

JAN 07 2013

**CONTRACT FOR SERVICES**

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This Contract for Services ("Contract") 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 the **City of Puyallup**, (hereinafter referred to as "Puyallup"), 333 S Meridian Street, Puyallup, WA 98371.

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**WHEREAS**, the United States Environmental Protection Agency (US EPA) has designated a portion of Pierce County, including the City of Puyallup, as not attaining the National Ambient Air Quality Standard for fine particulate; and

**WHEREAS**, the Agency is assisting the Washington State Department of Ecology in developing a strategy to return the Tacoma-Pierce County non-attainment area to attainment and the Agency's assistance has included a stakeholder process to identify and evaluate strategies for reducing emissions, implementing recommendations from the stakeholder process, and conducting public outreach to increase awareness and help change behaviors; and

**WHEREAS**, in December 2011, the stakeholder's recommendations were finalized in a report to the Agency and the Agency's Board of Directors adopted those recommendations in Resolution No. 1238 in February 2012, and recommended measures include the use of additional field inspectors and evening enforcement during first and second stage burn bans in the fine particulate nonattainment area to minimize the increase in ambient concentrations of fine particulate due to solid fuel burning during meteorological conditions conducive to high fine particulate concentrations; and

**WHEREAS**, the Agency intends to increase enforcement consistent with the above and make progress towards meeting the National Ambient Air Quality Standard for fine particulate; and

**WHEREAS**, the Agency expects to need additional support to perform effective enforcement of burn bans; and

**WHEREAS**, the Agency and Puyallup understand the need to plan for the burn ban enforcement efforts as described herein; and

**WHEREAS**, Puyallup may have personnel available within the nonattainment area during the winter season(s) and is well positioned to make observations in support of the Agency's enforcement of burn bans; and

**WHEREAS**, the Agency desires to enter into a Contract with Puyallup for Puyallup to provide staff time for observations during burn bans as described in this Contract; and

**NOW, THEREFORE**, the Agency and Puyallup mutually agree as follows:

1. **Purpose and Scope of this Contract.** The purpose of this Contract is to outline the responsibilities of the Agency and Puyallup regarding Puyallup's observations during stage one and stage two burn bans.

Based on Puyallup employees' knowledge of the local community, Puyallup and the Agency agree that Puyallup, at its discretion, will make observations for the Agency to assist with stage one and stage two burn ban enforcement.

**A. Duties of the Agency**

The Agency shall:

1. Lead, coordinate, and implement the burn ban observation effort.
2. In coordination with Puyallup, develop a Detailed Work Plan (hereinafter "Work Plan") to guide Puyallup staff during burn bans. The Detailed Work Plan will describe: burn ban training content and schedule(s) for assigned Puyallup staff; who at Puyallup is to be contacted when the Agency designates a stage one or stage two burn ban; geographic areas to which Puyallup staff will be assigned to patrol for burn ban observations; work shift schedule(s) for burn ban observations; procedures, including deadlines, for Puyallup to submit burn ban observation reports to the Agency; and any other details the Agency deems necessary to assure success of the burn ban patrol events. The Agency shall provide Puyallup a draft of the Detailed Work Plan within 14 days of the date this Contract is fully executed. The Agency shall provide Puyallup the final Detailed Work Plan within 30 days of the date this Contract is fully executed.
3. Train Puyallup staff on conducting burn ban observations.
4. Provide information concerning proposed work assignments to Puyallup staff for conducting burn ban observations and related activities. This shall include notifying Puyallup staff when and where patrols will occur.
5. Provide or approve all outreach materials distributed during or in relation to burn ban compliance inspections.
6. As deemed necessary by the Agency, provide equipment for inspections, including camera kits for burn ban observations made at night. Ownership of these items will remain with the Agency. The Agency Project Manager will use a log sheet to check in and check out the camera kits used for night observations.
7. In accordance with Section 2 "Compensation," reimburse Puyallup up to a total of \$8,000 in Agency Fiscal Year 2013 for performing certain duties described in Section 1(B) below.
8. Closely monitor the fund balance against the invoiced and compensated amounts and ensure that Puyallup is not asked to perform burn ban patrol work beyond the budgeted amount.

**B. Duties of Puyallup**

Puyallup shall, at its discretion:

1. Provide the Agency Project Manager with the names and contact information for each Puyallup staff person assigned to perform burn ban observations and other duties as described in this Contract.

2. Cooperate in creating the Detailed Work Plan as described in Section 1(A)(2) above, including meetings or contact with the Agency Project Manager as necessary to draft the Detailed Work Plan. Puyallup shall provide comments on the draft to the Agency Project Manager within a reasonable time. Puyallup shall have full authority to accept, reject or modify the whole or any portion of the Work Plan so that the Work Plan becomes acceptable to Puyallup.
3. Arrange for Puyallup staff assigned in Section 1(B)(1) when available to obtain training(s) provided by the Agency regarding burn ban observations.
4. At its discretion, arrange for Puyallup staff to be made available to patrol during both stage one and stage two burn bans in coordination with the Agency.
5. Implement the final agreed upon Detailed Work Plan. This includes reasonable efforts to ensure that all assigned Puyallup staff follow all Agency procedures and processes for burn ban observations as described in the Detailed Work Plan, including but not limited to reporting of inspections with proper documentation.
6. Treat Agency equipment left in Puyallup's custody with the same level of care that Puyallup uses for similar Puyallup property. Agency equipment in Puyallup's custody shall remain in the possession of Puyallup for the time period specified by the Agency Project Manager. Puyallup shall use the Agency provided log sheet to keep an inventory of the camera kits used for burn ban observations made at night.
7. Assist the Agency, by distributing, or making available, outreach materials provided by the Agency during or in relation to burn ban observations.
8. Subject to the availability of Puyallup staff, as determined by Puyallup, assign Puyallup staff to participate in phone calls and in-person meetings with the Agency Project Manager and other Agency staff as needed and/or requested by the Agency.
9. Participate as a fact witness in proceedings for notices of violation and/or civil penalties issued by the Agency based on information provided by Puyallup staff, including but not limited to participating in any administrative appeals related to issued notices or penalties.
10. Consistent with Section 2, provide monthly invoices and reports to the Agency identifying: staff hours expended to the nearest quarter hour, including overtime; vehicle mileage (with actual miles driven); and administrative costs as described in Section 2 of this Contract.
11. Provide quarterly reports to the Agency Project Manager by e-mail on forms provided by the Agency. The quarterly reports shall include relevant information such as:
  - a. number of Puyallup staff who participated in each day of burn ban patrols;
  - b. number of observation reports submitted;
  - c. number of hours to the nearest quarter hour spent in the field, per individual, making observations during burn bans;
  - d. number of overtime hours (to the nearest quarter hour) worked by each individual;

- e. number of actual miles driven during burn patrols;
  - f. geographic areas where burn ban patrols occurred; and
  - g. other information as requested by the Agency Project Manager.
12. Provide cell phones and computer access for Puyallup staff at no charge to the Agency.
13. Provide vehicles for all work performed by Puyallup staff pursuant to this Contract.
14. Return all equipment back to the Agency by the date specified by the Agency Project Manager.

2. **Compensation.**

A. The parties understand and acknowledge that the actual number of burn ban days that may be designated by the Agency is unpredictable and cannot be determined in advance. This Contract does not guarantee any minimum or certain number of burn ban days or any amount of work for Puyallup personnel. The Agency shall only pay for Puyallup work related directly to burn bans patrols conducted by Puyallup pursuant to this Contract, and in addition, the Agency shall pay for Puyallup staff time spent in training(s) pursuant to this Contract.

B. The total amount paid by the Agency for satisfactory performance of the work under this Contract shall not exceed \$8,000. The funding for this Contract is provided by the Per Capita Fund and is part of the Agency Fine Particulate/Nonattainment work plan for Fiscal Year 2013. The Agency shall pay Puyallup at the hourly rates listed in Attachment A.

C. To obtain payment, Puyallup shall submit invoices monthly to the Agency and the invoices shall include: staff hours worked (to the nearest quarter hour) and showing task and/or subtask performed; the name of the staff person who performed the work and their job title; the cost per hour including overtime rates; the number of actual miles driven; and the specific number of hours spent within a given billing period.

D. Submitted invoices may include indirect costs as described in this Contract. Indirect costs include time spent on administrative tasks, such as billing and are calculated as a percentage of the salaries and benefits invoiced and cannot be based on equipment. Indirect costs shall not exceed 25% of the salaries and benefits.

E. The Agency shall reimburse expenses as identified in this paragraph or as authorized in advance by the Agency Project Manager as reimbursable. Such expenses may include mileage for vehicles used directly for burn ban patrols at the current Internal Revenue Services (IRS) standard mileage rate. To receive reimbursement, Puyallup must identify on the submitted invoices a detailed breakdown of authorized expenses, identifying the nature of the expenses, and the dates the expenses were incurred.

F. Puyallup shall submit invoices to the Agency's Manager of Finance and Purchasing (Finance Manager, Puget Sound Clean Air Agency, 1904 Third Avenue, Suite 105, Seattle, WA 98101 – 206.689.4036) and upon satisfactory performance shall be paid within thirty (30) days after review and approval by the Agency Project Manager. The final invoice must be submitted no later than ten (10) working days after the termination date of this Contract.

G. Funding for work to be conducted after June 30, 2013 is contingent upon approval of funding by the Agency Board of Directors and satisfactory performance by Puyallup, and Puyallup shall not proceed to perform any work under this Contract after June 30, 2013 until so authorized by the Agency Project Manager.

3. **Term.** The effective date of this Contract is the date it is fully executed by the parties. No payments in advance or in anticipation of services or supplies to be provided under this Contract shall be made by the Agency. Any costs incurred prior to the effective date of this Contract will be at the sole expense and risk of Puyallup. The termination date of this Contract is June 30, 2013.

4. **Relationship.** Puyallup and the Agency intend that an independent contractor relationship will be created under this Contract. Puyallup 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. Puyallup employees or agents will not hold himself/herself out as nor claim to be an officer or an employee of the Agency by reason hereof, nor will Puyallup make any claim of right, privilege or benefit which would accrue to an employee under the law.

5. **Communications.** The following project managers shall be the contacts for all communications regarding the performance of this Contract.

<b>Puyallup</b>	<b>Agency</b>
Project Manager: Tom Utterback	Project Manager: Kim Cole
City of Puyallup Development Services Director	Puget Sound Clean Air Agency
333 S Meridian Street, Puyallup, WA 98371	1904 Third Avenue, Suite 105 Seattle, WA 98101
Phone: (253) 841-5502	Phone: (206) 689-4020
	Fax: (206) 343-7522
E-mail: <a href="mailto:tomu@ci.puyallup.wa.us">tomu@ci.puyallup.wa.us</a>	E-mail: <a href="mailto:kimc@pscleanair.org">kimc@pscleanair.org</a>

6. **Changes.** The parties may, from time to time, require changes in this Contract. The parties shall mutually agree to the changes by written amendment to the Contract.

7. **Early Termination.** Either party may terminate this Contract at any time with or without cause by giving written notice of such termination and by specifying the effective date of the termination. Upon termination of this Contract, the Agency, in addition to any other rights provided in this Contract, may require Puyallup to deliver to the Agency any property specifically produced or acquired for the performance of such part of this Contract as has been terminated.

8. **Subcontracting.** Puyallup shall not enter into subcontracts for any of the services or work contemplated under this Contract 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 Puyallup to the Agency for any breach in the performance of Puyallup's duties.

9. **Assignment.** The work provided under this Contract, 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 Contract shall be responsible for its own acts and/or omissions and those of its officers, employees, and agents. No party to this Contract shall be responsible for the acts and/or omissions of entities or individuals not a party to this Contract.

11. **Payroll and Taxes.** Puyallup assumes full responsibility for the payment of all wages, payroll taxes, use, sales, income or other form of taxes, fees and licenses related to the actions of its employees or agents pursuant to this Contract.

12. **Compliance with All Laws and Regulations.** The parties shall comply with all applicable local, state, and federal laws, regulations, and standards necessary for the performance of this Contract.

13. **Severability.** If any term or condition of this Contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

14. **Waiver.** Waiver of any breach or condition of this Contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto.

15. **Entire Contract.** This written Contract, with Attachment A, represents the entire Contract between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

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

**PUGET SOUND CLEAN AIR AGENCY**

**CITY OF PUYALLUP**



By: Paul Roberts  
Board of Directors, Chair

By: Tom Utterback  
Development Services Director

Date: Paul Roberts  
1/11/2013

Date: Tom Utterback 12/27/12

Attest:

By: Craig Kenworthy  
Craig Kenworthy  
Executive Director

Date: 12/31/12

Approved as to Form:

By: Jennifer Dold  
Jennifer Dold  
Attorney

Date: 12/31/12

Attachment A of Contract No. 2013005-0-CON

Puyallup Staff Hourly Rates:

*Code Compliance Officer*

Regular hours: \$50.27/hour (hourly rate plus fringe benefits – salaried position, no overtime)

*Senior Plans Examiner*

Regular hours: \$54.99/hour (hourly rate plus fringe benefits – AFSCME position).

Overtime hours: \$82.49/hour

*Senior Building Inspector*

Regular Hours: \$54.99/hour (hourly rate plus fringe benefits – AFSCME position).

Overtime hours: \$82.49/hour

*Building Inspector II*

Regular hours: \$52.39/hour (hourly rate plus fringe benefits – AFSCME position)

Overtime: \$78.59/hour



Puget Sound Clean Air Agency  
1904 3<sup>rd</sup> 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.

Thomas C. Utterback, Development Services Dir.

Typed Name & Title of Authorized Representative



Signature of Authorized Representative

12/27/12

Date

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

JUN 27 2013  
Puget Sound  
Clean Air Agency  
**CONTRACT FOR SERVICES**

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**B. Duties of Puyallup**

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5. **Communications.** The following project managers shall be the contacts for all communications regarding the performance of this Contract.

<b>Puyallup</b>	<b>Agency</b>
Project Manager: Tom Utterback	Project Manager: Kim Cole
City of Puyallup Development Services Director	Puget Sound Clean Air Agency
333 S Meridian Street, Puyallup, WA 98371	1904 Third Avenue, Suite 105 Seattle, WA 98101
Phone: (253) 841-5502	Phone: (206) 689-4020
	Fax: (206) 343-7522
E-mail: tomu@ci.puyallup.wa.us	E-mail: kimc@pscleanair.org

6. **Changes.** The parties may, from time to time, require changes in this Contract. The parties shall mutually agree to the changes by written amendment to the Contract.

7. **Early Termination.** Either party may terminate this Contract at any time with or without cause by giving written notice of such termination and by specifying the effective date of the termination. Upon termination of this Contract, the Agency, in addition to any other rights provided in this Contract, may require Puyallup to deliver to the Agency any property specifically produced or acquired for the performance of such part of this Contract as has been terminated.

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liability of Puyallup to the Agency for any breach in the performance of Puyallup's duties.

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14. **Waiver.** Waiver of any breach or condition of this Contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto.

15. **Entire Contract.** This written Contract, with Attachment A, represents the entire Contract between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

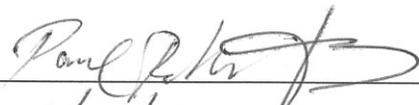
**THIS Contract** is executed by the persons signing below, who warrant they have the authority to execute this Contract.

**PUGET SOUND CLEAN AIR AGENCY**

**CITY OF PUYALLUP**

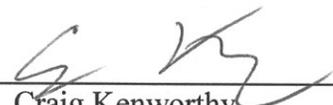
By: Paul Roberts  
Board of Directors, Chair

By: Tom Utterback  
Development Services Director

Date:   
1/11/2013

Date: 12/27/12

Attest:

By:   
Craig Kenworthy  
Executive Director

Date: 12/31/12

Approved as to Form:

By:   
Jennifer Dold  
Attorney

Date: 12/31/12

Attachment A of Contract No. 2013005-0-CON

Puyallup Staff Hourly Rates:

*Code Compliance Officer*

Regular hours: \$50.27/hour (hourly rate plus fringe benefits – salaried position, no overtime)

*Senior Plans Examiner*

Regular hours: \$54.99/hour (hourly rate plus fringe benefits – AFSCME position).

Overtime hours: \$82.49/hour

*Senior Building Inspector*

Regular Hours: \$54.99/hour (hourly rate plus fringe benefits – AFSCME position).

Overtime hours: \$82.49/hour

*Building Inspector II*

Regular hours: \$52.39/hour (hourly rate plus fringe benefits – AFSCME position)

Overtime: \$78.59/hour



Puget Sound Clean Air Agency  
1904 3<sup>rd</sup> 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.

Thomas C. Utterback, Development Services Dir.  
Typed Name & Title of Authorized Representative

  
Signature of Authorized Representative

12/27/12  
Date

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

RECEIVED

Working together for clean air

JAN 07 2013

Puget Sound  
Clean Air Agency

December 31, 2012

Paul Roberts  
Everett City Council  
2930 Wetmore Ave Ste 9A  
Everett WA 98201

**EXECUTIVE DIRECTOR**

Craig T. Kenworthy

**BOARD OF DIRECTORS**

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**SEATTLE**

Mike McGinn, Mayor

**SNOHOMISH COUNTY**

Stephanie Wright,  
Councilwoman

**TACOMA**

Jake Fey, Councilman

**RE: 2013005-0-IAA – City of Puyallup Burn Ban Enforcement**

Dear Mr. Roberts,

Enclosed are two sets of the above listed IAA. Please sign at your earliest convenience and return to us in the envelope provided.

Thank you.

Sincerely,

Carol Pogers  
Administrative Assistant