



# City of Sacramento City Council

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915 I Street, Sacramento, CA, 95814  
[www.CityofSacramento.org](http://www.CityofSacramento.org)

**Meeting Date:** 11/29/2011

**Report Type:** Consent

**Title: Grant Agreement: Heavy Duty Low-Emission Vehicle Incentive Program**

**Report ID:** 2011-00964

**Location:** Citywide

**Recommendation:** Adopt a Resolution: 1) ratifying Grant Agreement No. VET 10-0051 between the City and the Sacramento Metropolitan Air Quality Management District (District) reimbursing the City in the amount of \$277,500 toward the purchase price of seven new replacement refuse trucks; and 2) authorizing the net proceeds from the sale of seven surplus refuse trucks at auction to be donated to the District.

**Contact:** Keith Leech, Fleet Manager, (916) 808-5869, General Services Department

**Presenter:** None

**Department:** General Services Dept

**Division:** Fleet Management Admin

**Dept ID:** 13001311

## **Attachments:**

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- 1-Description/Analysis
- 2-Attachment 1 Background
- 3-Resolution
- 4-Exhibit A Contract with Sacramento Metropolitan Air Quality Management
- 5-Exhibit B Authorization Letter

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### **City Attorney Review**

Approved as to Form  
Lan Wang  
11/17/2011 1:22:35 PM

### **City Treasurer Review**

Reviewed for Impact on Cash and Debt  
Russell Fehr  
11/15/2011 10:04:45 AM

### **Approvals/Acknowledgements**

Department Director or Designee: Reina Schwartz - 11/17/2011 12:39:59 PM

## Description/Analysis

**Issue:** On June 5, 2007, City Council adopted Resolution No. 2007-344 authorizing the acceptance and execution of Grant Agreement No. VET 07-0068 with the District to reimburse the City in the amount of \$277,500 for retrofitting 16 existing diesel powered refuse trucks with particulate traps. Subsequently, a new grant agreement (No. VET 10-0051) was executed to replace VET 07-0068, and re-program the grant funding to reimburse the cost of replacing seven refuse trucks with new cleaner burning trucks. The new grant agreement must now be ratified by City Council. In addition, this report recommends donating the proceeds from the sale of the seven surplus refuse trucks at auction to the District, which meets the terms of the new grant agreement and serves a public purpose by providing funding for a local agency working to achieve air quality benefits for the region.

**Policy Considerations:** The recommendations in this report are consistent with City Code Section 3.80 regarding the disposition of surplus personal property, and the City Council's policy of working cooperatively with community organizations to enhance the quality of life in Sacramento.

### Environmental Considerations:

**California Environmental Quality Act (CEQA):** The Environmental Services Manager has determined that the recommendations in this report are exempt from the requirements of CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines. Section 15061(b)(3) consists of an activity covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

**Sustainability:** The 2010 or newer model year diesel powered vehicles to be purchased and reimbursed with grant funding will be California Air Resources Board and United States Environmental Protection Agency certified. Model year 2010 heavy duty diesel engines feature 98.8 percent reduction of particulate matter and 99.8 percent reduction of nitrogen oxides when compared to the vehicles they will replace.

**Commission/Committee Action:** Not applicable

**Rationale for Recommendation:** On June 5, 2007, City Council adopted Resolution No. 2007-344 authorizing the acceptance and execution of Grant Agreement No. VET 07-0068 with the District to reimburse the City in the amount of \$277,500 for retrofitting 16 existing diesel powered refuse trucks with particulate traps. The Department of General Services, Fleet Management Division then petitioned the District to re-program funding under this grant and on December 7, 2010, District Grant Agreement No. VET 10-0051 was executed, as a replacement for Grant Agreement No. VET 07-0068, to reimburse the City in the amount of \$277,500 for replacing seven refuse trucks with new cleaner burning trucks.

The new grant agreement must now be ratified by City Council. The terms of Grant Agreement No. VET 10-0051 require the City to either: 1) surrender the old trucks to a District-

approved auto salvage dealer; 2) ensure that the dealership from which the City purchases the new trucks deliver the old trucks to an approved salvage dealer; or 3) obtain the District's approval of an alternative to surrendering the old trucks for salvage.

This report recommends donating the proceeds from the sale of the seven surplus refuse trucks at auction to the District, which meets the terms of the new grant agreement and serves a public purpose by providing funding for a local agency working to achieve air quality benefits for the region.

**Financial Considerations:** Grant Agreement No. VET 10-0051 reimbursed the City for \$277,500 of the purchase price of seven new replacement refuse trucks. Per the terms and conditions of the grant agreement, the City must surrender the old trucks for salvage or obtain the SMAQMD's approval of an alternative to surrendering the old trucks for salvage. This report recommends donating the proceeds from the sale of the seven surplus trucks at auction, an alternative to surrendering the old trucks for salvage. Based on previous auction sales, it is estimated that the net proceeds from the sale of the seven surplus trucks at auction is \$25,000 - \$35,000.

**Emerging Small Business Development (ESBD):** No goods or services are being purchased as a result of this report.



## Attachment 1

### **Background**

On June 5, 2007, City Council adopted Resolution No. 2007-344 authorizing the acceptance and execution of District Grant Agreement No. VET 07-0068 to reimburse the City in the amount of \$277,500 for retrofitting 16 existing diesel powered refuse trucks with particulate traps. The Department of General Services, Fleet Management Division then petitioned the District to re-program funding under this grant and on December 7, 2010, District Grant Agreement No. VET 10-0051 was executed, as a replacement for Grant Agreement No. VET 07-0068, to reimburse the City in the amount of \$277,500 for replacing seven refuse trucks with new cleaner burning trucks. Re-programming the grant funding was requested because ultimately it was discovered that the particulate traps that were available for the refuse trucks in question were not California Air Resources Board certified.

The terms of the new grant agreement require the City to dispose of the old refuse trucks by either: 1) surrendering the old trucks to a District-approved auto salvage dealer; 2) ensuring that the dealership from which the City purchases the new trucks deliver the old trucks to an approved salvage dealer; or 3) obtaining the District's approval of an alternative to surrendering the old trucks for salvage. The Department of General Services, Fleet Management Division has obtained the District's approval to sell the surplus refuse trucks through an auction yard of its choosing and then direct the proceeds of that sale to the District (Exhibit B). Donating the auction proceeds to the District serves a public purpose by providing funding for a local agency working to achieve air quality benefits for the region.



## **RESOLUTION NO. 2011-XXXX**

Adopted by the Sacramento City Council

November 29, 2011

### **GRANT AGREEMENT: HEAVY DUTY LOW-EMMISSION VEHICLE INCENTIVE PROGRAM**

#### **BACKGROUND**

- A. On June 5, 2007, City Council adopted Resolution No. 2007-344 authorizing the acceptance and execution of Sacramento Metropolitan Air Quality Management District (District) Grant Agreement No. VET 07-0068 to reimburse the City in the amount of \$277,500 for retrofitting 16 existing diesel powered refuse trucks with particulate traps.
- B. The Department of General Services, Fleet Management Division then petitioned the District to re-program funding under this grant and on December 7, 2010, District Grant Agreement No. VET 10-0051 was executed, as a replacement for Grant Agreement No. VET 07-0068, to reimburse the City in the amount of \$277,500 for replacing seven refuse trucks with new cleaner burning trucks.
- C. The terms of Grant Agreement No. VET 10-0051 require the City to either: 1) surrender the old trucks to a District-approved auto salvage dealer; 2) ensure that the dealership from which the City purchases the new trucks deliver the old trucks to an approved salvage dealer; or 3) obtain the District's approval of an alternative to surrendering the old trucks for salvage.
- D. The Department of General Services, Fleet Management Division has obtained the District's approval of an alternative method of disposal of the old trucks, which meets the grant requirements and serves a public purpose by providing funding for a local agency working to achieve air quality benefits for the region.

#### **BASED ON THE FACT SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

- Section 1. Grant Agreement No. VET 10-0051 between the City and the Sacramento Metropolitan Air Quality Management District is hereby ratified.
- Section 2. Donating the net proceeds from the sale of seven surplus refuse trucks at auction to the Sacramento Metropolitan Air Quality Management District is hereby approved.
- Section 3. Exhibits A and B are part of this Resolution.



**COPY**

Agreement Number VET-10-0051

**SACRAMENTO METROPOLITAN AIR QUALITY MANAGEMENT DISTRICT  
HEAVY-DUTY LOW EMISSION VEHICLE INCENTIVE PROGRAM AGREEMENT**

This Agreement (Agreement) is between the Sacramento Metropolitan Air Quality Management District (District or SMAQMD), a California local public agency and City of Sacramento (Participant).

**1.0. Recitals**

- 1.1. The District is part of the Federal Sacramento Ozone Nonattainment Area (SFNA or Nonattainment Area). (A map of the Nonattainment Area is included in Exhibit A) Ozone is formed by the interaction of Nitrogen Oxides (NOx) and other precursor pollutants. The majority of NOx in the Sacramento Nonattainment Area is generated by vehicles, including heavy-duty vehicles and engines.
- 1.2. The District is the local agency within the boundaries of Sacramento County with the primary responsibility for the development, implementation, monitoring, and enforcement of air pollution control strategies, clean fuel programs, and motor vehicle use reduction measures under Health and Safety Code Section 40961.
- 1.3. The District is authorized by Health and Safety Code Sections 41062(a) and 41082 to implement programs to reduce transportation emissions, including programs to encourage the use of alternative fuels and low-emission vehicles.
- 1.4. Through a series of District Board of Directors actions beginning in 1996, the District adopted the Heavy-Duty Low Emission Vehicle Incentive Program (HDLEV Program or Program), and authorized the Air Pollution Control Officer, in consultation with the District Counsel, to make revisions to the Program from time to time. (See Resolution Nos. 96-0027, 96-0099, 98-007, 98-0043, 2005-050.) The HDLEV Program was expanded under Resolutions 99-0011, 99-0025, 2000-006, 2001-020, 2001-039 to include the District's Carl Moyer Program. Both the HDLEV and Carl Moyer Program are incorporated by reference into this Agreement and will be referred to collectively as the "HDLEV-Moyer Program" or "the Program."
- 1.5. On September 23, 2004, Governor Schwarzenegger signed Assembly Bills 923, 1394, and 2128, which made major changes to the Carl Moyer Program and projects funded using Department of Motor Vehicles Surcharges. The legislation expanded the Carl Moyer Program to include light-duty vehicles, Fleet Modernization, and agricultural assistance projects (AB 923, 1394, and 2128 projects).
- 1.6. The HDLEV-Moyer Program provides incentives to fleet operators and individuals for the purchase, repower and/or retrofit of low-emission on-road motor vehicles, off-road mobile equipment, and agricultural water pumps, as well as the AB 923, 1394, and 2128 projects.
- 1.7. The California Air Resources Board (CARB) has developed Carl Moyer Program Guidelines, and the District has developed Guidelines that incorporate and implement these CARB guidelines. These documents are collectively referred to as the "Moyer Guidelines."
- 1.8. Participant has reviewed and is familiar with the Moyer Guidelines
- 1.9. Participant understands that the purpose of the Program, and this Agreement, is to help District achieve clean air standards as required by state and federal law.
- 1.10. Participant wishes to participate in the Program by purchasing and operating the New Equipment (as defined in Paragraph 2.1.7).
- 1.11. The parties specifically recognize that the CARB is a third-party beneficiary to this Agreement and has the right to audit compliance with the Agreement, including conducting inspections, and has the right to enforce Participant's compliance with the terms of the Agreement.

## 2.0. Special Terms and Conditions

The parties agree to the terms and conditions listed below.

2.1. **Definitions:** As used in this Agreement, the following terms have the following meanings:

- 2.1.1 **"Agricultural water pump"** means a stationary or portable device designed to move water used for agricultural purposes.
- 2.1.2 **"Applicable emission standards"** means the most stringent emission standards for NO<sub>x</sub>, particulate matter (PM), hydrocarbons, and carbon monoxide established by the California Air Resources Board (CARB) or the United States Environmental Protection Agency (USEPA) for the model year of the vehicle or engine. For engines subject to averaging, banking, and trading procedures as defined in California Code of Regulations, Title 13, §1956.8(a)(2) or §2423(b), the following standards apply:

Engine Model Year	Power Rating	NO <sub>x</sub> Standard	PM Standard
2007-2009 On-Road	All On-Road Heavy-Duty Diesel Engines	1.2 g/bhp-hr	0.01 g/bhp-hr

- 2.1.3 **"Certified"** means a motor vehicle or engine that is certified by CARB or the USEPA to an emission standard or standards.
- 2.1.4 **"Dealership"** means a business that has entered into an agreement with SMAQMD to assist in the implementation of the Carl Moyer Program and that specializes in the sale of new and used heavy-duty on- or off-road vehicles or agricultural pumps or in the installation of specific retrofitting equipment.
- 2.1.5 **"Destroyed"** means that the vehicle or equipment is rendered permanently incapable of passing a California Highway Patrol inspection or is otherwise deemed permanently illegal to operate on public roads.
- 2.1.6 **"Electronic Monitoring Unit"** means a District-approved Global Positioning System (GPS) device that is installed on a motor vehicle and that: (i) monitors the locations in which the vehicle is operated within a specified geographic boundary, and (ii) passively transmits usage data reports to the District or its designee.
- 2.1.7 **"New Equipment"** means the agricultural water pumps, on-road motor vehicles, off-road equipment, devices, emission control systems and/or replacement engines funded under this Agreement and identified in Exhibit B.
- 2.1.8 **"Experimental Permit"** means an Executive Order issued by CARB for the experimental use of a non-certified or non-verified engine, fuel, or engine retrofit in California.
- 2.1.9 **"Off-road equipment"** means a self-propelled device not intended for operation on a highway that is powered by an engine certified to off-road or nonroad emission standards.
- 2.1.10 **"Old or Existing Vehicle, Engine or Equipment"** means the vehicle, engine or other equipment listed in Exhibit B, Existing Vehicle Information and Existing Engine Information sections.
- 2.1.11 **"On-road motor vehicle"** means a self-propelled device by which any person or property may be propelled, moved, or drawn upon a highway, but does not include a device moved exclusively by human power or used exclusively upon stationary rails or tracks.

- 2.1.12 **“Participant Agreement”** means the Carl Moyer Program Agreement between SMAQMD and a Program Participant, under which SMAQMD agrees to pay the Program Participant a specific amount to help offset the cost of purchasing New Equipment from Dealership.
- 2.1.13 **“Project Completion”** means the project post-inspection has confirmed that the new equipment is operational. Project Completion cannot occur before the date of execution of the Participant Agreement.
- 2.1.14 **“Project Implementation”** means the period following Project Completion, during which period the participant must meet the performance obligation in Exhibit C.
- 2.1.15 **“Program”** means the CARB Carl Moyer Program and the CARB Fleet Modernization Program Guidelines (as amended from time to time) and the District's HDLEV-Moyer Program and Guidelines, all of which are incorporated into this Agreement as if fully set forth.
- 2.1.16 **“Program Participant”** means the individual, agency, or business entity that is receiving funds to aid in the purchase of, or retrofit, the New Equipment.
- 2.1.17 **“Reimbursement Formula”** is the following calculation for determining the level of funds to be returned to the District if Participant fails to meet the operational requirements of the Agreement:

$$A = I * [(O*L) - C] / (O*L)$$

A = Amount Owed to the District

I = Total Incentive Award

O = Annual Operational Requirement (miles, hours or gallons)

L = Length of the Agreement in Years

C = Actual Operation (miles, hours, or gallons consistent with the form of measure used in “O”)

- 2.1.18 **“Replacement Vehicle”** means the newer, lower-emission vehicle described in Exhibit B, Sections 4 and 5. The vehicle must meet or exceed California Air Resources Board 2007-emission standards.
- 2.1.19 **“Repower”** means the process in which an old engine is replaced with a new engine.
- 2.1.20 **“Retrofit”** means the installation of one or more devices designed to reduce emissions from a heavy-duty diesel engine.
- 2.1.21 **“Tier 3”** means the emission certification of an off-road compression ignition engine to the Tier 3 emission standards as described in California Code of Regulations, Title 13 §2423(b)(1).
- 2.1.22 **“Verified”** means a device, fuel, or system that is verified by CARB or the USEPA to reduce emissions from a mobile source by a verified amount.

## 2.2 Payment:

- 2.2.1 SMAQMD will pay up to **\$277,500** to Participant to aid in the purchase of the New Equipment. No payment is required until: (i) the Participant commences operation, as required under Paragraph 2.3.1 (Time), (ii) the Participant submits a Payee Data Record form, as required under Paragraph 2.2.3, and (iii) and Participant satisfies the requirements in Paragraph 2.5 (Inspections and Audits) and 2.6 (Invoice Requirements).
- 2.2.2 \_\_\_\_\_ By initialing this paragraph, the Participant authorizes SMAQMD to issue a two-party check in the name of the Participant and Work being done by participant.

2.2.3 Payments made under this Agreement may be subject to taxation. Participants are encouraged to consult with a tax professional regarding the taxability of payments from this program. Participant is not entitled to payment until it submits a completed W-9 form to the County of Sacramento prior to payment. The County of Sacramento will report the payment to both the State of California and the United States Treasury and will issue an IRS Form 1099 to the Participant.

**2.3 Participant Obligations:** Participant must:

2.3.1 **Time:** Purchase and begin operating the New Equipment described in Exhibit B within 180 days of the execution of this Agreement by all parties. Participant may submit a written request to extend this time frame if it is unable to comply with the deadline due to circumstances outside Participant's reasonable control. No extension will be granted, regardless of the circumstances, if the new deadline would conflict with deadlines under the Carl Moyer Program.

2.3.2 **Operation:** Meet the operational requirements of Exhibit C for each item of New Equipment described in Exhibit B, and (i) operate the New Equipment in a manner that is consistent with the Program eligibility requirements, the goals and objectives of the Program, the terms of this Agreement, and all local, state, and federal rules, laws, and regulations, (ii) insure that at least 75% of the total operation of the New Equipment occurs within California, and (iii) if the New Equipment is an agricultural pump, insure that it is only operated in the SFNA.

2.3.3 **Equipment Warranties:** Secure New Equipment Warranties and operate the New Equipment within the manufacturer's specifications, including all maintenance and fueling requirements.

2.3.4 **Engine Calibration:** Ensure that the new Equipment is only operated when it is calibrated to the lowest emission standard certified by CARB or the U.S. Environmental Protection Agency (EPA), which ever is lower.

**2.3.5 Additional Devices Requirements:**

2.3.5.1 **Electronic Monitoring Unit:** If requested by the District, install and EMU and provide proof of installation within 90 days of the request.

2.3.5.2 **Usage Meter:** Install an operational odometer, hour meter (off-road equipment only) or other SMAQMD approved usage measuring device on the Equipment.

2.3.5.3 **Particulate Controls:** Install a District-approved and CARB verified particulate matter control device. Installation may be waived if Participant obtains a certification from a District-approved Engine Dealership stating that no such device has been approved or certified for use with the Replacement Vehicle. This paragraph does not apply to agricultural pumps.

2.3.5.4 **Notice and Repair:** Notify the District immediately if the EMU (or other approved device) or particulate device fails or becomes inoperable, and repair the devices as soon as practicable. Prepare a written record of any usage not recorded by the EMU or other approved device while repairs are pending.

**2.3.6 Old Vehicle Surrender:**

(i) Surrender the Old or Existing Vehicle, Engine or Equipment to a District-approved auto salvage dealer or ensure that the dealership from which Participant purchases the Replacement Vehicle, Engine or Equipment delivers the Old Vehicle, Engine or Equipment to an approved salvage dealer.

(ii) Insure that the Old or Existing Vehicle, Engine or Equipment is in good operating condition when it is delivered to the District-approved dealership or salvage yard.

- (iii) Obtain the District's approval of an alternative to surrender for salvage. The District may approve an alternative if there are special circumstances that justify the alternative approach and the alternative will not have a detrimental impact on air quality.
  - (iv) \_\_\_\_\_ District to initial here if there is no salvage requirement under this Agreement.
- 2.3.7 **Decals:** Display two decals approved by the District on the New Equipment. The District must approve the location of the decals.
- 2.3.8 **Program Guidelines:** Comply with all other requirements detailed in this Agreement and the Program.
- 2.3.9 **Disclosures:** Complete Exhibit G and, if this Agreement requires approval by the Board of Directors, Exhibit H.
- 2.4 **Participant's Warranties:** The Participant warrants that:
- (i) It has completed a Carl Moyer Application Form and all of the information presented in the Form is complete and accurate. Participant's Application for the Carl Moyer Program is incorporated by reference in this Agreement.
  - (ii) Both the Old or Existing Vehicle, Engine or Equipment and the New Equipment meet all of the criteria established in the Program Guidelines in effect at the time this Agreement is signed, as well as the goals and objectives of the Program.
  - (iii) The purchase of the New Equipment described in Exhibit B is not required by any law or regulation with the exception of certain agricultural projects described in Health and Safety Code §41081(d)(2)(ii). If the Participant is a public agency, Participant further warrants that its board policies do not require the purchase.
  - (iv) It will not make any modifications to, or tamper with the New Equipment, engine, emission control system or any recording devices on the New Equipment, and will not modify engine performance (including changes in horsepower), emission characteristics, engine emission components (not including repairs with substantially similar original equipment manufacturer replacement parts), or the engine's emission control function in any manner.
  - (v) It has read and agrees to all requirements of the Program application and guidelines, including the applicable CARB Carl Moyer Program Guidelines. The Participant also agrees to read and meet all subsequent revisions to and advisories regarding the CARB Carl Moyer Program Guidelines.
- 2.5 **Inspections and Audits:** The New Equipment funded under this Agreement is subject to inspection by SMAQMD, CARB, or their designee at any time. Any inspection will be conducted at a reasonable time and with reasonable notice to Participant. Inspections will include the pre-, post-, salvage, and audit inspections identified in paragraphs 2.5.1 to 2.5.4.
- 2.5.1 **Pre-inspection:** SMAQMD will conduct a pre-inspection of the Old or Existing Vehicle, Engine or Equipment, if any, to verify that the Old or Existing Vehicle, Engine or Equipment qualifies for funding and that the information supplied in the Participant's application is correct.
- 2.5.2 **Post-inspection:** SMAQMD will conduct an inspection after the New Equipment is purchased and (if necessary) installed to verify that the New Equipment meets the Program requirements.
- 2.5.3 **Salvage Inspection:** SMAQMD will conduct salvage inspections to ensure that, at the time of salvage, the Old or Existing Vehicle, Engine or Equipment, if any to be destroyed, is in the same condition it was in at the pre-inspection. If the condition of the Old or Existing Vehicle, Engine or Equipment has changed, SMAQMD may deny or decrease the payment authorized under 2.2

(Payment). SMAQMD will also conduct a post-salvage inspection to verify destruction or disposal of the Old or Existing Vehicle, Engine or Equipment, if applicable.

- 2.5.4 **Audit Inspection:** SMAQMD, CARB, or their designees will conduct audit inspections as necessary to verify the New Equipment is operating pursuant to program guidelines and meeting contractual requirements. SMAQMD, CARB, or their designees may perform a fiscal audit of the project at any time during the Project Implementation period.
- 2.6 **Invoice Requirements:** The Participant must submit a final invoice packet to SMAQMD. This requirement may be met by submission of the documents by a Dealership on Participant's behalf. The packet must include the New Equipment's identification number, engine serial number, odometer/hour meter reading and the date the New Equipment was purchased or retrofitted. The invoice must also include copies of:
- 2.6.1 **UCC-1 Form:** A copy of an UCC-1 Form, filed with the California Secretary of State, giving SMAQMD a security interest in the New Equipment for the full amount of the funds to be paid to the Participant under a Participant Agreement.
- 2.6.2 **Purchase Documentation:** A copy of (i) the New Equipment invoice, and (ii) copies of all invoice documents associated with the purchase and installation of New Equipment described in Exhibit B, detailing costs associated with parts, labor, and miscellaneous charges, including a copy of the Program Participant final itemized paid invoice, invoices for work performed to meet Carl Moyer eligibility requirements, and the finance agreement for any portion of the New Equipment purchase price to be privately financed. The documentation must include the odometer or hour meter reading (whichever is applicable) on the date the New Equipment is financed.
- 2.6.3 **DMV Registration:** If the New Equipment is an on-road vehicle, a copy of the DMV registration for the New Equipment, listing Participant as the registered owner and SMAQMD as lienholder on the New Equipment, if applicable.
- 2.6.4 **Engine Warranty:** A copy of an engine warranty that verifies the New Equipment meets the Program requirements.
- 2.6.5 **Usage Meter Installation:** Copy of an invoice documenting that an odometer, hour meter or other District-approved tracking device has been purchased and installed on the New Equipment, and a written confirmation by Dealership that the meter is operational.
- 2.6.6 **Particulate Control Device:** A copy of an invoice verifying that a SMAQMD approved, CARB verified diesel emission control system has been installed on the New Equipment, or a certification by the Dealership that no such device has been approved or certified for use with the New Equipment. If a device is installed, include a written confirmation by the Dealership that the device is operational.
- 2.6.7 **Proof of Insurance:** A copy of proof of insurance demonstrating compliance with section 3.6 and Exhibit D.
- 2.7 **Title and Finance Requirements:** If this Agreement is for the purchase of a new vehicle, the Participant agrees to the following motor vehicle title and finance requirements:
- (i) The Participant must provide a copy of the vehicle's title to the District, demonstrating that the District is named as a lienholder of the vehicle. If the District is the sole Lienholder, Participant will provide the original title to the District.
  - (ii) The Participant must be the registered owner of the vehicle throughout the term of this Agreement.
  - (iii) If the vehicle is financed, the Participant must list the District and the Finance Company as lienholders for the vehicle.

- ~~(iv) If the vehicle is financed, and the vehicle loan is repaid before the termination of this Agreement, the Participant must ensure that the District is listed as the sole lienholder on the vehicle for the entire remaining term of this Agreement.~~
- (v) If the vehicle is repossessed by the finance company, the Participant must immediately notify the District and must reimburse the District in accordance with Paragraph 2.9 (Reimbursements).
- (vi) Any changes to the vehicle's title must be preapproved in writing by the District.

2.8 **Mandatory Information Release:** Participant authorizes release to the District of the information specified below, and agrees to hold the releasing parties immune from liability for the release of the information to the District.

2.8.1 NA **Release of Financial Information:** If the Participant is using commercial or other loans to purchase the Equipment, then by initialing this paragraph it authorizes the financing entity to release any and all financial information to the District regarding the Participant's payment status at any time during the term of this Agreement.

2.8.2 **Address Information:** Participant authorizes the release of information within the possession or control of any source, including individuals, private or public companies, or government agencies, regarding the past, current or potential future address of Participant or Participant's business (including phone numbers and email addresses), or information that could lead to such information.

2.9 **Termination:**

2.9.1 **General:** The District may immediately suspend or terminate this Agreement, in whole or in part, if it determines that there is: (i) an illegal or improper use of funds; (ii) a failure to comply with any term of this Agreement; or (iii) a failure to submit a correct and complete report. In no event will any payment by the District constitute a waiver by the District of any breach of this Agreement or any default that may then exist on the part of Participant. Neither will such payment impair or prejudice any remedy available to the District with respect to the breach or default. The District will have the right to demand the repayment to the District of any funds disbursed to Participant under this Agreement that it determines were not expended in accordance with the terms of this Agreement. Participant must promptly refund the moneys upon demand. In addition to immediate suspension or termination, the District may impose any other remedies available by law, in equity, or otherwise specified in this Agreement.

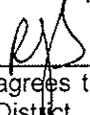
2.9.2 **Limitation:** Notwithstanding the provisions of this Paragraph, the Participant is subject to the reimbursement requirements of Paragraph 2.10 (Reimbursements), which are in addition to, and do not offset or displace, any other recovery rights that the District may have in the event the contract is breached.

2.9.3 **Funding:** The parties acknowledge that this Agreement will be funded by incentive fund revenues from other agencies; however, the District may terminate this Agreement if: (i) it does not receive all or a portion of the revenues, or (ii) funds are not specifically appropriated for this Agreement in the District's final budget prior to the expiration of the Agreement and any Agreement extensions. If the District terminates this Agreement under this paragraph, it will serve notice of the action on the Participant within 10 working days.

2.10 **Reimbursements:** Notwithstanding the provisions in Paragraph 2.9 (Termination), the Participant is subject to the reimbursement requirements of this Paragraph, which are in addition to, and do not offset or displace, any other recovery rights that the District may have in the event the contract is terminated or breached. If the Participant fails to fulfill the minimum operational requirements by the termination date in Paragraph 2.16 (Term), it must refund a pro rata portion of the \$277,500 to the District.

- 2.10.1 **Reimbursement Determination:** The District will determine whether a reimbursement is required after reviewing the annual reports required under Paragraph 2.11 (Recordkeeping and Reporting Requirements). If the Participant has failed to submit a report for any year, the District may assume that none of the operational requirements were met for that year.
- 2.10.2 **Reimbursement Amount:** The reimbursement amount is the difference between the required level of operation and the actual level of operation during a given contract year, according to the Reimbursement Formula. The termination date of the contract will be automatically extended until payment is complete.
- 2.10.3 **Early-Termination Reimbursements:** If the contract is terminated prior to the termination date in Paragraph 2.16 (Term), the District may:
- (i) Demand full repayment of the Paragraph 2.2 (Payment) funds, or
  - (ii) Apply the Reimbursement Formula and demand repayment of the prorated amount.
- 2.10.4 **Inoperable Equipment Reimbursements:** If the Equipment is stolen or rendered inoperable prior to the end of the Agreement term (as determined by Participant's insurance company), Participant may either: (i) replace the inoperable Equipment with new equipment certified to equal or lower emission levels than the inoperable Equipment and complete performance of this Agreement or (ii) terminate the Agreement and a return a prorated portion of the **\$277,500**, based on the Reimbursement Formula.
- 2.10.5 **Full or Partial Waiver:** The Air Pollution Control Officer (APCO) of the District may, at his or her sole discretion, relieve the obligation to reimburse funds after considering the circumstances leading to the failure to fulfill the minimum performance requirements.
- 2.11 **Recordkeeping and Reporting Requirements:**
- 2.11.1 **Record Requirements:** Participant must maintain adequate records to document compliance with this Agreement. Records include the documents specified below. Participant must maintain the records for the term of the contract and the three years following the end date listed in Paragraph 2.16 (Term). The District may inspect or request copies of these records at any time during the term of this Agreement. This paragraph will survive the termination of this Agreement.
- (i) **On-road Vehicles:** Required records include copies of all driver log book entries, miles travelled, vehicle downtime, and type and cost of maintenance performed.
  - (ii) **Agricultural and off-road projects:** Required records include the hours operated, engine downtime, and type and cost of maintenance.
- 2.11.2 **Report Requirements:** The Participant must submit a report stating the miles travelled or hours operated in the preceding year, the fuel consumed, the type and cost of maintenance or repair work performed over the course of the year, and the amount of time the Equipment was inoperable due to the maintenance and repair activities.
- 2.11.3 **Report Submission Deadlines:** Participant must submit use reports at least once annually or as requested by the District, CARB staff, or their representatives. Annual reports are due not later than January 31 of each year. Additional reports are due on the date specified in the request, or within 30 days if no date is specified. The District, CARB or their representatives may also request additional performance or other documentation at their discretion and Participant must provide the requested information on the date specified in the request, or within 30 days if no date is specified.

2.11.4 **Failure to Comply:** If Participant fails to comply with the reporting requirements, the District may require repayment in accordance with the 2.10 (Reimbursements), or, at its sole election, institute on-site monitoring and inspection measures.

2.12  **Sale of New Equipment:** By initialing this paragraph, the Participant acknowledges and agrees that it may not sell or encumber the New Equipment without the prior written consent of the District. The District will not approve the sale, transfer, licensing, or subcontracting, unless:

(i) The Participant notifies the prospective buyer of the Equipment, in writing, of the terms of this Agreement and any unperformed requirements.

(ii) The buyer executes a Moyer Program Agreement with the District.

2.13 **Grant of Security Interest:** Participant grants to SMAQMD a security interest in the New Equipment to secure its performance under this Agreement. Participant authorizes SMAQMD to prepare and file applications, financing statements, continuation statements, statements of assignment, termination statements, lawsuits, and the like, as necessary to perfect, protect, preserve, foreclose, or release SMAQMD's interest in the New Equipment.

2.14 **Incentive Funding Limits:** Participant (Participant must initial one):

\_\_\_\_\_ HAS received incentive funding for the Old Equipment described in Exhibit B under a previous incentive agreement, and the information associated with this funding, including but not limited to the funding source, amount, and contract term associated with the previous incentive grant is attached as Exhibit E. Participant understands that funds received under any other incentive agreement may not be used to fund the New Equipment

 HAS NOT received incentive funding from a previous incentive agreement.

2.15 **PG&E Emission Reduction Credits:** Notwithstanding Paragraph 3.3 (Prohibition on Emission Reduction Credits), this Agreement does not prevent Pacific Gas and Electric Company (PG&E) from receiving emission reduction credits for projects involving the replacement of a stationary diesel agricultural water pump with an electric water pump in conjunction with the PG&E discounted AG-ICE electric rate program approved by the Public Utilities Commission on June 16, 2005 (D050616).

2.16 **Term:** This Agreement will begin upon execution by all parties and terminate on **12/31/2016**. The Project Completion period is 180 days beginning with the execution of the Agreement by all parties and ending with the initial operation of the New Equipment as verified by the post-inspection. See Paragraph 2.3.1 (Time) regarding extensions of this period. The Project Implementation period is the period immediately following the Project Completion period. Notwithstanding the expiration or early termination of this Agreement, SMAQMD's security interest in the New Equipment will continue in full force and effect until Participant fully satisfies its obligations under this Agreement.

2.17 It is the Participant's responsibility to insure that its contact and address information in Section 3.29 (Communications) is current at all times. If the District is forced to pursue legal action and is unable to complete personal or substitute service on Participant, it will request court permission to serve notice by publication in the Sacramento Bee and The Daily Recorder, and will seek a default judgment if the Participant fails to timely respond to legal actions filed by the District.

### 3.0 General Terms and Conditions

3.1 **Term:** Not Applicable, see Paragraph 2.16 (Term).

3.2 **Inspections:** Not Applicable, see Paragraph 2.5 (Inspections and Audits).

- 3.3 **Prohibition on Emission Reduction Credits:** The receipt of funds under this Agreement prohibits application for any form of emission reduction credit – for any pollutant – for the New Equipment described in Exhibit C. This prohibition includes, but is not limited to: (i) all attainment, nonattainment, criteria and noncriteria pollutants, and (ii) application for Emission Reduction Credits (ERC), Mobile Emission Reduction Credits (MERC) or Certificates of Advanced Placement (CAP). This prohibition extends to credits from all Air Quality Management or Air Pollution Control Districts.
- 3.4 **Prohibition on Vocation Change:** Not Applicable.
- 3.5 **Voluntary Act:** The Participant's purchase of the New Equipment is a completely voluntary act and the District has not made representations or guarantees to the Participant regarding the New Equipment.
- 3.6 **Insurance:** The Participant must maintain the insurance coverage described in Exhibit D for the entire term of this Agreement and any extensions to the Agreement. The Participant must name the District as an additional insured and loss payee. The Participant must obtain and transmit to the District a yearly Certificate of Insurance from the Insurance Company(ies) listing the District as additional insureds and loss payees, and obligating the Company(ies) to provide at least 30 days notice to the Participant and the District in the event of a change in, cancellation of, non-renewal of, reduction in coverage under, or termination of any policy listed on the certificate for any reason whatsoever. If the Participant fails to obtain the required certificate of insurance, or if the required insurance lapses, this Agreement may be terminated by the District immediately.
- 3.7 **Notice of Significant Events:** Participant will provide to the District prompt written notice of any of the following events:
- (i) Any pending litigation or governmental action that may have a material adverse effect on Participant's ability to operate its business in the ordinary course, or Participant's ability to perform this Agreement.
  - (ii) Any change in its name, adoption of a fictitious business name, change in the location of its principal place of business, change in its business structure (such as from a sole proprietorship to a corporation), any proposed sale or transfer of substantially all its operating assets, or any proposed sale or transfer of 20.0% of its equity ownership or control.
  - (iii) The filing of any petition in bankruptcy by or against Participant.
  - (iv) The occurrence of any catastrophic loss to Participant, Participant's principal place of business, or Participant's operating assets.
  - (v) Damage to the New Equipment greater than 10% of its value at the time of damage.
  - (vi) Repossession of the New Equipment.
- 3.8 **Ability to Perform:** If either of the events listed in this paragraph occur, the Participant must notify the District within 30 days of the date Participant knows, or should have known, that the event has occurred or is likely to occur:
- (i) The Participant suffers catastrophic loss.
  - (ii) Any other event has occurred or is likely to occur that could impair the Participant's ability to perform the conditions of this Agreement.
- 3.9 **Amendment:** No amendment, alteration or variation of the terms of this Agreement is valid unless made in writing and signed by all parties.
- 3.10 **Assignments:** No performance rendered or payment due under this Agreement may be delegated or assigned without the written consent of Participant, CARB and the District. If Participant assigns any of its rights or obligations under this contract, all of the terms and conditions of this contract will apply to the Participant's assignee.

- 3.11 **Non-Discrimination:** Not Applicable.
- 3.12 **Subcontracts:** If the Participant submitted the name of a subcontractor in the proposal or application for this Agreement, the District's approval of the Agreement is also an approval of the use of the named subcontractor. In the event that any part of this Agreement is subcontracted, Participant agrees to document the following affirmative steps for utilizing Minority Business Enterprises (MBE) or Women Owned Business Enterprises (WBE) as required by the Environmental Protection Agency:
- (i) Include MBEs and WBEs on solicitation lists.
  - (ii) Assure MBEs and WBEs are solicited once they are identified.
  - (iii) Divide total requirements into smaller tasks to permit maximum MBE/WBE participation, where feasible.
  - (iv) Establish delivery schedules which will encourage MBE and WBE participation, where feasible.
  - (v) Encourage use of the services of the U.S. Department of Commerce's Minority Business Development Agency (MBDA) and the U.S. Small Business Administration to identify MBEs and WBEs.
- 3.13 **Successors:** This Agreement will bind the successors of the District and Participant in the same manner as if they were expressly named.
- 3.14 **Recordkeeping:** Not Applicable. See Paragraph 2.11 (Recordkeeping and Reporting Requirements).
- 3.15 **Termination Notice Requirements:**
- 3.15.1 **30-day Notice Termination:** Either the District or Participant may terminate this Agreement for any reason by giving the other party 30-days written notice.
  - 3.15.2 **5-day Notice Termination:** The District, through its APCO, may terminate this Agreement with 5 days written notice if Participant fails to perform any of the terms and conditions of this Agreement in the time and manner specified.
  - 3.15.3 **Immediate Termination:** The District, through its APCO, may terminate this Agreement immediately if informed that moneys to fund the contract are not available. If the District terminates this Agreement under this paragraph, it will serve notice of the action on the Participant within 10 working days.
- 3.16 **Waiver of Claims:** Participant waives any claims against the District, CARB, its officers, agents, employees, delegates or volunteers from damage or loss caused by:
- (i) Any suit or proceeding directly or indirectly attacking the validity of this Agreement, or any part of this Agreement.
  - (ii) Any judgment or award declaring this Agreement either void or voidable, or delaying the performance of any part of this Agreement.
- 3.17 **Waiver of Agreement Provisions:** Waiver by either party of any default, breach or condition precedent will not be construed as waiver of any other default, breach or condition precedent or any other right under this Agreement.
- 3.18 **Time:** Time is of the essence with respect to the timely performance of each provision of this Agreement.

- 3.19 **Severability:** If any provision of this Agreement is held invalid or unenforceable, its invalidity or unenforceability will not affect any other provisions of this Agreement, and this Agreement will be construed and enforced as if such provision had not been included.
- 3.20 **Venue and Choice of Law:** This Agreement is executed in Sacramento County, California and will be governed by the laws of the State of California. Any action arising out of this Agreement must be filed in a state court or federal court located in Sacramento, California.
- 3.21 **Compliance with Laws and Regulations:** Participant must observe and comply with all applicable laws and regulations. In addition to all other applicable laws, this Agreement is subject to the provisions and limitations of Health & Safety Code. Notwithstanding the terms of this Agreement, the Parties are not permitted to undertake any actions that contravene the Health & Safety Code or any other law or regulation.
- 3.22 **Payments that Contravene the Law:** The District and CARB have no liability for payments that are found to contravene the law. Participant will reimburse the District for any payments made by the District to Participant and later determined to contravene federal, state or local laws and regulations.
- 3.23 **Status of Participant:** This Agreement is only for the payment of incentive funds to offset the cost of the items identified in Exhibit C. Accordingly, Participant, its employees, consultants and subcontractors do not have any of the entitlements of a CARB or District employee. Participant is an independent contractor.
- 3.23.1 **Direction of Third Parties:** If the Participant employs any third persons, these persons will be under the exclusive control of Participant. All terms of employment, including but not limited to hours, wages, working conditions, discipline, hiring, and discharging will be determined by Participant.
- 3.23.2 **Right to Bind:** Neither the Participant nor its employees, subcontractors or consultants have the right to act on behalf of CARB or the District in any capacity, or to bind CARB or the District to any obligation.
- 3.23.3 **Taxes:** Neither CARB nor the District will make any deductions or withholdings from the compensation paid to Participant. Participant must issue all forms required by federal and state laws for income and employment tax purposes for all of Participant's assigned personnel.
- 3.24 **Conflict of Interest:** No officer or employee of CARB or the District has any pecuniary interest, direct or indirect, in this Agreement or the proceeds of the Agreement. No officer or employee of Participant may serve on CARB or the District's governing body or hold any CARB or District position which by rule, practice, or action nominates, recommends, supervises or authorizes the development or execution of this Agreement, or any payment to Participant.
- 3.25 **Indemnity:** The Participant must indemnify and defend the District, CARB, their officers, agents, employees, delegates and volunteers, from any and all losses, costs, damages, fines or expenses (including attorneys fees, court costs and expert fees) or liability of any kind or character to any person or property that:
- (i) Arises from, or are alleged to arise from, any breach of the responsibilities required of Participant by this Agreement, or
  - (ii) Are related in any way to the Equipment described in Exhibit C, including any and all liability for general, special, consequential, or other damages arising from the use of the Equipment by Participant, for which financial assistance or other incentives are received from the District by Participant.

- 3.26 **Force Majeure:** If performance by CARB, the District, or the Participant of any of its obligations or undertakings under this Agreement is interrupted or delayed by any occurrence not occasioned by the conduct of either party to this Agreement, whether that occurrence is an act of God or public enemy, or whether that occurrence is caused by war, riot, storm, earthquake, or other natural forces, or by the acts of anyone not a party to this Agreement, then CARB, the District or the Participant may be either excused from any further performance or excused from any further performance for whatever period of time after the occurrence is reasonably necessary to remedy the effects of that occurrence at the election of CARB and the District.
- 3.27 **Two Originals:** This Agreement and any modification to this Agreement will be executed in two originals, one to be kept by the District and one to be kept by the Participant. Either of the originals is enforceable without the presentation of the other original.
- 3.28 **Entire Agreement:** This Agreement constitutes the entire Agreement between the District and Participant. All parties revoke all prior or contemporaneous oral or written Agreements between them that are inconsistent with this Agreement. In the event of a dispute between the parties regarding the Agreement, this Agreement will be deemed to have been drafted by the parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against any party to this Agreement. This Agreement consists of the following parts:
- (i) This Agreement
  - (ii) Exhibit A – Map of Federal Sacramento Ozone Nonattainment Area
  - (iii) Exhibit B – Vehicle/Equipment Information Form
  - (iv) Exhibit C – Performance Requirements
  - (v) Exhibit D – Insurance Requirements
  - (vi) Exhibit E – Previous Incentive Funding Information (if applicable)
  - (vii) Exhibit F – Joint Funding Information (if applicable)
  - (viii) Exhibit G – Debarment Certification
  - (ix) Exhibit H – Levine Act Disclosure Statement
- 3.29 **Communications:** Correspondence between the District and Participant should be addressed to the following:

To District	To Participant
Kristian Damkier Sacramento Metropolitan AQMD 777 12th Street, Third Floor Sacramento, CA 95814-1908 Phone: (916) 874-4892 Fax (916) 874-4899	Rowie Sizemore City of Sacramento 5730 24th Street, Bldg 1 Sacramento, CA 95822 Phone: (916) 808-6398 Fax: (916) 399-9263

The address and/or contacts may be changed by written notice to the other party. Such written notice may be given by mail, using the U.S. Postal Service, or personal service.

- 3.30 **Authority to Bind and Acknowledgement of Terms:** The undersigned representative of Participant has read and agrees to comply with all terms and conditions in this Agreement and also affirmatively states that he or she has legal authority to bind Participant to the terms and conditions of this Agreement; including the following Disclosure Agreement:

DISCLOSURE AGREEMENT

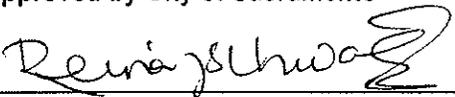
The undersigned representative of Participant affirmatively states that neither they nor any other representative of Participant will submit another application or sign another contract for the same Equipment described in Exhibit B with any other source of funds, including but not limited to other air districts or multidistrict funding under the Carl Moyer Program.

Any owner or owner's designee who is found to have submitted multiple applications or signed multiple contracts for the same Equipment will, at a minimum, be disqualified from funding for that Equipment from all sources, may be required to reimburse the public agencies for any monies received, and may also be banned from submitting future applications to any and all Carl Moyer Program solicitations. In addition, if noncompliance or nonperformance under this agreement also constitutes a violation of the Health and Safety Code, including but not limited to the Carl Moyer Program and it's implementing Guidelines, CARB and the District may levee fines and refer the violations for criminal enforcement.

Notwithstanding the foregoing, by signing here \_\_\_\_\_, SMAQMD authorizes the use of inter-district funds as specified in Exhibit F.

If the Participant is a business entity, the Participant's signatory agrees that he or she is individually and personally bound by this Agreement and understands that he or she will be personally responsible for performance of the Agreement terms, including provisions relating to the repayment of funds in the event the Participant fails to meet the performance requirements of the Agreement.

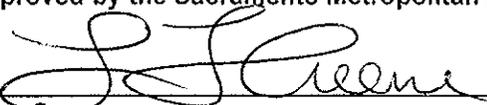
Approved by City of Sacramento



Date: 10/11/10

Reina Schwartz  
Department of General Services Director, and personally

Approved by the Sacramento Metropolitan Air Quality Management District



Date: 12/7/10

Larry Greene  
Air Pollution Control Officer

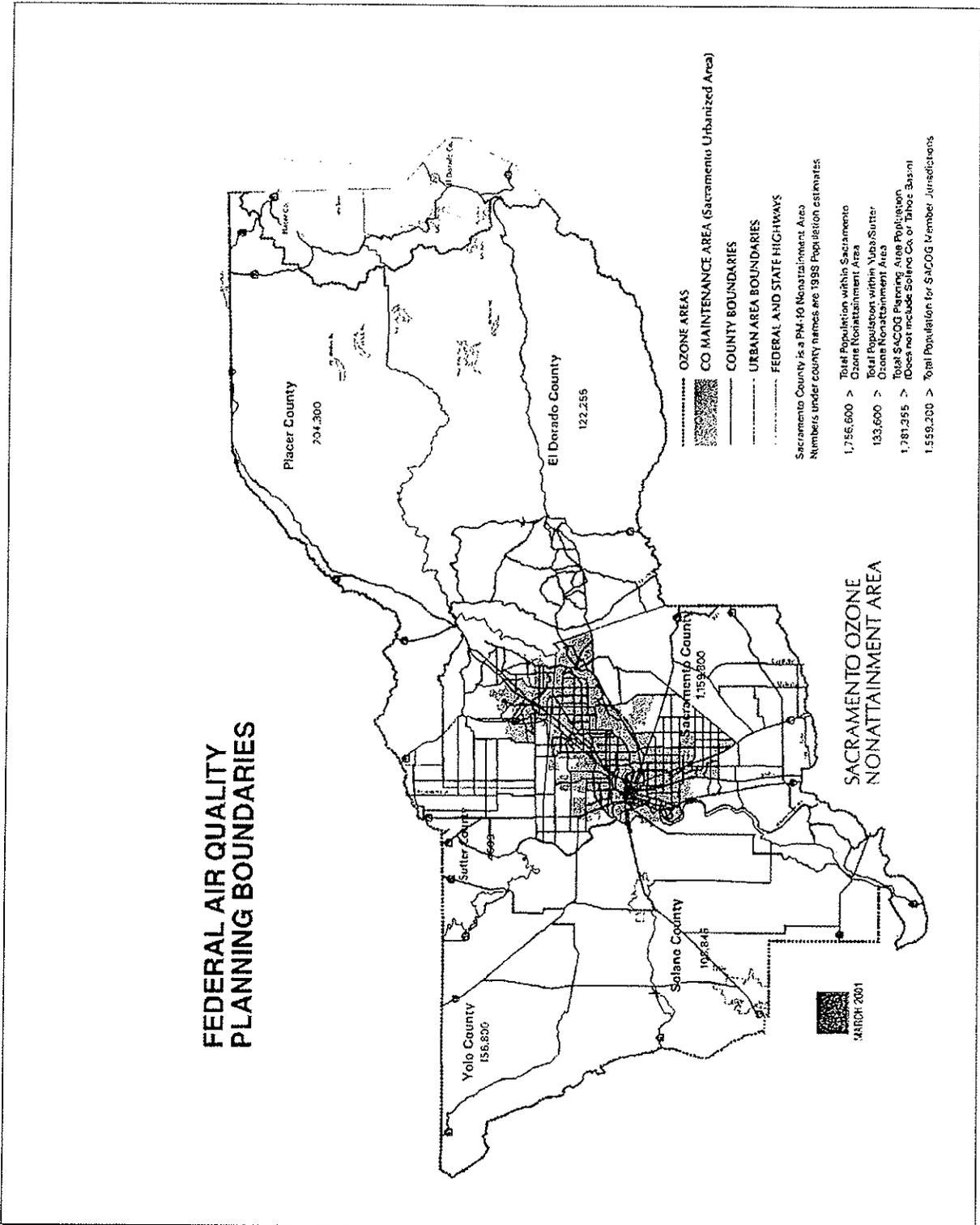
Reviewed By:



Kathrine Pittard  
District Counsel

EXHIBIT A

**SACRAMENTO OZONE NON-ATTAINMENT MAP**



**EXHIBIT B**

**CARL MOYER PROGRAM  
VEHICLE / EQUIPMENT INFORMATION FORM**

Vocation(s) (Please list all vehicle/equipment uses): REF

Equipment: ON-ROAD

Project Type: MODERNIZATION

**Annual Vehicle Usage Information** (be able to prove mileage/hours -- map available for reference)

	Within the Sacramento Ozone Non-Attainment Area		Outside of Sacramento Ozone Non-Attainment Area		Total Operation
	May-October	November-April	May-October	November-April	
<b>Miles</b>	17,500	17,500	0	0	35,000

**Existing Vehicle Information**

Make: PETERBILT	Model: 320	Model Year: 1999	GVWR: 58,000
Vehicle Identification Number: 1NPZL00X5XD711538	Fleet Identification Number: 10687	License Plate Number (On-road Vehicles Only): 1029005	

**Existing Engine Information**

Make: CUMMINS	Model: ISM 305V	Model Yr: 1999	Serial Number: 34946195	HP: 305	Engine Tier Level:
Fuel Type: DUAL FUEL		Meter Reading (Miles): 59,690			

**New or Replacement Vehicle Information**

Make: AMERICAN LAFRANCE	Model: CONDOR	Model Year: 2011	GVWR: 80,000
Vehicle Identification Number:	Fleet Identification Number:	License Plate Number (On-road Vehicles Only):	

**New Engine or Retrofit System Information**

Make: CUMMINS	Model: ISLG 320	Model Yr: 2010	Serial Number:	HP: 320	Engine Tier Level:
Fuel Type: COMPRESSED NATURAL GAS		Meter Reading (Miles): 0			
Retrofit Make:			Retrofit Model:		

**EXHIBIT B**

**CARL MOYER PROGRAM  
VEHICLE / EQUIPMENT INFORMATION FORM**

Vocation(s) (Please list all vehicle/equipment uses): REF

**Equipment:** ON-ROAD

**Project Type:** MODERNIZATION

**Annual Vehicle Usage Information** (be able to prove mileage/hours -- map available for reference)

	Within the Sacramento Ozone Non-Attainment Area		Outside of Sacramento Ozone Non-Attainment Area		Total Operation
	May-October	November-April	May-October	November-April	
<b>Miles</b>	17,500	17,500	0	0	35,000

**Existing Vehicle Information**

<b>Make:</b> PETERBILT	<b>Model:</b> 320	<b>Model Year:</b> 1999	<b>GVWR:</b> 58,000
<b>Vehicle Identification Number:</b> 1NPZL00X0XD711544	<b>Fleet Identification Number:</b> 10688	<b>License Plate Number (On-road Vehicles Only):</b> 1007398	

**Existing Engine Information**

<b>Make:</b> CUMMINS	<b>Model:</b> ISM 305V	<b>Model Yr:</b> 1999	<b>Serial Number:</b> 34949609	<b>HP:</b> 305	<b>Engine Tier Level:</b>
<b>Fuel Type:</b> DUAL FUEL		<b>Meter Reading (Miles):</b> 93,087			

**New or Replacement Vehicle Information**

<b>Make:</b> AMERICAN LAFRANCE	<b>Model:</b> CONDOR	<b>Model Year:</b> 2011	<b>GVWR:</b> 80,000
<b>Vehicle Identification Number:</b>	<b>Fleet Identification Number:</b>	<b>License Plate Number (On-road Vehicles Only):</b>	

**New Engine or Retrofit System Information**

<b>Make:</b> CUMMINS	<b>Model:</b> ISLG 320	<b>Model Yr:</b> 2010	<b>Serial Number:</b>	<b>HP:</b> 320	<b>Engine Tier Level:</b>
<b>Fuel Type:</b> DIESEL		<b>Meter Reading (Miles):</b> 0			
<b>Retrofit Make:</b>			<b>Retrofit Model:</b>		

**EXHIBIT B**

**CARL MOYER PROGRAM  
VEHICLE / EQUIPMENT INFORMATION FORM**

Vocation(s) (Please list all vehicle/equipment uses): REF

Equipment: ON-ROAD

Project Type: MODERNIZATION

**Annual Vehicle Usage Information** (be able to prove mileage/hours -- map available for reference)

	Within the Sacramento Ozone Non-Attainment Area		Outside of Sacramento Ozone Non-Attainment Area		Total Operation
	May-October	November-April	May-October	November-April	
<b>Miles</b>	17,500	17,500	0	0	35,000

**Existing Vehicle Information**

Make: PETERBILT	Model: 320	Model Year: 1999	GVWR: 58,000
Vehicle Identification Number: 1NPZL00XXXD711552	Fleet Identification Number: 10689	License Plate Number (On-road Vehicles Only): 1029101	

**Existing Engine Information**

Make: CUMMINS	Model:	Model Yr: 1999	Serial Number: 34952009	HP: 305	Engine Tier Level:
Fuel Type: DUAL FUEL		Meter Reading (Miles): 12,605			

**New or Replacement Vehicle Information**

Make: AMERICAN LAFRANCE	Model: CONDOR	Model Year: 2011	GVWR: 80,000
Vehicle Identification Number:	Fleet Identification Number:	License Plate Number (On-road Vehicles Only):	

**New Engine or Retrofit System Information**

Make: CUMMINS	Model: ISLG 320	Model Yr: 2010	Serial Number:	HP: 320	Engine Tier Level:
Fuel Type: DIESEL		Meter Reading (Miles): 0			
Retrofit Make:			Retrofit Model:		

**EXHIBIT B**

**CARL MOYER PROGRAM  
VEHICLE / EQUIPMENT INFORMATION FORM**

Vocation(s) (Please list all vehicle/equipment uses): REF

Equipment: ON-ROAD

Project Type: MODERNIZATION

**Annual Vehicle Usage Information (be able to prove mileage/hours -- map available for reference)**

	Within the Sacramento Ozone Non-Attainment Area		Outside of Sacramento Ozone Non-Attainment Area		Total Operation
	May-October	November-April	May-October	November-April	
<b>Miles</b>	17,500	17,500	0	0	35,000

**Existing Vehicle Information**

Make: VOLVO	Model:	Model Year: 1996	GVWR: 0
Vehicle Identification Number: 4V5ECFPE9VR717856	Fleet Identification Number: 10690	License Plate Number (On-road Vehicles Only): 1228741	

**Existing Engine Information**

Make: CUMMINS	Model: M11-280 E+	Model Yr: 1996	Serial Number: 34823989	HP: 280	Engine Tier Level:
Fuel Type: DUAL FUEL		Meter Reading (Miles): 6,272			

**New or Replacement Vehicle Information**

Make: AMERICAN LAFRANCE	Model: CONDOR	Model Year: 2011	GVWR: 80,000
Vehicle Identification Number:	Fleet Identification Number:	License Plate Number (On-road Vehicles Only):	

**New Engine or Retrofit System Information**

Make: CUMMINS	Model: ISLG 320	Model Yr: 2010	Serial Number:	HP: 320	Engine Tier Level:
Fuel Type: DIESEL		Meter Reading (Miles): 0			
Retrofit Make:			Retrofit Model:		

**EXHIBIT B**

**CARL MOYER PROGRAM  
VEHICLE / EQUIPMENT INFORMATION FORM**

Vocation(s) (Please list all vehicle/equipment uses): REF

Equipment: ON-ROAD

Project Type: MODERNIZATION

**Annual Vehicle Usage Information** (be able to prove mileage/hours -- map available for reference)

	Within the Sacramento Ozone Non-Attainment Area		Outside of Sacramento Ozone Non-Attainment Area		Total Operation
	May-October	November-April	May-October	November-April	
<b>Miles</b>	17,500	17,500	0	0	35,000

**Existing Vehicle Information**

Make: VOLVO	Model:	Model Year: 1996	GVWR: 0
Vehicle Identification Number: 4V5ECFPE9TR717837	Fleet Identification Number: 10692	License Plate Number (On-road Vehicles Only): 1228748	

**Existing Engine Information**

Make: CUMMINS	Model: M11-280 E+	Model Yr: 1996	Serial Number: 34817049	HP: 280	Engine Tier Level:
Fuel Type: DUAL FUEL		Meter Reading (Miles): 18,341			

**New or Replacement Vehicle Information**

Make: AMERICAN LAFRANCE	Model: CONDOR	Model Year: 2011	GVWR: 80,000
Vehicle Identification Number:	Fleet Identification Number:	License Plate Number (On-road Vehicles Only):	

**New Engine or Retrofit System Information**

Make: CUMMINS	Model: ISLG 320	Model Yr: 2010	Serial Number:	HP: 320	Engine Tier Level:
Fuel Type: DIESEL		Meter Reading (Miles): 0			
Retrofit Make:			Retrofit Model:		

**EXHIBIT B**

**CARL MOYER PROGRAM  
VEHICLE / EQUIPMENT INFORMATION FORM**

Vocation(s) (Please list all vehicle/equipment uses): REF

Equipment: ON-ROAD

Project Type: MODERNIZATION

**Annual Vehicle Usage Information** (be able to prove mileage/hours -- map available for reference)

	Within the Sacramento Ozone Non-Attainment Area		Outside of Sacramento Ozone Non-Attainment Area		Total Operation
	May-October	November-April	May-October	November-April	
<b>Miles</b>	17,500	17,500	0	0	35,000

**Existing Vehicle Information**

Make: VOLVO	Model:	Model Year: 1996	GVWR: 0
Vehicle Identification Number: 4V5ECFPE0TR717838	Fleet Identification Number: 10693	License Plate Number (On-road Vehicles Only): 1228749	

**Existing Engine Information**

Make: CUMMINS	Model: M11-280 E+	Model Yr: 1996	Serial Number: 34817051	HP: 280	Engine Tier Level:
Fuel Type: DUAL FUEL		Meter Reading (Miles): 157,353			

**New or Replacement Vehicle Information**

Make: AMERICAN LAFRANCE	Model: CONDOR	Model Year: 2011	GVWR: 80,000
Vehicle Identification Number:	Fleet Identification Number:	License Plate Number (On-road Vehicles Only):	

**New Engine or Retrofit System Information**

Make: CUMMINS	Model: ISLG 320	Model Yr: 2010	Serial Number:	HP: 320	Engine Tier Level:
Fuel Type: DIESEL		Meter Reading (Miles): 0			
Retrofit Make:			Retrofit Model:		

**EXHIBIT B**

**CARL MOYER PROGRAM  
VEHICLE / EQUIPMENT INFORMATION FORM**

Vocation(s) (Please list all vehicle/equipment uses): REF

Equipment: ON-ROAD

Project Type: MODERNIZATION

**Annual Vehicle Usage Information (be able to prove mileage/hours -- map available for reference)**

	Within the Sacramento Ozone Non-Attainment Area		Outside of Sacramento Ozone Non-Attainment Area		Total Operation
	May-October	November-April	May-October	November-April	
<b>Miles</b>	17,500	17,500	0	0	35,000

**Existing Vehicle Information**

Make: VOLVO	Model:	Model Year: 1996	GVWR: 0
Vehicle Identification Number: 4V5ECFPE8VR717847	Fleet Identification Number: 10694	License Plate Number (On-road Vehicles Only): 1200093	

**Existing Engine Information**

Make: CUMMINS	Model: M11-280 E+	Model Yr: 1996	Serial Number: 34818378	HP: 280	Engine Tier Level:
Fuel Type: DUAL FUEL		Meter Reading (Miles): 126,995			

**New or Replacement Vehicle Information**

Make: AMERICAN LAFRANCE	Model: CONDOR	Model Year: 2011	GVWR: 80,000
Vehicle Identification Number:	Fleet Identification Number:	License Plate Number (On-road Vehicles Only):	

**New Engine or Retrofit System Information**

Make: CUMMINS	Model: ISLG 320	Model Yr: 2010	Serial Number:	HP: 320	Engine Tier Level:
Fuel Type: DIESEL		Meter Reading (Miles): 0			
Retrofit Make:			Retrofit Model:		

EXHIBIT C

PERFORMANCE REQUIREMENTS

The below listed vehicle(s)/engine(s) must meet the minimum performance requirements shown to avoid reimbursement according to Paragraph 2.9 (Reimbursements) of this Agreement

Vehicle and Engine Year, Make & Model*	Vehicle and Engine Serial Numbers*	Minimum Annual SFNA** Usage (Miles)***	Minimum Annual CA Usage (Miles)***	Anticipated Annual NOx Reduction (tons)	Payback Requirement per Miles	Maximum Incentive Amount
2011 AMERICAN LAFRANCE CONDOR		35,000		CMP: 0.00	\$0.23	\$40,000
2010 CUMMINS ISLG 320						
2011 AMERICAN LAFRANCE CONDOR		35,000		CMP: 0.00	\$0.23	\$40,000
2010 CUMMINS ISLG 320						
2011 AMERICAN LAFRANCE CONDOR		35,000		CMP: 0.00	\$0.23	\$40,000
2010 CUMMINS ISLG 320						



ISLG 320										
<b>Total</b>									<b>CMP: 0.00</b>	<b>\$277,500</b>

\* SMAQMD will fill in information upon verification of project completion.

\*\* SFNA is the Nonattainment Area shown in Exhibit A.

\*\*\*If the New Equipment is anything other than an agricultural pump, 75% of the operation of the New Equipment must be in California. If the New Equipment is an agricultural pump, all of the operation must be in the SFNA (Nonattainment Area shown in Exhibit A). Please see Paragraph 2.3.2 (Operation).

## EXHIBIT D

### INSURANCE REQUIREMENTS

#### Verification of Coverage

Participant must furnish SMAQMD with certificates evidencing the coverage required below. Certified copies of required endorsements must be attached to provided certificates. **All certificates are to be received and approved by SMAQMD before work commences.** SMAQMD reserves the right to require Participant to provide complete, certified copies of any policy of insurance offered in compliance with these specifications. As an alternative to insurance certificates, Participant's insurer may voluntarily provide complete, certified copies of all required insurance policies, including endorsements, effecting the coverage required by these specifications. SMAQMD will be named as co-insured on all required insurance policies.

#### Minimum Scope of Insurance

During the term of this Agreement, Participant must, at its sole expense, obtain and maintain in full force and effect the type and limits of liability requirements as follows:

Coverage must be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001, most recent edition).
2. Insurance Services Office form CA 0001 (most recent edition) covering Automobile Liability, code 1 (any auto).
3. Worker's Compensation insurance as required by the State of California.
4. Comprehensive and collision coverage sufficient to replace the vehicle(s) and emission control system(s) included in the project.
5. Verification of insurance coverage equal to the replacement costs of the engine and/or emission control system(s) included in this project.

#### Minimum Limits of Insurance

Participant must maintain limits no less than:

1. **General Liability:** \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit.
2. **Automobile Liability:** \$1,000,000 per accident for bodily injury and property damage.
3. **Worker's Compensation:** Statutory.
4. **Comprehensive/Collision:** Equal to the full replacement cost.
5. **Property Loss or Damage:** Equal to the full replacement cost

#### Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII. SMAQMD Liability and Property Insurance Manager may waive or alter this requirement, or accept self-insurance in lieu of any required policy of insurance if, in the opinion of the Risk Manager, the interests of SMAQMD and the general public are adequately protected.

EXHIBIT E

PREVIOUS INCENTIVE FUNDING INFORMATION (IF APPLICABLE)

EXHIBIT F

JOINT FUNDING INFORMATION (IF APPLICABLE)

EXHIBIT G

DEBARMENT CERTIFICATION FORM

The Contractor certifies that, neither the Contractor firm nor any owner, partner, director, officer, or principal of the Contractor, nor any person in a position with management responsibility or responsibility for the administration of federal funds:

(a) Is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department/agency;

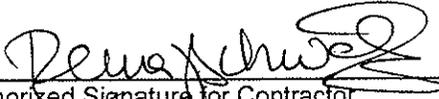
(b) Has within a three-year period preceding this certification been convicted of or had a civil judgment rendered against it for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract (federal, state, or local); violation 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) Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (b) above; or

(d) Has within a three-year period preceding this certification had one or more public transactions or contracts (federal, state, or local) terminated for cause or default.

The Contractor further certifies that it shall not knowingly enter into any transaction with any subcontractor, material supplier, or vendor who is debarred, suspended, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department/agency.

Dated this 11<sup>th</sup> day of October, 2010

By   
Authorized Signature for Contractor

Reina Schwartz, Department of General Services Director

Printed Name and Title

City of Sacramento

Contractor Firm Name and Type of Entity (*Corp., Partnership, Sole Proprietor*)

5730 24th Street, Bldg 1

Address

Sacramento, CA 95822

City/State/Zip Code

(916) 808-6398, rsizemore@cityofsacramento.org

Area Code/Telephone Number and E-Mail Address

EXHIBIT H

LEVINE ACT DISCLOSURE STATEMENT

California Government Code § 84308, commonly referred to as the "Levine Act," precludes an Officer of a local government agency from participating in the award of a contract if they received political contributions totaling more than \$250 in the 12 months preceding the contract award, and for three months following the final decision, from the contract recipient. This prohibition applies to contributions to the Officer, or received by the Officer on behalf of any other Officer, or on behalf of any candidate for office or on behalf of any committee. The Levine Act also requires disclosure of such contributions by a party to be awarded a specified contract.

Current members of the SMAQMD Board of Directors are:

Jimmie Yee	Sandy Sheedy	Robert Fong
Roberta MacGlashan	Steve Cohn	Gary Davis
Roger Dickinson	Jeff Starsky	Robert McGarvey
Susan Peters	Darrel Clare	Lauren Hammond
Don Nottoli	Dr. Joyce Karpinski-Costa	

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any SMAQMD Director(s) in the 12 months preceding the date of the issuance of this request for proposal or request for qualifications?

YES       NO

If yes, please identify the Director(s): \_\_\_\_\_

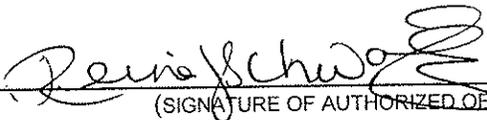
2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contributions of more than \$250 to any SMAQMD Director(s) in the three months following the award of the contract?

YES       NO

If yes, please identify the Director(s): \_\_\_\_\_

Answering yes to either of the two questions above does not preclude SMAQMD from awarding a contract to your firm. It does, however, preclude the identified Director(s) from participating in the contract award process for this contract.

10/11/10  
DATE

  
(SIGNATURE OF AUTHORIZED OFFICIAL)

Reina Schwartz, Department of General Services Director  
(TYPE OR WRITE APPROPRIATE NAME, TITLE)

City of Sacramento  
(TYPE OR WRITE NAME OF COMPANY)

November 8, 2011

Mr. Keith Leech  
City of Sacramento  
5730 24th Street, Bldg 1  
Sacramento, CA 95822

Dear Mr. Leech,

We have received your request for authorization per section 2.3.6(iii) under contract VET-10-0051 to dispose of (7) old refuse trucks using the following alternative methods:

1. File paperwork with the California Department of Motor Vehicles for VIN stops on all vehicles under contract VET-10-0051 to ensure that these refuse trucks will not operate within California in the future.
2. Sell all vehicles through an auction yard of your choosing.
3. Direct auction proceeds to the District within (30) business days of the sale.

The District hereby grants approval of these alternative disposal methods. As you have stated, your agency has already completed step one listed above. Please submit copies of documents confirming a VIN stop has been placed on the (7) old vehicles. As you have stated in your letter of request, once the vehicles have been sold, proceeds will be directed to the Sacramento Metropolitan Air Quality Management District within 30 days.

If there are any questions about how to proceed with the sale of the vehicles or how to direct proceeds to the District, please contact Mr. Tim Taylor at (916) 874-4814 or [ttaylor@airquality.org](mailto:ttaylor@airquality.org).

Sincerely,



Larry Greene  
Executive Officer/Air Pollution Control Officer  
Sacramento Metropolitan Air Quality Management District