

LEASE AGREEMENT

This Lease Agreement is made and entered into this 1st day of December, 2011, by and between **Bremerton School District No. 100-C**, a municipal corporation (the "District"), and the **Puget Sound Clean Air Agency**, a special purpose public regional organization (the "Lessee").

I. RECITALS

- A. The District is the owner of certain real property located in Kitsap County; and
- B. The Lessee desires to lease a portion of the District's property for educational purposes; and
- C. The District is currently not in need of the property for school purposes and is authorized to enter into this Agreement pursuant to RCW Ch. 28A.335; and
- D. The District is willing to allow the Lessee to use its property for educational purposes under the following terms and conditions.

II. AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and benefits herein, the parties agree as follows:

1. Property Leased. The District hereby leases to the Lessee under the terms and conditions set forth herein a fifteen foot (15') by twenty-five foot (25') parcel of land located on the campus of **Bremerton Junior High, 1300 E 30th, Bremerton, Washington** located approximately eighty-five feet (85') due east of the centerline of Spruce Ave and twenty-three feet (23') due south of the centerline of E 32nd St and described as hereinafter "the Leased Property."

2. Use of Property. The Leased Property shall be used solely for locating a measuring station for the purpose of monitoring air quality and educating staff and students on clean air issues.

3. Term. The term of this Agreement shall be for a three (3) year period with a three (3) year renewal option, commencing **December 1, 2011**, and ending **November 30, 2014**; provided, however, either party may terminate this Agreement earlier as provided in paragraph 13 below. At the end of the term, the Agreement will be reviewed and open to modification of the terms and rental amount.

4. Rent. Commencing **December 1, 2011**, Lessee shall pay the District the sum of twenty dollars (\$20) per month or shall pay two hundred forty dollars (\$240) per year.

Payment is due and payable in cash on or before the first day of each month or a single yearly payment each December 1st during the term of this Agreement.

5. Improvements to the Leased Property.

5.1 The Lessee shall have the right to make improvements to the Leased Property upon obtaining the written consent of the District.

5.2 The Lessee shall comply with all District requirements for the construction of any capital improvements on the Leased Property.

5.3 During the term of this Agreement, title to all facilities, improvements and appurtenant fixtures affixed to and constructed by the Lessee on the Leased Property except for the monitoring shelter and any monitoring equipment, shall be deemed to be part of the Leased Property and shall vest in the District. Upon expiration of this Agreement or the earlier termination of this Agreement as provided under paragraph 13 below, all personal property of the Lessee shall be removed by the Lessee at the termination of this Agreement, but upon such removal, the Lessee shall place the Leased Property in good condition.

6. Maintenance and Repair. The District shall provide all ordinary maintenance and repair including routine maintenance of the Leased Property. The Lessee shall not commit or cause or suffer to be committed any waste on the Leased Property. The Lessee shall be solely responsible for the cost of repairs outside of routine maintenance caused by Lessee's use of the Leased Property.

7. Utilities. The Lessee shall pay any charges for public utilities including installation and fees.

8. Compliance with Applicable Laws, Regulations and Rules. The Lessee shall not knowingly commit or willfully permit to be committed on the Leased Property any act or thing contrary to the laws, rules or regulations of any federal, state or local governmental authority, including rules, regulations and policies adopted by the District.

9. Surrender at End of Term. The Lessee shall surrender the Leased Property at the expiration of the term or extension thereof, in good order, condition and repair, reasonable wear and tear excepted.

10. No Representations. Neither the District nor its agents has made any representations whatsoever with respect to the condition of the Leased Property or any improvements thereto and no rights, easements or licenses are acquired by the Lessee by implication unless expressly set forth in the provisions of this Agreement. The use of the Leased Property by the Lessee shall be conclusive evidence that the Lessee accepts the Property "AS IS", "IN ITS PRESENT CONDITION", and "WITHOUT ANY WARRANTIES WHATSOEVER".

11. Assignment and Subletting. The Lessee may not assign this Agreement or sublet all or any part of the Leased Property without the prior written consent of the District.

12. Termination. Either party may terminate this Agreement at any time for any reason with or without cause by giving six (6) months advance written notice to the other party.

13. Insurance.

At all times during the term of this Agreement or any extension thereto, the Lessee shall, at its sole cost and expense and as additional consideration, maintain in full force and effect the following insurance:

13.1.1 Public liability insurance with a minimum coverage of one million dollars (\$1,000,000) payable to any one person for personal injury or death arising out of any one event, one million dollars (\$1,000,000) for all such personal injuries or death resulting out of one occurrence arising from use of the Leased Property or the Lessee's performance of its obligations under this Agreement, and one hundred thousand dollars (\$100,000) for property damage arising out of any one occurrence arising from use of the Leased Property or the Lessee's performance of its obligations under this Agreement.

13.1.2 Lessee shall name the District as an additional insured on all policies required under this Agreement.

13.1.3 All insurance required to be maintained by the Lessee under this Agreement shall be affected with insurers authorized to transact business in the State of Washington and with a company acceptable to the District. On the effective date of this Agreement, and thereafter not less than fifteen (15) days prior to the expiration dates of the existing policies furnished pursuant to this paragraph, certificates evidencing the required insurance shall be delivered by the Lessee to the District. Within fifteen (15) days after the premium on each such policy shall become due and payable, evidence shall be supplied to the District of such payment.

13.1.4 All insurance required to be maintained by the Lessee shall include a ten (10) day cancellation notice to the District.

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

15. Inspection. The District shall have the right of inspection of the Leased Property from time to time upon notice to Lessee.

16. Default. The following events are deemed to be events of default by the Lessee under this Agreement:

16.1 If the Lessee shall be in default of the performance of any obligations of this Agreement, and if such default is not cured within twenty (20) days after written notice thereof is given by the District; or if such default should be of such a nature that it cannot be cured completely within such twenty (20) day period, if the Lessee shall not have promptly commenced within such twenty (20) day period or shall not thereafter proceed with reasonable diligence and in good faith to remedy such default;

16.2 If the Lessee shall be adjudged a bankruptcy, make a general assignment for the benefit of creditors, or take the benefit of any insolvency act, or if a receiver or trustee in bankruptcy shall be appointed for the Lessee and such appointment is not vacated within thirty (30) days;

16.3 If this Agreement shall be assigned or Leased Property sublet other than in accordance with the terms of this Agreement and such default is not cured with twenty (20) days after written notice to the Lessee.

16.4 If any of the above events of default are not cured within the period stated above, then the District may immediately or at any time thereafter and without further notice or demand enter onto and upon the Leased Property or any part thereof and take absolute possession of the same, fully and absolutely without such reentry working a forfeiture of the covenant or covenants to be performed by the Lessee for the full term of this Agreement.

16.5 The statement of specific remedies as set forth above is not exclusive, and the District shall, at its option, have available any and all other remedies for default available to it under the laws of the State of Washington.

Nothing in this section shall alter the Lessee's right to or ownership of any monitoring equipment or shelter(s) constructed or stored on the Leased Property. If the District takes any action pursuant to this section, it shall promptly make available or return all monitoring equipment and shelter(s) constructed or stored on the Leased Property by Lessee.

17. Quiet Enjoyment. The District warrants title and quiet enjoyment of the Leased Property.

18. Hazardous waste.

18.1 The Lessee will not cause nor permit any activities on the Leased Property which directly or indirectly could result in the Leased Property becoming contaminated with hazardous or toxic waste or substances. For purposes of this Agreement, the term hazardous or toxic waste or substances means any substance or material defined or designated as hazardous or toxic wastes, hazardous or toxic material, a hazardous, toxic or radioactive substance or other similar term by any applicable federal, state or local statute, regulation or ordinance now or hereafter in effect.

18.2 The Lessee will indemnify and hold the District harmless from and against any and all claims, demands, damages, costs, expenses, losses, liens, liabilities, penalties, fines and lawsuits and other proceedings, (including attorney's fees) arising directly or indirectly from or out of, or in any way connected with any activities on the Leased Property during the Lessee's possession, control or use of the Leased Property which directly or indirectly result in the Leased Property or any other property becoming contaminated with hazardous or toxic waste or substances. The Lessee acknowledges that it will be solely responsible for all costs and expenses as a result of any activities by the Lessee on the Leased Property, relating to the clean-up of hazardous or toxic waste or substances from the Leased Property or from any other properties which become contaminated with hazardous or toxic waste or substances.

19. ADA Compliance. The District shall be solely responsible for compliance with the American Disabilities Act under this Lease Agreement.

20. Notice. Except as provided under Paragraph 9 above, any notice required to be given by either party to the other pursuant to the provisions of this Agreement or any law, present or future, shall be in writing and shall be deemed to have been duly given or sent if either delivered personally or deposited in the United States mail, postage paid, registered or certified, return receipt requested, addressed as follows or to such other address as either party may designate to the other in writing from time to time:

Lessee: Puget Sound Clean Air Agency
1904 Third Avenue, Suite 105
Seattle, WA 98101
Attention: Adam Petrusky

District: Bremerton School District
134 Marion Avenue North
Bremerton, Washington 98312
Attn: Wayne Lindberg
Director of Finance and Operations

21. Liens. The Lessee shall keep the Leased Property free from any liens arising out of any work performed, materials furnished or obligations incurred by the Lessee.

22. Attorneys' Fees. In the event of litigation or other action brought to enforce any terms in this Agreement, each party agrees to bear its own attorneys' fees and costs.

23. Other Documents. Each party undertakes to execute such additional or other documents as may be required to fully implement the intent of this Agreement.

24. Non-waiver of Breach. The failure of either party to insist upon strict performance of any of the covenants and agreements of this Agreement or to exercise any option herein contained in any one or more instances shall not be construed to be a waiver or relinquishment of any such, or any other, covenant or agreements; but the same shall be and remain in full force and effect.

25. Successors. The terms, covenants and conditions herein contained shall accrue to the benefit of successors and assigns of the parties hereto.

26. Governing Law. This Agreement is made pursuant to and shall be construed in accordance with the laws of the State of Washington.

27. Complete Agreement. This Agreement fully integrates the understanding of the parties. It supersedes and cancels all prior negotiations, correspondence and communication between the parties with respect to the Leased Property. No oral modification of or amendment to this Agreement shall be effective; however, this Agreement may be modified or amended by written agreement signed by all the parties to the Agreement.

28. Paragraph Headings, Gender and Number. Paragraph headings are not to be construed as binding provisions of this Agreement; they are for the convenience of the parties only. The masculine, feminine, singular and plural of any word or words shall be deemed to include and refer to the gender appropriate in the context.

29. Time of Essence. Time is of the essence of this Agreement and of every provision hereof.

30. Construction. Nothing contained herein shall create the relationship of principal and agent or of partnership or of joint venture between the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date opposite their respective signatures.

BREMERTON SCHOOL DISTRICT NO.100-C

Date: 12/9/11 BY: Wayne Lilly
 Its: Director of Finance + Operations

On this day personally appeared before me Wayne Lindberg, to me known to be the Director of Finance and Operations of Bremerton School District No. 100-C, the municipal corporation described in and that executed the within and foregoing instrument, and 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 on behalf of said municipal corporation.

GIVEN under my hand and official seal this 9th day of December, 2011.



Joanna Cossack
 (printed name of notary)

NOTARY PUBLIC in and for the State of Washington, residing at Bremerton.
 My commission expires: 4-28-2013

Joanna Cossack

STATE OF WASHINGTON))
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 COUNTY OF KITSAP))
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Puget Sound Clean Air Agency
1904 3rd Ave., Ste 105
Seattle, WA 98101

Certification Regarding Debarment, Suspension and Other Responsibility Matters

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

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

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

Wayne Lindberg Director of Finance and Operations
Typed Name & Title of Authorized Representative

Wayne Lindberg
Signature of Authorized Representative

12/9/2011
Date

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