

**AGREEMENT
FOR
TEMPORARY RIGHT OF ENTRY UPON LAND**

This Agreement for Temporary Right of Entry Upon Land (hereinafter "Agreement") is made and entered into as of the Effective Date (defined in Section 24 below) by and between PIERCE COUNTY, a municipal corporation and political subdivision of the state of Washington (hereinafter "Grantor") and PUGET SOUND CLEAN AIR AGENCY, a Washington municipal corporation (hereinafter "Grantee"). Grantor and Grantee may hereinafter be referred to collectively as "Parties" or individually as a "Party."

RECITALS

WHEREAS Grantor is sole owner in fee simple of the real property commonly known as the Pierce County Sheriff's Foothills Detachment, 11107 - 214th Avenue East, Bonney Lake, Pierce County, Washington 98390, and legally described in attached **Exhibit A** (hereinafter "Subject Property"); and

WHEREAS Grantor, acting by and through the Pierce County Sheriff, operates the Subject Property as a sheriff's precinct and law enforcement facility; and

WHEREAS Grantee is a special-purpose, regional governmental agency chartered by state law for the purpose of conducting air quality monitoring in King, Kitsap, Pierce and Snohomish counties; and

WHEREAS Grantor desires to grant to Grantee, and Grantee desires to accept from Grantor, the temporary right to enter upon that certain portion of the Subject Property graphically depicted in attached **Exhibit B** (hereinafter "Premises") for the sole and exclusive purpose of installing, operating, maintaining and removing the temporary air quality monitoring station of the kind, type and nature pictorially depicted in attached **Exhibit C** (hereinafter "Station"); and

NOW THEREFORE, for and in consideration of the terms, covenants and conditions set forth in this Agreement, and other good and valuable consideration the receipt and adequacy of which is hereby acknowledged, Grantor and Grantor hereby agree as follows:

AGREEMENT

1. **Incorporation of Recitals.** The above recitals are true and correct and are incorporated herein by this reference as if fully set forth.
2. **Right of Entry.** Grantor hereby grants to Grantee, and Grantee hereby accepts from Grantor, a temporary right of entry (hereinafter "Right of Entry") upon the Subject Property and Premises for the uses and purposes set forth in this Agreement. The

foregoing notwithstanding, prior to installing the Station (defined in Section 4.1 below) upon the Premises, and prior to gaining entry to the Premises for purposes of operating, maintaining and/or removing the Station, Grantee shall seek Grantor's prior verbal consent to enter, which consent shall not be unreasonably withheld, conditioned or delayed. The individuals to which entry may be granted shall be limited to: Matt Harper, Adam Petrusky and/or Greg Sandau.

3. Term; Early Termination; Ownership; Removal.

3.1 Term. Unless earlier terminated by the Parties, the term of this Agreement (hereinafter "Term") shall commence 12:01 a.m., November 1, 2013 (hereinafter "Commencement Date") and end 12:00 midnight, February 28, 2014 (hereinafter "Expiration Date").

3.2 Early Termination. The provisions of Section 3.1 above notwithstanding, either Party may terminate this Agreement at any time with or without cause by giving THIRTY (30) calendar days prior written notice of such termination to the other Party and by specifying the effective date of the termination; provided, that the termination shall be preceded by a face-to-face meeting between Grantor and Grantee.

3.3 Ownership. At all times material to this Agreement the Station, any equipment related thereto, and all data obtained therefrom, shall be the sole and exclusive property of Grantee.

3.4 Removal. Upon expiration or other termination of this Agreement, Grantee shall, at its sole cost and expense, remove the Station and any related equipment from the Premises and shall restore the Property and Premises to their condition prior to the Effective Date, reasonable wear and tear excepted.

4. Use.

4.1 Permitted Uses. Grantee shall use the Subject Property and Premises for the sole and exclusive purpose of installing, operating, maintaining and removing the Station.

4.2 Prohibited Uses. Grantee shall not use or permit the Subject Property or Premises to be used for any purpose other than as expressly set forth in Section 4.1 above without the prior written consent of Grantor, which consent may be granted, withheld, conditioned or delayed by Grantor in its sole and absolute judgment and discretion. Further, Grantee shall not use the Subject Property or Premises in violation of any statute, rule, ordinance, permit, order, regulation or code in effect and applicable to any part of thereof. Nor shall Grantee do or permit to be done in, on, under or about the Subject Property or Premises, or any part thereof, or bring into, keep, or permit to be brought into or kept in or about the Subject Property or Premises anything that may constitute a waste, nuisance or unreasonable annoyance or that may injure or damage the same. In addition to the foregoing, Grantee shall not transport, generate,

handle, store, or dispose of any Hazardous Substance in, on, under or about the Subject Property or Premises other than as expressly authorized by this Agreement. As used herein, the term "Hazardous Substance" means any hazardous, toxic, or dangerous, waste, or material, which is or becomes regulated under any federal, state or local statute, ordinance, rule, regulation, or other law now or hereafter in effect pertaining to environmental protection, contamination, or cleanup. Grantee shall hold harmless, protect, indemnify and defend Grantor from and against any damage, loss, claim, or liability of any kind, type or nature whatsoever arising out of or relating in any way to any breach of this Section 4.2, including any attorneys' fees and costs incurred. The indemnity and hold harmless provisions of this Section 4.2 shall survive expiration or earlier termination of the Term.

5. Electrical Power. Grantor shall furnish electrical power to the Premises to support the Station and Grantee shall pay to Grantor an electrical power reimbursement fee of TWENTY AND NO/100 DOLLARS (\$20.00) per month.

6. Air Quality Education. As additional consideration for Grantor's performance under this Agreement, Grantee agrees to provide to Grantor during the Term the following: (a) a ONE (1) hour air quality science program directed to a community group or Grantor staff, at Grantor's sole option; and (b) a copy of the data & report from the air quality monitoring program contemplated by this Agreement.

7. Insurance.

7.1 Grantee's Insurance Obligations. Grantee covenants and agrees to provide, at its sole cost and expense, upon execution of this Agreement, and to keep in force during the Term, the following insurance coverages naming Grantor and Grantee as insured parties: (a) a commercial liability insurance policy ("Liability Policy"), including, without limitation, blanket contractual liability coverage, broad form property damage, independent contractor's coverage and personal injury coverage of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) combined single limit per occurrence for bodily or personal injury (including death) and property damage, protecting Grantor, its elected and appointed officials, servants, agents and employees, and Grantee against liability occasioned by occurrences on or about the Subject Property or any appurtenances thereto; and (b) a fire and other casualty policy (hereinafter "Fire Policy") insuring the full replacement value of any improvements located upon the Subject Property or Premises with a deductible of no more than ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00), against loss or damage by fire, theft and such other risks or hazards as are insurable under present and future forms of "All Risk" insurance policies. All policies are to be written by good and solvent insurance companies licensed to do business in the state of Washington and that are satisfactory to Grantor.

7.2 Waiver of Subrogation. Grantee shall, at its sole cost and expense, include in its insurance policies appropriate clauses pursuant to which the insurance companies waive all right of subrogation against Grantor with respect to losses payable under such policies and agree that such policies shall not be invalidated if, prior

to a loss, the insured waives, in writing, any or all right of recovery against any party for losses covered by such policies. Grantee shall furnish to Grantor upon demand evidence satisfactorily establishing the inclusion of the above clause in its insurance policy.

7.3 Waiver of Claims. Provided Grantee's right of full recovery under the Fire Policy is not adversely affected or prejudiced thereby, Grantee hereby waives any and all right of recovery which it might otherwise have against Grantor or its elected or appointed officials, servants, agents or employees for loss or damage to Grantee's personal property to the extent the same is covered by Grantee's insurance, notwithstanding that such loss or damage may result from the negligence or fault of Grantor, its elected or appointed officials, servants, agents or employees.

7.4 Default. Grantee's failure to provide and keep in force the aforementioned insurance will be regarded as a default hereunder, entitling Grantor to exercise any or all of the remedies for default provided in this Agreement.

8. Indemnification. Each Party shall indemnify, defend, and hold harmless the other Party and its officers, elected officials, employees and agents while acting within the scope of their employment as such, from all claims, liabilities, costs, attorney fees and expenses of any kind, type or nature whatsoever arising out of or in any way relating to the obligations associated with this Agreement caused by or resulting from each Party's own negligent acts or omissions including, without limitation, any claim, demand and/or cause of action brought by or on behalf of any of its employees or agents. The Parties' obligations to indemnify, defend and hold harmless under this Section 8 includes an obligation to indemnify, defend and hold harmless for losses resulting from death or injury to a Party's officers, elected officials, employees and agents and the Parties accordingly hereby waives any and all immunities they now have or hereafter may have under Title 51 RCW (Industrial Insurance), or other worker's compensation, disability benefit or other similar act that would otherwise be applicable in the case of such a claim and further acknowledge that such waiver was mutually negotiated by the Parties as required by RCW 4.24.115.

9. Assignment. The Right of Entry is personal to Grantee and Grantee may not be assigned to any other entity or person without the prior written consent of Grantor, which consent may be granted, withheld, conditioned or delayed by Grantor in its sole and absolute judgment and discretion.

10. Defaults; Remedies. In the event of any default by Grantee, Grantor may at any time, without waiving or limiting any other right or remedy, terminate the Right of Entry, order Grantee to immediately vacate the Subject Property, and/or pursue any other remedy allowed by law.

11. Waiver. Failure by Grantor to promptly enforce its rights under this Agreement shall not operate as a waiver of such rights.

12. Grantor's Right of Entry. Grantor reserves and shall at all times during the Term have the right to enter upon the Subject Property and Premises for any and all purposes not inconsistent with Grantee's Right of Entry and to observe Grantee's activities thereupon.

13. Notices. Any notices required or desired to be given shall be in writing and sent by either: (a) recognized overnight courier; (b) facsimile; or (c) electronic mail. Notices shall be sent in accordance with the contact information set forth below and shall be deemed delivered on: (a) the delivery date shown in the delivery records of the overnight courier; (b) the date of confirmed receipt by the recipient's facsimile; or (c) the send date indicated by the sender's electronic mail.

To Grantor: Pierce County Facilities Management Department
Attn: Real Property Specialist
Columbia Bank Building, Suite 302
1102 Broadway
Tacoma, WA 98402
Telephone: 253-798-7223
Facsimile: 253-798-7401
Email: *rtacket@co.pierce.wa.us*

Copy to: Pierce County Prosecuting Attorney/Civil Division
Attn: David H. Prather, Deputy Prosecuting Attorney
955 Tacoma Avenue South, Suite 301
Tacoma, WA 98402-2160
Telephone: 253-798-6732
Facsimile: 253-798-6713
Email: *dprathe@co.pierce.wa.us*

To Grantee: Puget Sound Clean Air Agency
Attn: Matthew Harper, Project Manager
1904 Third Avenue, Suite 105
Seattle, WA 98101
Telephone: 206-689-4009 (office)
206-516-9025 (mobile)
Facsimile: 206-343-7522
E-mail: *matth@pscleanair.org*

Any Party, by written notice to the other in the manner herein provided, may designate an address different from that set forth above. Any notices sent by a Party's attorney on behalf of such Party shall be deemed delivered by such Party. The email addresses set forth above are for convenience only and shall not be used to deliver any notice required or desired to be given under this Agreement.

14. Negotiation and Construction. This Agreement was negotiated by the Parties with the assistance of their own legal counsel and shall be construed according to

its fair meaning and not strictly for or against either Party.

15. Time. Time is of the essence of this Agreement and of every term and provision hereof. If the date for any performance under this Agreement falls on a weekend or holiday, the time shall be extended to the next business day.

16. Counterparts; Facsimile. This Agreement may be signed in two or more counterparts, which taken together shall constitute the complete agreement between the Parties. Signatures to this Agreement by the Parties transmitted via facsimile shall be acceptable and binding.

17. Prior Agreements. This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned herein and no prior agreement, letter of intent, negotiation or understanding pertaining to any such matter shall be effective for any purpose. No provision of this Agreement may be amended or added to, except by an agreement in writing signed by the Parties or their respective successors in interest.

18. Attorney Fees and Costs. In the event of litigation or other action brought to enforce terms of this Agreement, each Party agrees to bear its own attorneys' fees and costs.

19. Successors and Assigns. Except as otherwise expressly provided in this Agreement, all of the terms, covenants and conditions of this Agreement are binding upon and shall inure to the benefit of the Parties and their respective heirs, personal representatives, successors and/or assigns.

20. Performance by Grantee. Except as otherwise expressly provided in this Agreement, all covenants and agreements to be performed by Grantee hereunder shall be performed by Grantee at its sole cost and expense.

21. Severability. Any provision of this Agreement that proves to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision hereof, and such other provisions shall remain in full force and effect.

22. Governing Law; Venue. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the state of Washington. Grantor and Grantee agree that venue of any action between the Parties relating to the subject matter of this Agreement shall be in Pierce County, Washington.

23. Exhibits. The following exhibit is attached to and by this reference incorporated herein as if fully set forth:

- Exhibit A** - Legal Description of Subject Property
- Exhibit B** - Graphic Depiction of Premises
- Exhibit C** - Pictorial Depiction of Station

24. Effective Date. The effective date of this Agreement shall be the date Pierce County's Executive has signed this Agreement as indicated opposite her name below.

[SIGNATURES & ACKNOWLEDGEMENTS APPEAR ON FOLLOWING PAGES]

PUGET SOUND CLEAN AIR AGENCY SIGNATURE PAGE

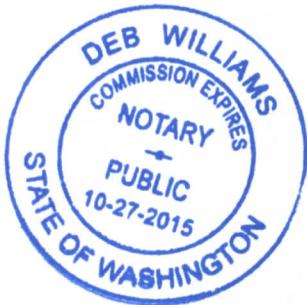
PUGET SOUND CLEAR AIR AGENCY, a Washington municipal corporation:

By: Paul Roberts 11/6/2013
Paul Roberts, Chair Date
Board of Directors

STATE OF WASHINGTON)
) ss.
COUNTY OF Snohomish

I certify that I know or have satisfactory evidence that PAUL ROBERTS is the person who appeared before me and who acknowledged that he is the Chair of the Board of Directors of the Puget Sound Clean Air Agency, the municipal corporation that executed the within and foregoing instrument, and who acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

Given under my hand and seal this 6th day of November, 2013.



Deb Williams
Notary Public in and for the State of Washington
Residing at: Everett
My appointment expires: 10-27-2015

EXHIBIT A
(Legal Description of Subject Property)

Section 02 Township 19 Range 05 Quarter 33 L 2 OF S P 76-638 EXC THAT POR CYD TO P CO FOR ADDL R/W PER ETN 764945 EASE OF RECORD COMB TO RESTORE PARCEL SEG'D FOR TAX PURPOSES ONLY COMB OF 7-041 & 7-042 SEG 2005-1331 JU 2/22/05JU.

EXHIBIT B
(Graphic Depiction of Premises)

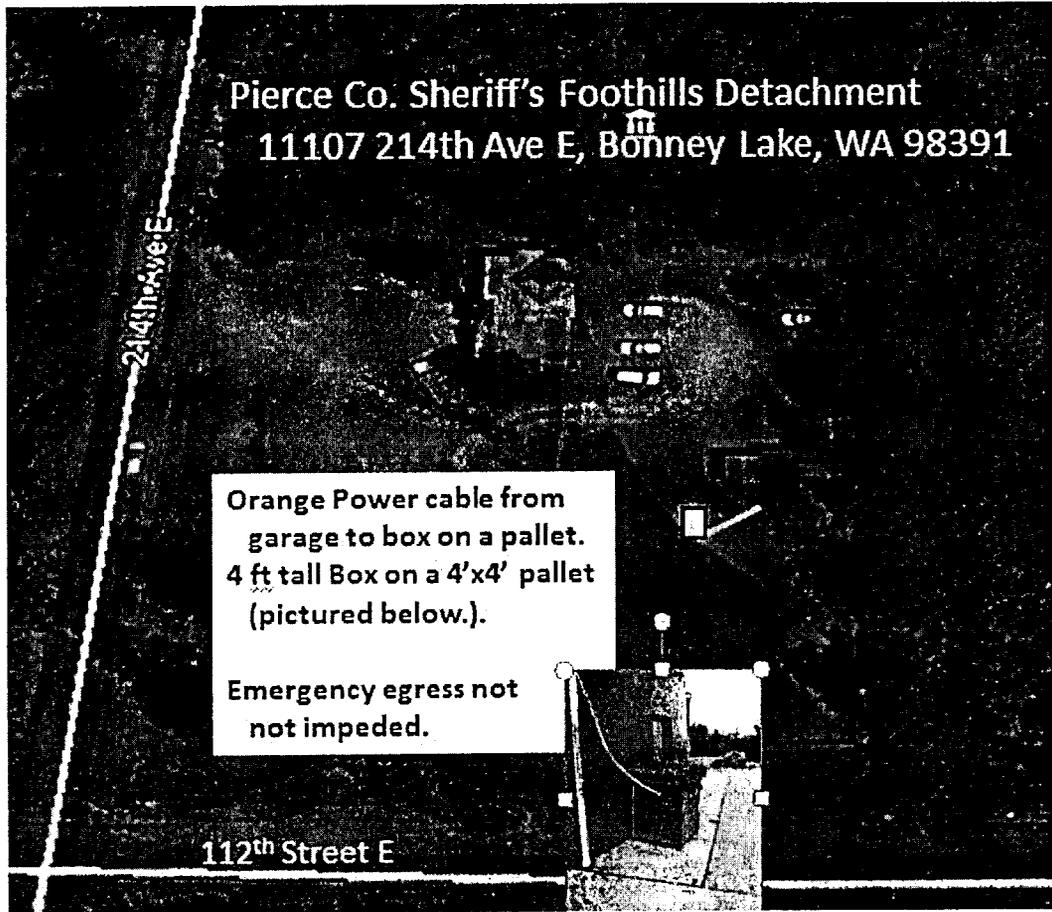
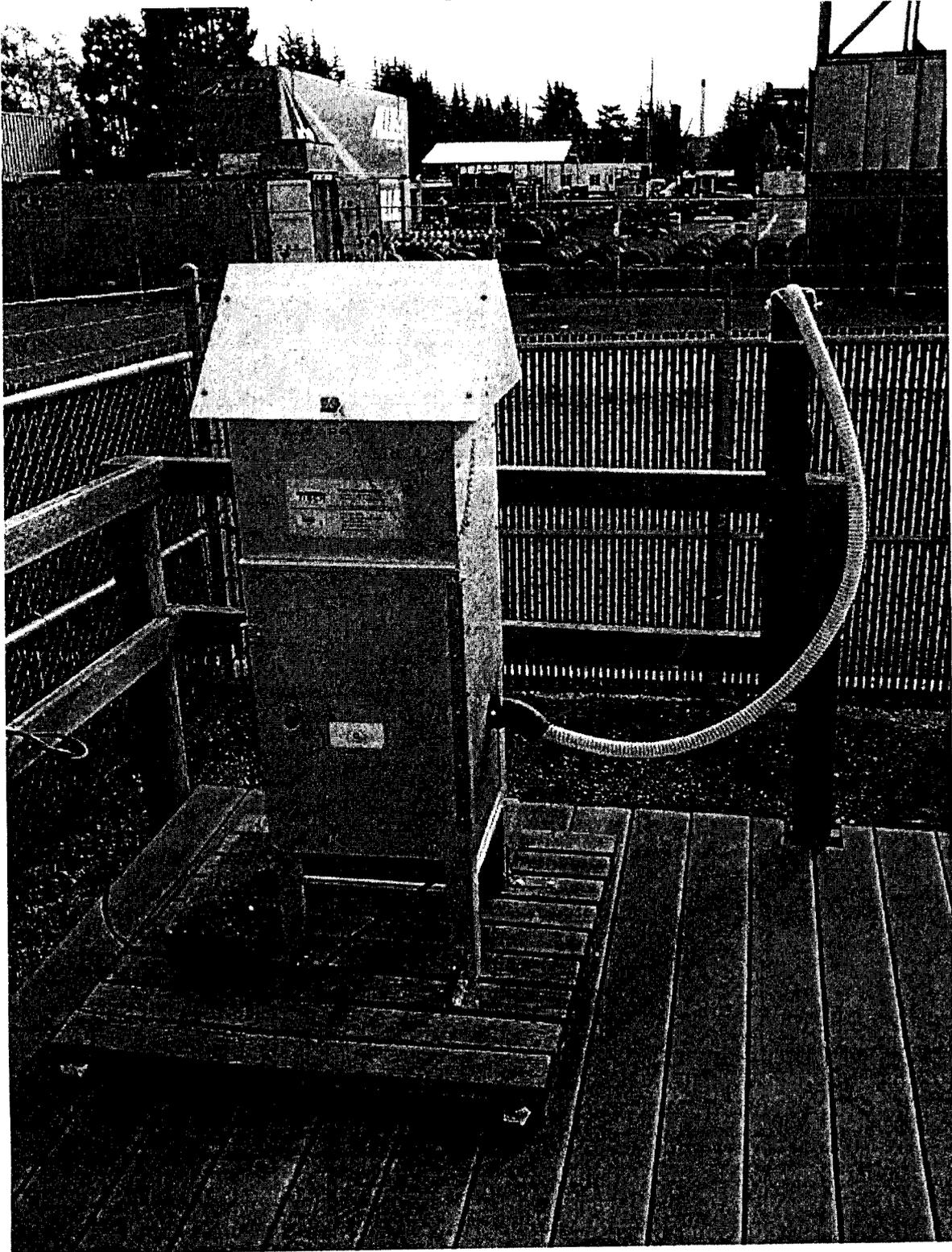


EXHIBIT C
(Pictorial Depiction of Station)



PIERCE COUNTY
CONTRACT SIGNATURE PAGE

*Temporary Right of Entry - Foothills Detachment
for PSCAA*

Contract # 91679

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 20____.

PIERCE COUNTY:

Approved as to legal form only:

By *see agreement*
Deputy Prosecuting Attorney Date

Recommended:

By *Gary Robinson* 11/19/13
Budget & Finance Date

Approved:

By *see agreement*
Department Director Date
(less than \$250,000)

By _____
Pierce County Executive Date
(\$250,000 or more)