

**AGREEMENT BETWEEN TACOMA RAIL
AND THE PUGET SOUND CLEAN AIR AGENCY
FOR ANTI-IDLING DEMONSTRATION PROJECT**

This 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 City of Tacoma, Department of Public Utilities Belt Line Division, doing business as **Tacoma Rail** (hereinafter referred to as the "TR"), a Municipal Corporation of the State of Washington, operating under the authority of the Tacoma Public Utilities Board and City Council. TR headquarters is located at 2601 SR 509 North Frontage Road, Tacoma Washington 98421.

I. RECITALS

WHEREAS, it is in the interest of TR, the Agency and the region to reduce air quality impacts associated with diesel equipment operations; and

WHEREAS, the Agency has established the Diesel Solutions program to promote and facilitate retrofitting of existing diesel vehicles and equipment used in public and private fleets with emission control equipment; and

WHEREAS, TR operates a short line railroad serving Lewis County, Thurston County and Pierce County; and

WHEREAS, TR locomotives burn more than 450,000 gallons of diesel fuel per year; and

WHEREAS, TR locomotives may idle for up to six hours per day; and

WHEREAS, TR has committed to conduct an idle reduction demonstration project involving two locomotives serving the Capital Division rail line in Lewis County and two locomotives serving the Tidelands Division in Pierce County; and

WHEREAS, the project consists of installing idle reduction systems to monitor and maintain essential engine operating parameters, thereby allowing the main engine to shut down during periods of inactivity; and

WHEREAS, funding for the Capital Division project will be supplied by TR, Olympic Clean Air Agency and the Washington State Department of Ecology; and

WHEREAS, funding for the Tidelands Division project will be supplied by TR and the Agency; and

WHEREAS, TR has committed to retain and use the two locomotives retrofitted with

idle reduction technology within the State of Washington for a period of at least seven years; and

II. AGREEMENT

NOW, THEREFORE, TR and the Agency agree as follows:

A. PURPOSE. The purpose of this Agreement is to establish the retention period requirements for the idle reduction technology, and reporting requirements and the procedures for the Agency to reimburse TR for the partial cost of purchasing and installing idle reduction technology on the two locomotives serving on the Tidelands Division line as detailed in the Tacoma Rail Action/Work Plan Idle Reduction Project, hereby incorporated as Attachment A.

B. TERM. This Agreement shall commence upon signature by both parties and terminate on October 2, 2006.

C. RETENTION PERIOD. If TR desires to remove the idle reduction technology installed pursuant to this Agreement from locomotives serving in the Tidelands Division from the State of Washington prior to October 2, 2013, TR shall reinstall the idle reduction technology on another locomotive operating within the State of Washington until October 2, 2013. This section of the Agreement remains in effect until October 2, 2013, notwithstanding the term stated in Section IIB of this Agreement.

F. PROJECT REPORT. TR shall submit a written project report to the Agency documenting the amount of time idling was reduced, the amount of fuel consumed, maintenance performed and lessons learned during 12 consecutive months of operation. The report shall be submitted to the Agency by November 2, 2007. The project report requirements contained in this section of the Agreement remain in effect notwithstanding the term stated in Section IIB of this Agreement.

G. REIMBURSEMENT. TR may apply for partial reimbursement from the Agency for the cost of purchasing and installing idle reduction equipment on two locomotives, as described in this section.

1. The maximum amount that TR may be reimbursed by the Agency pursuant to this Agreement is 50% of the total cost of purchasing and installing idle reduction equipment on the two locomotives serving on the Tidelands Division line, or \$50,000.00, whichever is less. Funding is provided through the State of Washington Department of Ecology Grant Numbers G0400074 and G0600058 for the Statewide School Bus Retrofit Program, pursuant to the Agency's Diesel Solutions Rail Work Plan for Fiscal Year 2006.
2. TR may submit a request for reimbursement from the Agency for the cost of purchasing and installing idle reduction equipment. The reimbursement request shall include a cover letter showing the cost of purchasing the equipment, the installation cost and the total project cost (i.e. the sum of these two project components). In addition, TR shall provide documentation supporting the reimbursement request, including the purchase order used to procure the equipment and all invoices showing the cost of the equipment and the cost of the installation.

3. The request for reimbursement shall be sent to the Agency's Manager of Finance and Purchasing. The request for reimbursement shall be submitted no later than October 2, 2006.

H. HOLD HARMLESS/INDEMNIFICATION. To the extent legally permitted, each party shall indemnify and hold harmless the other party from and against any and all claims, actions, damages, liability, and expense, including, without limitation, reasonable attorney's fees, incurred as a result of such party's actions under this agreement; provided that, if such claims, actions, damages, liability, or expense arise from concurrent negligence of two or more of the parties, including instances where this agreement is subject to the provisions of RCW 4.24.115, then the obligation to indemnify under this Agreement shall be effective only to the extent of each party's own negligence. No party shall be required under this section to indemnify another for its sole negligence.

I. NOTICES. All notices hereunder may be delivered or mailed. If mailed, they shall be sent to the following respective addresses:

Tacoma Rail:
Paula Henry
2601 SR 509 North Frontage Road
Tacoma, WA 98421

Puget Sound Clean Air Agency:
Tom Hudson
110 Union Street, Suite 500
Seattle, WA 98101

Or to such other respective addresses as either party hereto may hereafter designated in writing.

III. GENERAL PROVISIONS

A. APPLICABLE LAW. This Agreement shall be governed by the laws of the State of Washington.

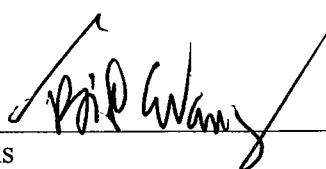
B. AMENDMENTS/MODIFICATIONS. This Agreement may be amended or modified only by written agreement of the parties.

C. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties hereto and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect.

IN WITNESS HEREOF, the undersigned have, on the date set next to their signatures, executed this Agreement on behalf of the parties hereto.

**PUGET SOUND
CLEAN AIR AGENCY**

By:


Bill Evans
Board of Directors, Chair

Date: 7/18/06

Attest:

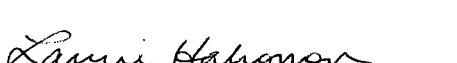
By:


Dennis J. McLellan
Executive Director

Date: 7/11/06

Approved as to form:

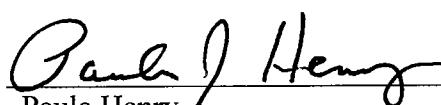
By:


Laurie Halvorson
General Counsel

Date: 7/10/06

TACOMA RAIL

By:


Paula Henry
Superintendent

Date: _____

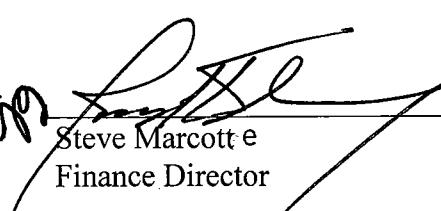
Attest:

By:


Mark Crisson
Tacoma Public Utility Director

Date: 6-7-06

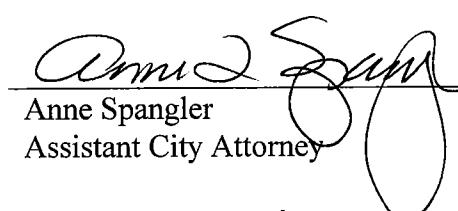
By:


Steve Marcotte
Finance Director

Date: _____

Approved as to form:

By:


Anne Spangler
Assistant City Attorney

Date: 5.25.06



**Tacoma Rail
Action/Work Plan
Idle Reduction Project**

Tacoma Rail will collaborate with WSDoE, ORCAA, and PSCAA, to equip four (4) locomotives with Idle Reduction Technology. Equipment, manufacturer and/or installer to be determined by RFP/Bid process.

- Project scope: \$200,000. Tacoma Rail \$100,000, WSDoE-\$30,000, ORCAA-\$20,000, PSCAA-\$50,000.
- Tacoma Rail will provide initial monies and be reimbursed at successful conclusion.
- Tacoma Rail will outfit two (2) locomotives serving the Capital Division, TMBL 3801 and TMBL 3802, and two (2) serving the Tidelands Division with this technology.
- Tacoma Rail and each agency will communicate as needed throughout the project.
- Tacoma Rail will provide a year end report to each agency detailing fuel savings, product performance, and any problems/solutions encountered.
- Should locomotive(s) within the scope of this project be retired from service before the project ending date, the idle reduction technology is to be removed and reinstalled on an existing locomotive to continue the project.
- Benefits include:
- Reduced emissions through less idle time.
- Fuel savings estimated hours of non-idle time could save 4-30 gallons of fuel each 24-hour period per locomotive.
- Good neighbor policy of reduced noise in rural areas.
- Maintenance costs associated with less running time.
- Little or no lost crew time for locomotive warm-up.

- Real time monitoring of prime mover, electrical, and air systems.

This project is an opportunity to be proactive in emission reduction where all communities and agencies benefit. Tacoma Rail aspires to be a leader in the Short Line Rail industry, and views this as a great step forward.

U.S. Environmental Protection Agency
Washington, D.C. 20460

**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.

Anne L. Spangler
Chief Assistant City Attorney

Typed Name & Title of Authorized Representative

Signature of Authorized Representative

Date

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