

Sub-Award Agreement

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 (**Tukwila School District**), (hereinafter referred to as the "School District"), 3825 S. 128th Street, Tukwila, WA 98168

WHEREAS, the Agency's Strategic Plan's Objective 1.2 is to reduce transportation emissions, especially diesel particulate, in highly impacted locations; and

WHEREAS, the Puget Sound Clean Air Agency has established the Diesel Solutions program to reduce emissions from diesel engines by retrofitting or replacing existing diesel engines, vehicles, vessels, and equipment used in public and private fleets; and

WHEREAS, the U.S. Environmental Protection Agency (EPA) has awarded the Agency a Diesel Emission Reduction Act (DERA) Grant No. DE-01J53801-0 (CDFA 66.039) to scrap older, dirtier diesel-fueled school buses and replace them with newer, cleaner propane-fueled school buses; and

WHEREAS, the School District operates diesel school buses in the Puget Sound region and desires to scrap four diesel school buses and replace them with four propane buses; and

WHEREAS, the Board of Directors of the Puget Sound Clean Air Agency deems it desirable to enter into an agreement with the School District for the purposes of replacing diesel school buses with propane buses through DE-01J53801-0; and

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

NOW, THEREFORE, the Agency and the School District mutually agree as follows:

1. **Reimbursement Program Description.**

The Agency will administer EPA's Grant No. DE-01J53801-0. Buses eligible to be replaced under this grant program meet the following criteria:

Table 1: Existing Diesel Bus Criteria

Category	Program Requirement
Engine fuel	Diesel
Engine year	1996-2006
Annual mileage	>3,000 miles
Remaining life	3 years
Status	Fully Operational

The Agency will reimburse school districts:

- 1) up to 25% of the purchase price of each replacement propane bus, not to exceed \$27,500 per bus, to scrap their eligible diesel bus and replace it with a new, similar-sized bus that operates with a propane engine; or
- 2) up to 35% of the purchase price of each replacement propane bus, not to exceed \$37,500 per bus, to scrap their eligible diesel bus and replace it with a new, similar-sized bus that has a propane engine that meets CARB's low-NOx emission standards.

2. **School District's Responsibilities.**

Task 1: Fill out an Agency application identifying buses to be replaced.

The School District will complete an application identifying buses it wishes to replace.

Deliverable for Task 1.

Provide the Agency an application listing the specific school buses the School District wishes to replace no later than 30 days after the signing of this agreement.

Task 2: Verify School District's buses are eligible

The School District will provide the Agency with documentation showing that the diesel school buses listed in the application from Task 1 meet the criteria in Table 1 of this agreement. In addition to the documentation, the School District will work with the Agency to schedule a site visit to show that the school buses proposed for replacement are operational. The site visit will take place during business work hours of 9 am to 4 pm, Monday through Friday.

Deliverable for Task 2a.

Provide the Agency with documentation showing that the diesel school buses the School District proposes to replace meet the criteria in Table 1 before the site visit, but no later than 60 days after the signing of this agreement.

Deliverable for Task 2.b

Work with the Agency to set up a site visit by September 30th, 2019

Task 3: Submit a scrapping plan to the Agency

The School District will submit to the Agency for approval a plan of how it will scrap and document the scrapping of each bus. The scrapping plan will describe how the School District will demonstrate and document that the engine and chassis are disabled. EPA's preferred scrapping method is to drill a three-inch hole in the engine block and cut through the frame rails on both side of the chassis between the front and rear axles. If the School District wants to propose a different method of scrapping it may do so, but any alternative scrap plan must be approved by EPA before being implemented.

The scrapping plan must include a commitment to (a) document that each bus was disposed of in accordance with the above requirements or an approved alternative including: digital photos of the *engine tag* (showing serial number, engine family number and engine mode year), the *destroyed engine block*, and *cut frame rails* and (b) complete EPA's DERA Certification of Destruction form as provided in Attachment 1 of this agreement and hereby incorporated by reference.

Deliverable for Task 3

Submit scrapping plan with 90 days after the signing of this agreement.

Task 4: Purchase, insure, and deploy new school buses.

After task 1-3 have been completed and the Agency has approved the bus-scrapping plan, the School District may proceed with purchasing new propane school buses. The School District will pay all costs associated with the purchase of the new school buses. The School District must insure the new school buses using the same insurance procedures as it does for all of its other school buses. The School District must deploy the new school buses by September 30, 2020.

Deliverables for Task 4.a:

Purchase and insure the new school buses by August 31, 2020.

Deliverables for Task 4.b:

Deploy the new school buses by September 30, 2020.

Task 5: Verify deployment of new school buses.

Once the new school buses are in operation, the School District will work with the Agency to schedule a site visit to verify that the new school buses are operational. The site visit will take place during business work hours of 9 am to 4 pm, Monday through Friday.

Deliverable for Task 5:

Work with the Agency to set up a site visit within 30 days after deploying the school buses.

Task 6: Scrap school buses according to approved scrapping plan.

The School District will scrap the eligible old diesel school buses according to the approved scrapping plan within 60 days of deploying new school bus, but no later than September 30, 2020.

Deliverable for Task 6:

Scrap the old diesel school buses agreed upon in Task 1 according to the approved scrapping plan within 60 days of deploying new propane school buses, but no later than September 30, 2020.

Task 7: Submit documentation for reimbursement.

The School District will follow the procedures described in Section 5, "Compensation," and provide the proper documentation to the Agency Project Manager in order to receive reimbursement.

Deliverable for Task 7:

Submit reimbursement documentation to the Agency within 60 days after deploying the school buses, but later than September 30, 2020.

Task 8: Submit monthly reports regarding Tasks 1-7

The School District will submit monthly reports by the 15th of each month via email to the Agency. These reports will describe the current status of Tasks 1-7 and be submitted until Task 7 is completed.

Deliverable for Task 8:

Submit monthly email reports to the Agency by the 15th of each month until Task 7 is completed.

Task 9: Operate the school buses for at least five (5) years.

The School District must operate the new propane-fueled school buses for at least five years. The School District may sell or relocate the new propane school buses under this agreement prior to the end of the five-year term, **provided** the school district notifies the Agency Project Manager in writing at least two weeks in advance of selling or relocating the school bus **and** the School District meets one of the three conditions in item 2 below. The written notification must:

1. Include the proposed date and the new location of any proposed relocation of the school bus; and
2. Demonstrate one of the following three conditions:
 - a. The School District is selling or relocating the school buses to another location within the central Puget Sound region (King, Kitsap, Pierce, and Snohomish Counties);
 - b. The School District will repay to the Agency a prorated portion of the reimbursement received as calculated in Equation 1; or

Equation 1

$$\text{Prorated Amount} = \text{Rebate amount} * \frac{60 \text{ months} - \text{No. of months School District operated bus}}{60 \text{ months}}$$

- c. The Agency Project Manager has approved in writing an alternative emission reduction option proposed by the School District.

In the event that a catastrophic event outside the School District's control occurs and said event renders the new school bus inoperable, the new school bus is exempt from the five-year retention requirement. Such inoperability will not be caused by the School District's negligence, misuse, or malfeasance. The School District will provide documentation of a catastrophic event to the Agency Project Manager in writing within 30 days of the event.

Task 10: Comply with applicable requirements of Grant No: DE-01J53801-0

The School District will comply with all applicable requirements of Grant No, DE-01J53801-0, provided in Attachment 2 of this agreement and hereby incorporated by reference, including:

- A. **Assist the Agency to Comply with EPA General Terms and Conditions No. 11, "Central Contractor Registration/System for Award Management and Universal Identifier Requirements."** Per EPA General Terms and Conditions number 9, the Agency may not make a sub-award to an entity unless the entity has provided its Data Universal Numbering System (DUNS) number

Deliverable 10.A: Provide School District's DUNS number to the Agency Project Manager.

Due date: Within twenty-one (21) days after all parties sign this contract..

B. **Comply with General Terms and Conditions No. 16, "Audit Requirements."** In accordance with 2 CFR 200.501(a), the School District hereby agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total federal funds in their fiscal year beginning on or after December 26, 2014.

C. **Comply with General Terms and Conditions No. 18, "Suspension and Debarment Verification."** When the School District enters into a transaction with another entity for this project, the School District must verify that the entity with which it intends to do business is not excluded or disqualified to do business for the federal government. The School District can do this by:

- 1) Checking System for Award Management (SAM) Exclusions; or
- 2) Collecting a certification from that entity; or
- 3) Adding a clause or condition to the covered transaction with that entity.

The School District may access suspension and debarment information at: <http://www.sam.gov>. This system allows grant recipients to perform searches determining whether an entity or individual is excluded from receiving federal assistance.

Deliverable 10.C: Provide the names of all of the vendors and contractors doing work under this project to the Agency Project Manager by email. Provide a statement to the Agency Project Manager by email that School District conducted a search of each vendor and contractor on SAM and verified that the identified vendors and contractors are not excluded or disqualified to do business for the federal government.

Due date: Prior to using the vendor or contractor.

D. **Comply with General Terms and Conditions No. 20, "Disclosing Conflicts of Interest."** EPA's Conflicts of Interest (COI) Policy requires that the School District have systems in place to address, resolve, and disclose COI to the Agency in a manner that, at a minimum, is in accordance with sections 5.0(d) and 7.0(c) of EPA's COI Policy. If a COI is identified, the School District will notify the Agency of the COI and the approach for solving it.

Deliverable 10.D: If applicable, inform the Agency of any COI and the School District's approach to resolve the issue.

Due date: Within 30 calendar days of identifying the COI.

E. **Comply with General Terms and Conditions No. 37, "Lobbying and Litigation."**

If the maximum amount of this contract exceeds \$100,000, School District agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying. School District certifies, to the best of his or her knowledge and belief, that:

- 1) No federal appropriated funds have been paid or will be paid, by or on behalf of the School District to any person for influencing or attempting to influence an officer or

employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- 2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the School District will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions as provided in Attachment 3 of this agreement and hereby incorporated by reference.
- 3) The School District will require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients will certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Deliverable 10.E: If applicable, disclose any lobbying of the federal government that School District funded in relation to this Grant Opportunity by filling out SF-LLL and submit it to the Agency.

Due date: If applicable, within twenty-one (21) days after all parties sign this contract.

F. Comply with General Terms and Conditions No. 33, "No Trafficking in Persons." The School District and School District's employees, may not—

- 1) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
- 2) Procure a commercial sex act during the period of time that the award is in effect; or
- 3) Use forced labor in the performance of the award or sub-awards under the award.

The School District must inform the EPA and the agency immediately of any information received from any source alleging a violation of a prohibition in this condition.

G. Comply with Programmatic Terms and Conditions E, "Use of Funds Restriction." The School District agrees to the following restrictions on matching funds and reimbursements.

- 1) **No matching with federal funds.** The School District agrees that funds under this award cannot be used as matching funds for other federal grants unless expressly

authorized by statute. Likewise, the School District may not use federal funds as cost-share funds for the Clean Diesel Funding Assistance Program, including funds received under EPA's State Clean Diesel Grant Program and federal Supplemental Environmental Project (SEP) funds.

- 2) **No using funds on Normal Attrition. Reimbursement requirements for new engines.** The School District can only be reimbursed for engine replacements for engines that meet the following requirements of Grant DE-01J40801-0. The bus replacements would have occurred through normal attrition/fleet turnover within three years of the project start date

3) **No using funds on Fleet Expansion**

- a) The bus being replaced must be fully operational and in current, regular service.
- b) The replacement bus will continue to perform the same function and operation as the bus that is being replaced.
- c) The replacement bus will be of the same type and similar gross vehicle weight rating or horsepower as the bus being replaced.

H. **Comply with Programmatic Terms and Conditions G, "Delays or Favorable Developments."** The School District agrees that it will promptly notify the Agency of any problems, delays, or adverse conditions which may materially impair its ability to deliver on the outputs/outcomes specified in the scope of work. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

I. **Assist the Agency to Comply with Programmatic Terms and Conditions J, "Equipment Use, Management, and Disposition."** The School District will cooperate with the Agency in complying with all the requirements of 2 CFR §200.313 if School District sells or relocates the new buses purchased under this grant.

3. **Agencies Responsibilities.**

Task 1. Verify school buses on School District's application are eligible for replacement under Grant No. DE-01J53801-0. The Agency will review the application and eligibility documentation provided by the School District and verify that the school buses on the application are eligible for replacement. The Agency will also work with the School District to schedule a site visit to verify the school buses are eligible and operational.

Task 2. Review proposed Scrapping Plan

The Agency will review the School District's proposed scrapping plan and determine if it meets EPA's scrapping requirements. If it does not meet EPA's scrapping requirements, the Agency will work with the School District to revise the scrapping plan so that it is acceptable to EPA.

Task 3. Verify that new propane school buses have been deployed.

The Agency will work with the School District to schedule a site visit to see that the new propane school buses are operational.

Task 4. Verify the school buses have been scrapped

The Agency will review the scrapping documentation to verify that each old diesel school bus was scrapped.

Task 5. Reimburse School District

The Agency will reimburse the School district the agreed upon amount pending that all of the documentation required in Section 5, "Compensation," was provided.

Task 6. Comply with reporting all EPA reporting requirements

The Agency will comply with all of EPA's reporting requirements under Grant No. DE-01J53801-0.

4. **Communications About Performance.** The School District understands that Agency staff members have been encouraged to communicate any concerns about the performance of the School District directly and respectfully to the Agency Project Manager in a good faith attempt to resolve any issues. Similarly, if the School District has a concern about the performance of the agreement or an interaction with an Agency staff member, the School District agrees to communicate that concern directly and respectfully to the Project Manager in a good faith attempt to resolve any issues.

5. **Compensation.** The total amount paid by the Agency for satisfactory performance of the work under this agreement will not exceed \$150,000. The funding for this agreement is provided by DE-01J53801-0. No payments in advance or in anticipation of goods or services to be provided under this agreement will be made by the Agency.

The School District will submit invoices upon completion of Tasks 1-6. Invoices submitted by the School District must include the following:

- An invoice from the school district to the agency
(showing the total cost and the agency's responsibility)
- Documentation showing scrapping of old buses (photos or videos)
- Certificate(s) of Destruction
- A letter stating no other federal funds were used to match this grant
- The invoice for the new school bus(es)
- Proof that the school district paid for the new school bus(es), showing total cost of the school bus(es).

The School District will submit invoices to the Agency's Manager of Finance and Purchasing and will be paid upon successful performance by the School District and within thirty (30) days after review and approval by the Project Manager. The final invoice must be submitted no later than ten (10) working days after the termination date.

Funding for work to be conducted after June 30, 2020, is contingent upon approval of funding by the Agency Board of Directors and satisfactory performance by the School District. The School District will not proceed to perform any work under this agreement after June 30, 2020 until so authorized by the Project Manager.

6. **Term.** The effective date of this agreement is the date of the last signature of this agreement. Any costs incurred prior to the effective date of this agreement will be at the sole expense and risk of the School District.

The termination date of this Agreement is December 30, 2020.

7. **Communications.** The following persons will be the contact person for all communications regarding the performance of this agreement.

School District	Agency Project Manager	Send Invoices To:
Susan Kelly	Kelly O'Callahan	Attn: Finance Manager
Tukwila School District	Puget Sound Clean Air Agency	Puget Sound Clean Air Agency
3825 S. 128th Street, Tukwila, WA 98168	1904 Third Avenue, Suite 105 Seattle, WA 98101	1904 Third Avenue, Suite 105 Seattle, WA 98101
Phone: 206-901-8051	Phone: 206-689-4054	Phone: 206-689-4014
E-mail KellyS@tukwil.wednet.edu	E-mail address: kellyo@pscleanair.org	E-mail address: finance@pscleanair.org

8. **Changes.** The Agency may, from time to time, require changes to this agreement. Only the Agency's Project Manager will have the authority to negotiate changes on behalf of the Agency. The parties will mutually agree to all changes by written amendment to the agreement.

9. **Termination.** The Agency may terminate this agreement at any time with or without cause by giving a thirty day (30) written notice to the School District of such termination and by specifying the effective date of the termination. Upon termination of this agreement, the Agency, in addition to any other rights provided in this agreement, may require the School District to deliver to the Agency any property specifically produced or acquired for the performance of such part of this agreement as has been terminated.

The Agency will pay to the School District the amount agreed upon by the School District and the Agency for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, and (iii) other property or services which are accepted by the Agency, unless the termination is for default, in which case the Agency will determine the extent of the liability of the Agency. The Agency may withhold from any amounts due the School District such sums as the Agency determines to be necessary to protect the Agency against potential loss or liability.

10. **Agency Access to Data and Records.** (a) The School District will provide the Agency, at no additional charge, access to all data generated under this agreement. "Data" includes, but is not limited to, all information that supports the findings, conclusions and recommendations of the School District's reports and deliverables, including computer models and the methodology for those models. (b) The School District will maintain books, records, documents, data and

other evidence relating to this agreement and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this agreement. The School District will retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the agreement, will be subject at all reasonable times to inspection, review or audit by the Agency, personnel duly authorized by the Agency, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

11. **Right of Inspection.** The School District will provide right of access to its facilities to the Agency, or any of its officers, or to any other authorized agent or official of the federal government, at reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this agreement.

12. **Funding Contingency.** In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this agreement and prior to completion of the work in this agreement, the Agency may at its sole option:

- a) terminate this agreement with 30 (thirty) days advance written notice. If this agreement is terminated, the parties will be liable only for performance rendered or costs incurred in accordance with the terms of this agreement prior to the effective date of termination;
- b) renegotiate the terms of the contact under new funding limitations and conditions;
- c) suspend work performed under this agreement for a temporary period upon written notification of the suspension and the suspension period; or
- d) after a review of the status of expenditures and deliverables, extend the end date of this agreement and postpone deliverables or portions of deliverables.

The Agency may also suggest such other alternative as the parties mutually agree to in writing.

13. **Copyright Provisions.** Unless otherwise provided, all materials produced under this agreement will be considered “works for hire” as defined by the U.S. Copyright Act and will be owned by the Agency. The Agency will be considered the author of such materials. In the event the materials are not considered “works for hire” under the U.S. Copyright laws, the School District hereby irrevocably assigns all right, title, and interest in materials, including all intellectual property rights, to the Agency, effective from the moment of creation of such materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, communications, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For materials that are delivered under the agreement, but that incorporate pre-existing materials not produced under the agreement, the School District hereby grants to the Agency a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and

publicly display. The School District warrants and represents that the School District has all rights and permissions, including intellectual property rights, moral rights, and rights of publicity, necessary to grant such a license to the Agency.

The School District will exert all reasonable effort to advise the Agency, at the time of delivery of materials furnished under this agreement, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this agreement. The Agency will receive prompt written notice of each notice or claim of copyright infringement received by the School District with respect to any data delivered under this agreement. The Agency will have the right to modify or remove any restrictive markings placed upon the data by the School District.

14. **School District Not An Employee of the Agency.** The School District and the Agency intend that an independent relationship will be created under this agreement. The School District and its employees or agents are not employees of the Agency and will not be entitled to compensation or benefits of any kind other than as specifically provided herein. The School District will not hold itself out as nor claim to be an officer or an employee of the Agency or of the State of Washington by reason hereof, nor will the School District make any claim of right, privilege or benefit which would accrue to an employee under the law. Conduct and control of the work will be solely with the School District.

15. **Indemnification.** The School District will release, indemnify, defend and hold harmless the Agency, its Board of Directors, officers, employees and agents from and against any and all liability, loss, damage, expense, actions, or claims, including costs and attorney's fees which the Agency, its Board of Directors, officers, employees and agents may hereafter sustain, incur, or be required to pay asserting or arising directly or indirectly due to any act or omission of the School District, its agents, employees or School Districts, in the execution, performance or failure to adequately perform the School District's obligations pursuant to this agreement; provided, however, this paragraph does not purport to indemnify the Agency against liability for damages arising out of bodily injuries to persons or damages caused by or resulting from the sole negligence of the Agency, its Board of Directors, its officers, employees and agents in the execution, performance or failure to adequately perform its obligations pursuant to this agreement.

16. **Subcontracting.** The School District will not enter into subcontracts for any of the services or work contemplated under this agreement without obtaining prior written approval of the Project Manager. In no event will the existence of any subcontract operate to release or reduce the liability of the School District to the Agency for any breach in the performance of the School District's duties.

17. **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.

18. **Payroll and Taxes.** The School District assumes full and sole responsibility for the payment of all wages, unemployment contributions, payroll taxes, use, sales, income or other form of taxes, fees and licenses.
19. **Licensing, Accreditation, and Registration.** The School District will comply with all applicable local, state, and federal licensing, accreditation, and registration requirements/standards, necessary for the performance of this agreement.
20. **Industrial Insurance Coverage.** The School District will provide or purchase industrial insurance coverage prior to performing work under this agreement and will maintain full compliance with Chapter 51.12 RCW during the term of this agreement. If a School District is exempt from the requirements of Chapter 51.12 RCW, he/she must carry appropriate liability insurance equivalent to the coverage provided under that chapter. The Agency will not be responsible for the payment of industrial or liability insurance premiums or for any other claim or benefit for this School District, or employee of the School District, 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 will be made by the School District; the School District will indemnify the Agency and guarantee payment of such amounts.
21. **Waiver.** A failure by either party to exercise its rights under this agreement will not preclude that party from subsequent exercise of such rights and will not constitute a waiver of any other rights under this agreement. Waiver of any default or breach will not be deemed to be a waiver of any subsequent default or breach. Any waiver will not be construed to be a modification of the terms of this agreement unless stated to be such in writing and signed by personnel authorized to bind each of the parties.
22. **Governing Law.** This agreement will be governed by the laws of the state of Washington. The School District, by execution of the agreement, acknowledges the jurisdiction of the courts of the state of Washington in this matter. The venue of any action brought under this agreement will be the superior Court of King County, Washington.
23. **Certification regarding Debarment.** The School District, by signature to this agreement, certifies that the School District is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency from participating in transactions (debarred). The School District also agrees to include the above requirements regarding debarment in all subcontracts into which it enters. The School District will immediately notify the Agency if, during the term of this agreement, the School District becomes debarred. If the School District becomes debarred during the term of this agreement, the Agency may, at its sole option, immediately terminate this agreement by providing written notice to the School District.

24. **Nondiscrimination.** During the performance of this agreement, the School District will comply with all federal and state nondiscrimination laws, regulations and policies. In the event of the School District'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 School District may be declared ineligible for further agreements with the Agency. The School District will, however, be given a reasonable time in which to remedy this noncompliance.

25. **Title VI.** During the performance of this agreement, the School District, for itself, its assignees and successors in interest agrees as follows:

a) Compliance with Regulations

The School District will comply with the Regulations relative to non-discrimination in federally assisted programs of United States Department of Transportation (USDOT), Title 49, Code of Federal Regulations, part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this agreement.

b) Non-discrimination

The School District, with regard to the work performed by it during the agreement, will not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-contractors, including procurement of materials and leases of equipment. The School District will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.

c) Solicitations for Sub-agreements, Including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiations made by the School District for work to be performed under a sub-agreement, including procurement of materials or leases of equipment, each potential sub-contractor or supplier will be notified by the School District of the School District's obligations under this agreement and the Regulations relative to non-discrimination on the grounds of race, color, sex, or national origin.

d) Information and Reports

The School District will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Agency or the appropriate federal agency to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a School District is in the exclusive possession of another who fails or refuses to furnish this information, the School District will so certify to the Agency, the Washington State Department of Transportation (WSDOT) or the United States Department of Transportation (USDOT) as appropriate, and will set forth what efforts it has made to obtain the information.

e) **Sanctions for Non-compliance**

In the event of the School District's non-compliance with the non-discrimination provisions of this agreement, the Agency will impose such sanctions as it or the USDOT may determine to be appropriate, including, but not limited to: (i) withholding of payments to the School District under the agreement until the School District complies, and/or (ii) cancelling, terminating, or suspending of the agreement, in whole or in part.

f) **Incorporation of Provisions**

The School District will include the provisions of paragraphs (a) through (e) in every sub-agreement, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The School District will take such action with respect to any sub-contractor or procurement as the Agency or USDOT may direct as a means of enforcing such provisions including sanctions for non-compliance. Provided, however, that in the event a School District becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the School District may request WSDOT enter into such litigation to protect the interests of the state and, in addition, the School District may request the USDOT enter into such litigation to protect the interests of the United States.

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

27. **Attorneys' Fees.** In the event of litigation or other action brought to enforce agreement terms, each party agrees to bear its own attorneys' fees and costs.

28. **Severability.** The provisions of this agreement are severable. If any provision is illegal or invalid for any reason whatsoever, that illegality or invalidity will not affect the validity of the rest of the agreement.

29. **Content and Understanding.** This agreement contains a complete and integrated understanding and agreement between the parties. No other statements or representations, written or oral, will be deemed a part hereof.

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

PUGET SOUND CLEAN AIR AGENCY

TUKWILA SCHOOL DISTRICT

By: Paul Roberts
Paul Roberts
Board of Directors, Chair
Date: 9/5/19

By: Flip Herndon
Flip Herndon, Superintendent
Date: 8/22/19

Attest:

By: Craig T. Kenworthy
Craig T. Kenworthy
Executive Director
Date: 8/24/19

Approved as to Form:

By: Jennifer A. Dold
Jennifer A. Dold
Agency Counsel
Date: 8/28/19

Form No. 61-132 (Rev. 04/16- bhw)