4(b), the Port shall revise the Project budget in Attachment B, if necessary, by updating the incremental costs based on the successful bid selection for each GSE planned for purchase, with the sum in Column H totaling no more than $5,000,000.00.

Deliverable for Task 4(d): The Port shall submit the revised Attachment B as an e-mail attachment to the Agency Project Manager. The Agency Project Manager shall provide an approved Attachment B to the Port once it has been approved.
Due Date for Task 4(d): No later than December 1, 2010

Task 5: Verify, Purchase and Deploy GSEs

a. Prior to the purchase of any GSE pursuant to this Agreement, the Port shall verify that the GSE are authorized in Attachment B. The Port may request that the Agency Project Manager revise Attachment B by submitting an e-mail request to the Agency Project Manager not more often than once per calendar quarter and obtaining an amended Attachment B from the Agency Project Manager.

b. The Port shall purchase the GSE authorized in Attachment B from the successful bidder's contract(s) following the schedule outlined in Task 3.

c. All GSE purchased with funds paid pursuant to this Agreement shall operate on SeaTac Airport property for a minimum of two years following date of deployment.

d. The Port shall submit requests for cost reimbursement to the Agency Project Manager as described in Section 3, "Compensation," of this Agreement.

e. Upon receipt of "Clean Cities" vehicle decals and Application Instructions from the Agency Project Manager, the Port shall affix these decals to the exterior of each of the GSE as directed under the Application Instructions.

f. The Port shall photograph and submit electronically (in JPEG format) one (1) GSE showing the "Clean Cities" vehicle decal affixed for each GSE model type identified in Attachment B (e.g., when purchasing twenty (20) electric baggage tractors, submit one (1) photo of a baggage tractor with Clean Cities decal affixed as directed) to the Agency Project Manager.

Deliverable for Task 5: The Port shall submit photographs electronically (in JPEG format) to the Agency Project Manager as e-mail attachments.
Due Date for Task 5: No later than December 2, 2011

Task 6: Plan and Produce Video

a. The Port shall develop a short video (approximately 60 to 90 seconds) featuring all types of the GSE procured under this Agreement in operation at the SeaTac Airport. The video shall provide details about the Port's participation in the Clean Cities program. The Port shall present a storyboard for the video, including an estimate of length of video; the date the video shall begin airing; and the frequency and duration of airtime schedule to the Agency Project Manager for review and approval prior to executing Task 6(b).

Deliverable for Task 6(a): The Port shall meet with the Agency Project Manager to present the video storyboard and airtime schedule to the Agency Project Manager for approval.
Due Date: No later than November 1, 2010

b. After the video has been produced according to the storyboard approved by the Agency Project Manager in Task 6(a), the Port shall air the video on screens at all 16 baggage carousels according to the frequency and duration airtime schedule approved in Task 6(a).

Due Date for Task 6(b): The Port will air the video according to the airtime schedule approved in Task 6(a) and no later than December 2, 2011

Task 7: Other Marketing & Outreach Activities

a. The Port shall design decals for a minimum of six airplane viewing area windows at Sea-Tac Airport explaining the GSE program, and taxi signage at the airport's taxi stands for their Clean Taxi program. Prior to executing Task 7(b), the Port shall develop and present a Clean Cities Marketing Plan to the Agency Project Manager for review and approval. The Marketing Plan shall include:

   i. Detailed design and copy for the window decals: a list of locations in the terminals where these decals will be affixed: a budget for materials: and a schedule including duration for posting the decals.

   ii. Detailed design and copy for the Clean Taxi Program signs: a list of locations where the signs will be placed: a budget for materials: and a schedule for posting the signs.

   Deliverable for Task 7(a): The Port shall submit a Clean Cities Marketing Plan as an e-mail attachment (in MS Word or JPEG format when necessary) to the Agency Project Manager for approval.
   Due Date for Task 7(a): No later than November 1, 2010

b. After the Clean Cities Marketing Plan described in Task 7(a) has been approved by the Agency Project Manager, the Port shall implement the Marketing Plan.

   Deliverable for Task 7(b): The Port shall submit photos of the window decals and clean taxi signs in their approved locations electronically to the Agency Project Manager (in JPEGformat) as email attachments.

   Due Date for Task 7(b): No later than April 1, 2011

Task 8: Periodic Reporting

The Port shall provide all necessary information for the Agency to comply with all grant reporting requirements, including:

(a) Recovery Act Reports using the template provided in Attachment C and including information on the actual hours of work performed in the corresponding quarter even if this work has not yet been invoiced to the Agency.

(b) Quarterly Progress Reports using the template provided in Attachment D. The Port will submit quarterly reports from the date of this Agreement until two years following the date of deployment of the GSE.

Deliverables for Task 8:

- Recovery Act Reports using the template provided in Attachment C, sent to the Agency Project Manager in Microsoft Excel format as an e-mail attachment.
  Due Dates: July 5, 2010; October 5, 2010; January 5, 2011; April 5, 2011; July 5, 2011; October 5, 2011; January 5, 2012.

- Quarterly Progress Reports using the template provided in Attachment D, sent to the Agency Project Manager in Microsoft Excel format as an e-mail attachment.

Due Dates: July 20, 2010; October 20, 2010; January 20, 2011; April 20, 2011; July 20, 2011; October 20, 2011; January 20, 2012; April 20, 2012; July 20, 2012; October 20, 2012; January 20, 2013; April 20, 2013; July 20, 2013; October 20, 2013; January 20, 2014.

2. **Highlighted Requirements from Grant No. DE-EE0002020.**

The Port shall comply with the following requirements from Grant No. DE-EE0002020 highlighted in this section:

A. COST SHARING

i. Total Estimated Project Cost is the sum of the Agency (government) share and the Port share of the estimated Project costs. The Port cost share must come from non-Federal sources unless otherwise allowed by law. By accepting federal funds under this Agreement, the Port agrees that it is liable for its percentage share of total allowable Project costs, on a budget period basis, even if the Project is terminated early or is not funded to its completion. This cost is shared as follows:

Budget Period	Agency Share via Grant	Non-Federal Share from the Port	Total
1	$5,045,000.00	$7,775,000.00	$12,820,000.00

ii. If the Port discovers that it may be unable to provide cost sharing of at least the amount identified in Section (A)(i) of this Agreement, the Port shall immediately provide written notification to the Agency Project Manager indicating whether the Port will continue or phase out the Project. If the Port plans to phase out the Project, the notification must include a phase out plan. If the Port plans to continue the Project, the notification must describe how replacement cost sharing will be secured.

iii. The Port must maintain records of all Project costs that it claims as cost sharing, including in-kind costs, as well as records of costs to be paid by the Agency. Such records are subject to audit.

iv. Failure to provide the cost sharing required by this Agreement may result in the subsequent recovery by the Agency of some or all the funds provided under Grant No. DE-EE0002020.

B. PRE-AWARD COSTS

The Port is not entitled to reimbursement for costs incurred on or before December 3, 2009.

C. STATEMENT OF FEDERAL STEWARDSHIP

U.S. DOE/NNSA will exercise normal Federal stewardship in overseeing the Project activities performed under Grant No. DE-EE0002020. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the Project; assuring compliance with terms and conditions; and reviewing technical performance after Project completion to ensure that the grant award objectives have been accomplished.

D. SITE VISITS

U.S. DOE/NNSA's authorized representatives have the right to make site visits at reasonable times to review Project accomplishments and management control systems and to provide technical assistance, if required. The Port must provide, and require any of its subcontractors to provide, reasonable access to facilities, office space, resources, and assistance for the safety and convenience of all government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

E. PUBLICATIONS

i. Dissemination of scientific/technical reports. Scientific/technical reports submitted under this grant award DE-EE0002020 will be disseminated on the Internet via the DOE Information Bridge (www.osti.gov/bridge), unless the report contains patentable material, protected data, or SBIR/STTR data. Citations for journal articles produced under the award will appear on the DOE Energy Citations Database (www.osti.gov/energycitations).

ii. Restrictions. Reports submitted to the DOE Information Bridge must not contain any Protected Personal Identifiable Information (PII), limited rights data (proprietary data), classified information, information subject to export control classification, or other information not subject to release.

iii. The Port is encouraged to publish or otherwise make publicly available the results of the work conducted under the award.

iv. An acknowledgment of Federal support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this Project, as follows:

Acknowledgment: "This material is based upon work supported by the Department of Energy under Award Number DE-EE0002020."

Disclaimer: "This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof."

F. INTELLECTUAL PROPERTY PROVISIONS AND CONTACT INFORMATION

i. The Port must comply with the intellectual property requirements at 10 CFR 600.136(a) and (c).

ii. Questions regarding intellectual property matters should be referred to the U.S. DOE Award Administrator and the Patent Counsel designated as the service provider for the U.S. DOE office that issued the award. The IP Service Providers List is found at http://www.gc.doe.gov/documents/Intellectual_Property_(IP)_Service_Providers_for_Acquisition.pdf

G. LOBBYING RESTRICTIONS

By accepting funds from the Agency under Grant No. DE-EE0002020, the Port agrees that none of the funds obligated on the grant award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

H. NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS -- SENSE OF CONGRESS

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.

I. INSOLVENCY, BANKRUPTCY OR RECEIVERSHIP

i. The Port shall immediately notify the Agency of the occurrence of any of the following events: (a) the Port or its parent's filing of a voluntary case seeking

liquidation or reorganization under the Bankruptcy Act; (b) The Port's consent to the institution of an involuntary case under the Bankruptcy Act against the Port or its parent; (c) the filing of any similar proceeding for or against the Port or its parent, or its consent to, the dissolution, winding-up or readjustment of the Port's debts, appointment of a receiver, conservator, trustee, or other officer with similar powers over the Port, under any other applicable state or federal law; or (d) The Port's insolvency due to its inability to pay its debts generally as they become due.

ii. Such notification shall be in writing and shall: (a) specifically set out the details of the occurrence of an event referenced in paragraph a; (b) provide the facts surrounding that event; and (iii) provide the impact such event will have on the Project being funded by this award.

iii. Upon the occurrence of any of the four events described in the first paragraph, the Agency reserves the right to conduct a review of the Port's work under this Agreement to determine compliance with the required elements of the award (including such items as cost share, progress towards technical Project objectives, and submission of required reports). If the Agency review determines that there are significant deficiencies or concerns with the Port's performance under this Agreement, the Agency reserves the right to impose additional requirements, as needed, including (a) changing payment methods; or (b) instituting payment controls.

J. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) REQUIREMENTS

The Port is restricted from taking any action associated with the performance of work under this Agreement using Federal funds, which would have an adverse effect on the environment or limit the choice of reasonable alternatives prior to U.S. DOE/NNSA providing either a NEPA clearance or a final NEPA decision regarding this Project. Prohibited actions include, but are not limited to infrastructure work such as demolition of existing buildings, site clearing, ground breaking, construction, and/or detailed design. This restriction does not preclude the Port from: Statement of Project Objective activities that have received NEPA clearance; specifically, administrative, educational, outreach and training activities.

If the Port moves forward with activities that are not authorized for federal funding by the U.S. DOE Contracting Officer in advance of the final NEPA decision, the Port does so at risk of not receiving federal funding and such costs may not be recognized as allowable cost share.

K. PROPERTY

Real property and equipment acquired by the Port shall be subject to the rules set forth in 10 CFR 600. 321

Consistent with the goals and objectives of this Project, the Port may continue to use the Port acquired property beyond the Period of Performance, without obligation, during the period of such use, to extinguish U.S. DOE's conditional title to such property as described in 10 CFR 600.321, subject to the following:

- The Port continues to utilize such property for the objectives of the Project as set forth in the Statement of Project Objectives;
- U.S. DOE retains the right to periodically ask for, and the Port agrees to provide, reasonable information concerning the use and condition of the property; and
- The Port follows the property disposition rules set forth in 10 CFR 600.321 if the property is no longer used by the Port for the objectives of the Project, and the fair market value of property exceeds $5,000.

Once the per unit fair market value of the property is less than $5,000, pursuant to 10 CFR 600.321(f)(1)(i), U.S. DOE's residual interest in the property shall be extinguished and the Port shall have no further obligation to the U.S. DOE with respect to the property.

The regulations as set forth in 10 CFR 600 and the requirements of this section shall also apply to property in the possession of any team member, sub-recipient or other entity where

such property was acquired in whole or in part with funds provided by U.S. DOE under Grant No. DE-EE0002020 or where such property was counted as cost-sharing under the grant.

L. FINAL INCURRED COST AUDIT

In accordance with 10 CFR 600, U.S. DOE reserves the right to initiate a final incurred cost audit on this award under Grant No. DE-EE0002020. If the audit has not been performed or completed prior to the closeout of the grant award, U.S. DOE retains the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

M. SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

(i) Preamble

The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act) was enacted to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive State and local tax increases. The Port shall use grant funds in a manner that maximizes job creation and economic benefit.

The Port should begin planning activities by obtaining a DUNS number (or updating the existing DUNS record), and registering with the Central Contractor Registration (CCR).

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related guidance. For projects funded by sources other than the Recovery Act, Contractors must keep separate records for Recovery Act funds and to ensure those records comply with the requirements of the Act.

The Government has not fully developed the implementing instructions of the Recovery Act, particularly concerning specific procedural requirements for the new reporting requirements. The Port will be provided these details as they become available. The Port must comply with all requirements of the Act.

(ii) Definitions

For purposes of this clause, Covered Funds means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. Covered Funds will have special accounting codes and will be identified as Recovery Act funds in the grant, cooperative agreement or TIA and/or modification using Recovery Act funds. Covered Funds must be reimbursed by September 30, 2015.

Non-Federal employer means any employer with respect to covered funds – the contractor, subcontractor, grantee, or recipient, as the case may be, if the contractor, subcontractor, grantee, or recipient is an employer; and any professional membership organization, certification of other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving covered funds; or with respect to covered funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the State or local government; and does not mean any department, agency, or other entity of the federal government.

(iii) Special Provisions

A. Segregation of Costs

The Port must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects.

B. Prohibition on Use of Funds
None of the funds provided under this Agreement derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

C. Access to Records
With respect to each financial assistance agreement awarded utilizing at least some of the funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized –

(1) to examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract that pertain to, and involve transactions relation to, the subcontract, subcontract, grant, or subgrant; and

(2) to interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.

D. Publication
An application may contain technical data and other data, including trade secrets and/or privileged or confidential information, which the applicant does not want disclosed to the public or used by the Government for any purpose other than the application. To protect such data, the applicant should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application with the following Notice as well as referring to the Notice on each page to which the Notice applies:

Notice of Restriction on Disclosure and Use of Data
The data contained in pages ---- of this application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, U.S. DOE shall have the right to use or disclose the data here to the extent provided in the award. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source, including the applicant.

Information about this Agreement will be published on the Internet and linked to the website www.recovery.gov, maintained by the Accountability and Transparency Board. The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

E. Protecting State and Local Government and Contractor Whistleblowers.
The requirements of Section 1553 of the Act are summarized below. They include, but are not limited to:

Prohibition on Reprisals: An employee of any non-Federal employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability

and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grant jury, the head of a Federal agency, or their representatives information that the employee believes is evidence of:

- gross mis-management of an agency contract or grant relating to covered funds;
- a gross waste of covered funds
- a substantial and specific danger to public health or safety related to the implementation or use of covered funds;
- an abuse of authority related to the implementation or use of covered funds; or
- a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

Agency Action: Not later than 30 days after receiving an inspector general report of an alleged reprisal, the head of the agency shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the employee to a prohibited reprisal. The agency shall either issue an order denying relief in whole or in part or shall take one or more of the following actions:

- Order the employer to take affirmative action to abate the reprisal.
- Order the employer to reinstate the person to the position that the person held before the reprisal, together with compensation including back pay, compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.
- Order the employer to pay the employee an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the employee for or in connection with, bringing the complaint regarding the reprisal, as determined by the head of a court of competent jurisdiction.

Nonenforceablity of Certain Provisions Waiving Rights and remedies or Requiring Arbitration: Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

Requirement to Post Notice of Rights and Remedies: Any employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall post notice of the rights and remedies as required therein. (Refer to section 1553 of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, www.Recovery.gov, for specific requirements of this section and prescribed language for the notices.).

F. False Claims Act

The Port shall promptly refer to the Agency or other appropriate Inspector General any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict or interest, bribery, gratuity or similar misconduct involving those funds.

G. Information in Support of Recovery Act Reporting
The Port may be required to submit backup documentation for expenditures of funds under the Recovery Act including such items as timecards and invoices. The Port shall provide copies of backup documentation at the request of the Agency Project Manager or designee.

H. Availability of Funds
Funds appropriated under the Recovery Act and obligated to this award are available for reimbursement of costs until September 30, 2015.

I. Additional Funding Distribution and Assurance of Appropriate Use of Funds Certification by Governor -- Not later than April 3, 2009, for funds provided to any State or agency thereof by the American Reinvestment and Recovery Act of 2009, Pub. L. 111-5, the Governor of the State shall certify that: 1) the state will request and use funds provided by the Act; and 2) the funds will be used to create jobs and promote economic growth.

Acceptance by State Legislature -- If funds provided to any State in any division of the Act are not accepted for use by the Governor, then acceptance by the State legislature, by means of the adoption of a concurrent resolution, shall be sufficient to provide funding to such State.

Distribution – After adoption of a State legislature's concurrent resolution, funding to the State will be for distribution to local governments, councils of government, public entities, and public-private entities within the State either by formula or at the State's discretion.

J. Certifications
With respect to funds made available to State or local governments for infrastructure investments under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, the Governor, mayor, or other chief executive, as appropriate, certified by acceptance of this award that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. Recipient shall provide an additional certification that includes a description of the investment, the estimated total cost, and the amount of covered funds to be used for posting on the Internet. A State or local agency may not receive infrastructure investment funding from funds made available by the Act unless this certification is made and posted.

N. REPORTING AND REGISTRATION REQUIREMENTS UNDER SECTION 1512 OF THE RECOVERY ACT

(a) This agreement requires the recipient to complete projects or activities which are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act) and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.

(b) The reports are due no later than five calendar days after each calendar quarter in which The Port receives assistance funded in whole or in part by the Recovery Act.

(c) The Port must maintain current registrations in the Central Contractor Registration (http://www.ccr.gov) at all times during which it has active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (http://www.dnb.com) is one of the requirements for registration in the Central Contractor Registration.

(d) The Port shall report the information described in section 1512(c) of the Recovery Act using the reporting instructions and data elements that will be provided by the Agency and ensure that any information that is pre-filled is corrected or updated as needed.

O. WAGE RATE REQUIREMENTS UNDER SECTION 1606 OF THE RECOVERY ACT

(a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole

or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of $2,000 for construction, alteration or repair (including painting and decorating).

(b) For additional guidance on the wage rate requirements of section 1606, the Port may contact the Agency Project Manager.

P. RECOVERY ACT TRANSACTIONS LISTED IN SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS AND RECIPIENT RESPONSIBILITIES FOR INFORMING SUBRECIPIENTS

(a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111--5) (Recovery Act) as required by Congress and in accordance with 2 CFR 215.21 "Uniform Administrative Requirements for Grants and Agreements" and OMB Circular A--102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds. OMB Circular A--102 is available at http://www.whitehouse.gov/omb/circulars/a102/a102.html.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A--133, "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF--SAC) required by OMB Circular A--133. OMB Circular A--133 is available at http://www.whitehouse.gov/omb/circulars/a133/a133.html. This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF--SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF--SAC.

(c) [Omitted – pertains to Agency only.]

(d) The Port must include on its SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

Q. DAVIS BACON ACT AND CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Definitions: For purposes of this Agreement, Davis Bacon Act and Contract Work Hours and Safety Standards Act, the following definitions are applicable:

(1) "Award" means any grant, cooperative agreement or technology investment agreement made with Recovery Act funds by the Department of Energy (DOE) to the Agency. Such Award must require compliance with the labor standards clauses and wage rate requirements of the Davis-Bacon Act (DBA) for work performed by all laborers and mechanics employed by the Agency, The Port, and its contractors and subcontractors.

(2) "Contractor" means an entity that enters into a Contract. For purposes of these clauses, Contractor shall include (as applicable) prime contractors, Recipients, Subrecipients, and Recipients' or Subrecipients' contractors, subcontractors, and lower-tier subcontractors. "Contractor" does not mean a unit of State or local government where construction is performed by its own employees.

(3) "Contract" means a contract executed by the Agency, the Port, a Recipient, Subrecipient, prime contractor or any tier subcontractor for construction, alteration, or repair. It may also mean (as applicable) (i) financial assistance instruments such as grants, cooperative agreements, technology investment agreements, and loans; and, (ii) Sub awards, contracts and subcontracts issued under financial assistance agreements. "Contract" does not mean a financial assistance instrument with a unit of State or local government where construction is performed by its own employees.

(4) "Contracting Officer" means the DOE official authorized to execute an Award on behalf of DOE and who is responsible for the business management and non-program aspects of the financial assistance process.

(5) "Recipient" means any entity other than an individual that receives an Award of Federal funds in the form of a grant, cooperative agreement or technology investment agreement directly from the Federal Government and is financially accountable for the use of any DOE funds or property, and is legally responsible for carrying out the terms and conditions of the program and Award.

(6) "Subaward" means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a Recipient to an eligible Subrecipient or by a Subrecipient to a lower- tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include the Recipient's procurement of goods and services to carry out the program nor does it include any form of assistance which is excluded from the definition of "Award" above.

(7) "Subrecipient" means a non-Federal entity that expends Federal funds received from a Recipient to carry out a Federal program, but does not include an individual that is a beneficiary of such a program.

(a) Davis Bacon Act

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to

skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The Contracting Officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been

met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding.
The Department of Energy or the Recipient or Subrecipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the Contract, the Department of Energy, Recipient, or Subrecipient, may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.
(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The Contractor shall submit the payrolls to the Agency (as applicable), applicant, sponsor, or owner, as the case may be, for transmission to the Department of Energy. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Department of Energy if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit them to

the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner, as the case may be, for transmission to the Department of Energy, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 3729 of title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Department of Energy or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an

apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements.
The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Agreement.

(6) Contracts and Subcontracts.
The Recipient, Subrecipient, the Recipient's and Subrecipient's contractors and subcontractor shall insert in any Contracts the clauses contained herein in(a)(1) through (10) and such other clauses as the Department of Energy may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Recipient shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of the paragraphs in this clause.

(7) Contract termination: debarment.
A breach of the Contract clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements.
All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.

(9) Disputes concerning labor standards.
Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Recipient, Subrecipient, the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.
(i) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) Contract Work Hours and Safety Standards Act
As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Department of Energy or the Recipient or Subrecipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Contracts and Subcontracts. The Recipient, Subrecipient, and Recipient's and Subrecipient's contractor or subcontractor shall insert in any Contracts, the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Recipient shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(5) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this paragraph shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Energy and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

3. **Compensation.**

The total amount paid by the Agency to the Port for satisfactory performance of the work under this Agreement shall not exceed $5,045,000.00. The funding for this Agreement is provided by Grant No. DE-EE0002020 by the U.S. DOE using funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111--5) (Recovery Act) and is part of the Agency's Climate Protection Work Plan and Puget Sound Clean Cities Coalition work plan for Fiscal Years 2010 and 2011, respectively.

The Port shall comply with the budget, segregated by object class category and budget item, as is provided in the table below:

Object Class Category	Budget Item	Port Contribution	Maximum Funding Provided by this Contract Agreement	Total
GSE Reimbursement	Incremental Cost Reimbursement	$7,775,000	$5,000,000	$12,775,000
Marketing & Labor	Video, Window Decals, Clean Taxi Signage	$0	$45,000	$45,000
	TOTAL	**$7,775,000**	**$5,045,000**	**$12,820,000**

a. The Port shall submit requests for cost reimbursement to the Agency Project Manager not more often than monthly.

b. The total reimbursable costs for GSE payable to the Port are not to exceed the amount detailed in Attachment B as "Maximum Total Reimbursed Amount the Port of Seattle shall receive under this Agreement."

c. Requests for cost reimbursement shall be paid within thirty (30) days after review and approval by the Agency Project Manager. Approval shall be based upon successful compliance with all requirements of this Agreement. The final request for cost reimbursement must be submitted no later than December 2, 2011.

d. The Port shall submit the following documentation to the Agency Project Manager with requests for cost reimbursement for GSE:

   i. Electronic copies of paid invoices. The invoices shall include the following information for each authorized GSE purchased: GSE vendor: invoice date: invoice total: buyer name: vehicle/equipment make: model: model year (if applicable): price paid: and vehicle identification (or serial) number.

   ii. Electronic copies of conventional GSE vendor cost estimates. The estimates shall include the following information: the cost of a comparable conventional gasoline/diesel model vehicle verified by manufacturer or vendor estimate, after all other applicable manufacturer and local/state rebates, tax credits, and cash equivalent incentives are applied.

   iii. A list of all external sources of funding and funding amounts, including other grant funds, applied to each authorized GSE purchase.

e. Funding for work to be conducted after June 30, 2010, is contingent upon approval of funding by the Agency Board of Directors and satisfactory performance by the Port. The Agency Manager shall notify the Port by e-mail after the Agency Board of Directors approves the Agency FY11 budget.

f. To obtain payment for other costs, the Port shall submit invoices upon completion of Tasks 6 & 7 to the Agency Project Manager. Submitted invoices should show time and material information. Charges must be detailed by the hour, showing:

   i. Task and/or subtask performed;

   ii. The name of the person who performed the work;

   iii. Cost per hour, and

   iv. Specific number of hours spent within a given billing period (monthly).

g. The Port shall submit invoices to the Agency Project Manager using Attachment E: *Invoice Form.*

4. **Term.** The effective date of this Agreement is March 1, 2010. No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by the Agency, with the exception of those outlined in the pre-award authorization. Any costs incurred prior to the effective date of this Agreement shall be at the sole expense and risk of the Port. The termination date of this Agreement is January 31, 2014.

5. **Communications.** The following persons shall be the contact person for all communications regarding the performance of this Agreement.

Port of Seattle	Puget Sound Clean Air Agency
Russ Simonson	Project Manager: Stephanie Meyn
Aviation Environmental Programs	Puget Sound Clean Air Agency
SeaTac Airport PO Box 68727 Seattle, WA 98168	1904 Third Avenue, Suite 105 Seattle, WA 98101
Phone: (206) 787-5569	Phone: (206) 689-4055
Fax: (206) 439-6617	Fax: (206) 343-7522
E-mail: Simonson.R@portseattle.org	E-mail: StephanieM@pscleanair.org

6. **Changes.** The parties may, from time to time, require changes in the scope of services performed under this Agreement. The parties shall mutually agree to the changes by written amendment to the Agreement.

7. **Subcontracting.** Except for the subcontracts indentified in Section 1.B, Tasks 6 and 10, of this Agreement, neither party, nor any subcontractor of either party, shall enter into subcontracts for any of the services or work contemplated under this Agreement without obtaining prior written approval of the Agency. In no event shall the existence of any subcontract operate to release or reduce the liability of the Port to the Agency for any breach in the performance of the Port's duties.

8. **The Port Not An Employee of the Agency.** The Port and its employees or agents are not employees of the Agency and shall not be entitled to compensation or benefits of any kind other than as specifically provided herein. The Port shall not hold itself out as nor claim to be an officer or an employee of the Agency by reason hereof, nor shall the Port make any claim of right, privilege or benefit which would accrue to an employee under the law.

9. **Assignment.** The work provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party, in whole or in part, without the express prior written consent of the other party.

10. **Indemnification.** Each party to this agreement shall be responsible for its own acts and/or omissions and those of its officers, employees and agents. No party to this agreement shall be responsible for the acts and/or omissions of entities or individuals not a party to this Agreement.

11. **Industrial Insurance Coverage.** The Port shall provide or purchase industrial insurance coverage prior to performing work under this Agreement and shall maintain full compliance with Chapter 51.12 RCW during the term of this Agreement. If the Port is exempt from the requirements of Chapter 51.12 RCW, it must carry appropriate liability insurance equivalent to the coverage provided under that chapter. The Agency shall not be responsible for the payment of industrial or liability insurance premiums or for any other claim or benefit for the Port, or any subcontractor or employee of the Port, which might arise under the industrial insurance laws during the performance of duties and services under this Agreement. If the Department of Labor and Industries, upon audit, determines that industrial insurance payments are due and owing as a

result of work performed under this Agreement, those payments shall be made by the Port and the Port shall indemnify the Agency and guarantee payment of such amounts.

12. **Nondiscrimination.** During the performance of this Agreement, the Port shall comply with all federal and state nondiscrimination laws, regulations and policies. In the event of the Port's noncompliance or refusal to comply with any nondiscrimination law, regulation, or policy, this Agreement may be rescinded, canceled or terminated in whole or in part, and the Port may be declared ineligible for further agreements with the Agency. The Port shall, however, be given a reasonable time in which to remedy this noncompliance.

13. **Utilization of Minority and Women-Owned Business Enterprises (MWBE).** To the extent practicable, when performing the services agreed to under this Agreement, the Port should utilize MWBEs certified by the Office of Minority and Women's Business Enterprises under the state of Washington certification program.

14. **Dispute Resolution.** When a dispute arises between the parties and it cannot be resolved by direct negotiation between the Agency Project Manager and the Port, the process described in this section will be used to resolve the dispute.

a. The Port may request a dispute hearing with the Agency Executive Director. The request for a dispute hearing must:
   - Be in writing
   - State the disputed issue(s)
   - State the relative positions of the parties
   - Include any relevant documentation
   - State whether the Port desires to meet in person with the Agency Executive Director to discuss the dispute
   - Be received by the Agency Executive Director by U.S. postal mail or e-mail within 5 working days after the parties agree they cannot resolve the dispute.

b. Upon receipt of a complete request for a dispute hearing, the Agency Executive Director or designee shall provide a copy of the request to the Agency Project Manager and request a written response from the Agency Project Manager within 5 working days.

c. The Agency Executive Director shall review the request for a dispute hearing and the response from the Agency Project Manager, and meet with the parties if requested. The Agency Executive Director shall reply in writing with a decision to both parties within 10 working days. This period may be extended as needed by the Agency Executive Director by notifying the parties.

d. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

e. Nothing in this section shall be construed to limit the parties' choice of a mutually acceptable alternative dispute resolution method in addition to the process outlined in this section.

15. **Compliance with All Laws and Regulations.** The Port must obtain all required local, state, and federal permits necessary for the performance of this Agreement and shall comply with all applicable local, state, and federal laws, regulations and standards necessary for the performance of this Agreement. The Agency shall comply with all applicable local, state, and federal laws, regulations and standards necessary for the performance of this Agreement.

16. **Media Events.** The Port shall notify the Agency Project Manager by e-mail two (2) weeks in advance of any planned media events related to activities funded through this Agreement.

THIS Agreement is executed by the persons signing below, who warrant they have the authority to execute this Agreement.

PUGET SOUND CLEAN AIR AGENCY

By: _____
Paul Roberts
Board of Directors, Chair

Date: 5-25-10

PORT OF SEATTLE

By: _____
Tay Yoshitani
Chief Executive Officer
Port of Seattle

Date: 5/25/10

Attest:

By: _____
James L. Nolan
Interim Executive Director

Date: 5/27/10

Approved as to Form:

By: _____
Laurie Halvorson
Director of Compliance and Legal

Date: 5/28/10

Attachment A

Clean Cities

DE EE0002020

Award

NOTE: Because this document is 74 pages long...in the interest of saving paper and mailing costs, it will be attached to the final signed copies of this Agreement.

Attachment B

Maximum Total Reimbursed Amount the Port of Seattle shall receive under this Agreement: **$5,000,000.00**

Ground Support Equipment Authorized for Purchase under this Agreement:

A GSE Type	B Quantity	C Type of Alternative Fuel(s) or Advance Vehicle Technology	D Estimated Total Cost of Comparable Conventional Model	E Estimated Total Cost of GSE, including Conversion or Retrofit	F Estimated Actual Incremental Cost per GSE (Incremental (F) = Alternative (E) - Conventional (D)	G Amount Reimbursed to the Cost Share Partner per Piece of Equipment[1]	H Total Reimbused Amount	I Estimated Cost Share (Total Cost minus Incremental Cost) per Piece of Equipment	J Annual Mileage (per vehicle per year)	K Estimated Petroleum Displacement (in gallons, per GSE per year)	L Comments
Electric Baggage Tractors	330	Battery Electric	$20,000.00	$29,000.00	$9,000.00	$9,000.00	$2,970,000.00	$6,600,000.00	n/a	2,555	Reimbursable Amount is estimated and will be verified upon receipt of paid invoice
Electric Pushback Tractors	71	Battery Electric	$95,000.00	$110,000.00	$15,000.00	$15,000.00	$1,065,000.00	$6,745,000.00	n/a	2,774	Reimbursable Amount is estimated and will be verified upon receipt of paid invoice
Electric Belt Loader (walk behind)	63	Battery Electric	$32,000.00	$37,000.00	$5,000.00	$5,000.00	$315,000.00	$2,016,000.00	n/a	2,701	Reimbursable Amount is estimated and will be verified upon receipt of paid invoice
Electric Belt Loader (driver operated)	130	Battery Electric	$40,000.00	$45,000.00	$5,000.00	$60,000.00	$650,000.00	$5,200,000.00	n/a	2,701	Reimbursable Amount is estimated and will be verified upon receipt of paid invoice
TOTAL	**594**						**$5,000,000.00**	**$20,561,000.00**		~ 1,561,397	

[1] The reimbursable amount is the difference between the actual total cost of the alternative fuel/advanced technology vehicle and the actual cost of a comparable conventional model verified by manufacturer/vendor estimate after all other applicable manufacturer and local/state rebates, tax credits and cash equivalent incentives are applied, and shall not exceed the maximum amount listed below:
The maximum reimbursable amount for light-duty (< 8500 GVW) GSEs is $50,000 per piece of equipment, not to exceed the actual incremental cost.
The maximum reimbursable amount for medium and heavy duty (> 8500 GVW) GSEs is $500,000 per piece of equipment, not to exceed the actual incremental cost.

Attachment C

PORT OF SEATTLE

Hours Worked (this includes all work related to the grant, regardless of whether it has been invoice

PERIOD: Jan 1, 2010 to March 31, 2010

Name	Title	Hours Worked	Total Number of hours in Work Week
Staff person			
Staff person			
Staff person			
Staff person			
Staff person			

PERIOD: Jan 1, 2010 to March 31, 2010

Total funds received or invoiced: **$0.00**

Attachment D - Quarterly Report
Contractor Name: **Port of Seattle**

GSE Purchase Report

GSE Number	GSE Description (Make, Model, Year)	VIN or Serial Number	Deployment Date	Airline(s) using equipment
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
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Attachment E

INVOICE FORM

PUGET SOUND CLEAN AIR AGENCY

To receive reimbursement, Port of Seattle must provide a detailed breakdown of authorized expenses, identifying what was expended and when.

Invoice period: month/day/year **to** month/day/year

Personnel Costs:

Position	Name	# of hours worked	Hourly wage	Fringe	Indirect	Total

Equipment and Contractual Costs (please copy and paste this table as many times as necessary):

Payee:	
Item and Description:	
Invoice Number:	
Date cost incurred:	
Check number:	
Expenditure:	Item cost: Quantity: Sub-total: Tax: Tax credit/exemption: Total:
If equipment, serial number:	

Equipment – Port of Seattle shall track the part or serial numbers of all equipment installed under this agreement.

Port of Seattle shall include sales tax and any tax exemptions taken as adjustments to the invoice amounts on the actual invoice submitted to the Agency.

pscleanair.org
Puget Sound Clean Air Agency

Puget Sound Clean Air Agency
1904 3rd Ave., Ste 105
Seattle, WA 98101

Certification Regarding
Debarment, Suspension and Other Responsibility Matters

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to $10,000 or imprisonment for up to 5 years, or both.

_____
Typed Name & Title of Authorized Representative

_____ _____
Signature of Authorized Representative Date

☐ I am unable to certify to the above statements. My explanation is attached