

**Sacramento Metropolitan Air Quality Management District
Oxides of Nitrogen and Particulate Matter Control Technology Funding Contract**

This Contract (Contract) is entered into between the Sacramento Metropolitan Air Quality Management District (SMAQMD), a public agency, and Grant Joint Union High School District (Recipient).

1.0 Recitals

- 1.1 The SMAQMD is part of the Federal Sacramento Ozone Nonattainment Area (Nonattainment Area) because the levels of ozone in our air do not meet the federal health-based ozone standards (see Exhibit A for a Map that includes the SFNA). While the SMAQMD is in attainment of the federal Fine Particulate Matter (PM_{2.5}) standard, levels of PM_{2.5} in Sacramento County exceed the California state health-based standard.
- 1.2 Health and Safety Code Section 41062 authorizes SMAQMD to provide financial incentives to encourage and facilitate: (i) the use of clean alternative fuels such as natural gas, methanol or electricity, (ii) the purchase of clean-fueled vehicles, and (iii) the development infrastructure to support the use of cleaner burning fuels.
- 1.3 On December 3, 1998, the Board of Directors approved Resolution Number 98-0070 authorizing the Air Pollution Control Officer to apply Congestion Mitigation – Air Quality (CMAQ) funds for a variety of air quality improvement programs, including the “Heavy-Duty Low-Emission Vehicle Incentive and Infrastructure Program.”
- 1.4 On March 23, 2000, the Board of Directors approved Resolution Number 2000-017 approving the staff’s recommended projects for funding using CMAQ and other SMAQMD funds, including funding to support compressed natural gas (CNG) refueling infrastructure for Recipient.
- 1.5 On September 28, 2000, the Board of Directors approved Resolution Number 2000-048 revising the distribution of CMAQ and other SMAQMD funds, including funding to support compressed natural gas (CNG) refueling infrastructure for Recipient.
- 1.6 Recipient and other school districts have purchased low-emission CNG school buses in support of the SMAQMD’s efforts to reduce heavy-duty vehicle emissions.
- 1.7 Refueling infrastructure is necessary for the operation of the CNG school buses purchased by Recipient and other school districts in the region.

2.0 Terms and Conditions

- 2.1 **Performance (or Transfer of Ownership):** Recipient will use funds received under this Contract to build a new CNG refueling station and make other site improvement as necessary to build the CNG refueling facility located at the Grant JUHSD Maintenance Facility. In exchange, Recipient agrees to make facility available for public access, including all school districts desiring to use facility, as contained in letter from Grant JUHSD.
- 2.2 **Applicable Laws:** Recipient must observe and comply with all applicable laws and regulations. This Contract is executed in Sacramento County, California and is governed by the laws of the State of California.
- 2.2 **Status of Recipient:** This Contract does not create any right for the Recipient, its employees, consultants or subcontractors, to be considered employees of the SMAQMD for any purpose.
- 2.3 **Conflict of Interest:** No officer or employee of the SMAQMD has any pecuniary interest, direct or indirect, in this Contract or the proceeds of the Contract. No officer or employee of Recipient may serve on SMAQMD's governing body or hold any SMAQMD position which by rule, practice, or action nominates, recommends, supervises or authorizes payment to Recipient.
- 2.5 **Nondiscrimination:** Recipient agrees to comply with the Equal Employment Opportunity/Affirmative Action and Related Policy Directives as described in Exhibit B.
- 2.6 **Equipment Inspections:** Recipient must allow the SMAQMD to inspect equipment covered under this Contract while the equipment is under Recipient's control, provided however, that such inspections do not interfere with equipment operations.
- 2.6.1 **Direction of Third Parties:** If Recipient employs any third persons; these persons will be under the exclusive control of Recipient. All terms of employment, including, but not limited to hours, wages, working conditions, discipline, hiring, and discharging will be determined by Recipient.
- 2.7 **Right to Bind:** Neither Recipient nor its employees, subcontractors or consultants have the right to act on behalf of SMAQMD in any capacity, or to bind SMAQMD to any obligation.
- 2.8 **Survival:** If a provision of this Contract violates any applicable law or regulation, that provision will be stricken from the Contract, and all other legal provisions will remain in full force.
- 2.9 **Ability to Perform:** Recipient must notify the SMAQMD within thirty (30) days of the date Recipient knows that (i) Recipient has suffered or is likely to suffer a catastrophic loss, or (ii) any other event has occurred or is likely to occur that could impair Recipient's ability to perform the conditions of this Contract.

- 2.10 **Prohibition on Emission Reduction Credits:** Recipient is not entitled to apply for or receive Emission Reduction Credits (ERCs), in any form, by virtue of the modification of vehicles or engines under the Technology Demonstration Program. This limitation includes, but is not limited to: (i) all attainment, nonattainment, criteria and noncriteria pollutants, and (ii) application for Emission Reduction Credits, Mobile Emission Reduction Credits (MERC) and/or Certificates of Advanced Placement (CAP). This prohibition extends to credits from all Air Quality Management or Air Pollution Control District.
- 2.11 **Voluntary Act:** Recipient's participation in the Program is a completely voluntary act and the SMAQMD has not made representations or guarantees to Recipient regarding its participation in the Program.
- 2.12 **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by all parties.
- 2.13 **Venue:** This Contract is executed in Sacramento County, California and shall be governed by the laws of the State of California. Any action arising out of this Contract must be filed in a state court or federal court located in Sacramento, California.
- 2.14 **Successors:** This Contract will bind the successors of the SMAQMD and Recipient in the same manner as if they were expressly named.
- 2.15 **Contract Term:** The term of this Contract will commence upon May 1, 2006 and end December 31, 2011.
- 2.16 **Entire Contract:** This Contract consists of:
- A. This Contract
 - B. Letter from Grant JUHSD
 - C. Exhibit B, Obligations
 - D. Insurance Requirements
- 2.17 **Contract Manager:** Freya Arick is the SMAQMD's named Contract Manager for this Contract. It is the responsibility of the Contract Manager to: 1) verify compliance with the terms and conditions of the Contract, 2) determine that the work has been completed, 3) ensure that funding is available to pay approved invoices, and 4) approve all invoices under the Contract.
- 2.18 **Notice:** Correspondence between the SMAQMD and Recipient should be addressed to the following:

To SMAQMD	To Recipient
Michael Neuenburg Sacramento Metropolitan Air Quality Management District 777 12 th Street, Third Floor Sacramento, CA 95814-1908 Phone: (916) 874-4800 Fax: (916) 874-4899	Dr. Larry Buchanan Superintendent 1333 Grand Avenue Sacramento, CA. 95838 Phone: (916)286-4971 Fax: (916) 263-6205

- a. 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.

2.19 The undersigned representative of Recipient affirmatively states that he or she has legal authority to bind Recipient to the terms of this Contract.

Executed by:

Approved by Recipient, Inc.

 Dr. Larry Buchanan
 Superintendent
 Date: _____

Approved as to form:

 Grant Joint High School District Counsel
 Date: _____

Approved by the Sacramento Metropolitan Air Quality Management District

 Larry Greene
 Air Pollution Control Officer
 Date: _____

Approved as to form:

 Kathrine Pittard
 District Counsel
 Date: _____

Exhibit B

Recipient Obligations:

1. Recipient shall consult with the SMAQMD prior to selecting the natural gas refueling facility site, and will notify the SMAQMD of the site selected.
2. Recipient shall, to the greatest degree feasible provide access to the natural gas refueling facility to other public and private natural gas fleet vehicles.

Recipient Compensation:

- 1 SMAQMD will only pay Recipient for eligible costs associated with the purchase and installation of a CNG refueling facility to support CNG school buses and other CNG vehicles. Eligible costs include, but are not limited to, purchase of refueling equipment, and costs incurred in site preparations, engineering, landscaping, and training.
- 2 Recipient will be paid a maximum of \$150,000 for the successful completion of tasks described under this Contract. Payment will be made on a reimbursement basis.
- 3 Recipient must submit one original and one duplicate invoice to SMAQMD in a mutually agreed upon format. The invoice must include a detailed description of completed tasks and include necessary receipts and back up documentation.
- 4 The APCO or his designee has the sole discretion to determine whether Recipient has successfully completed the tasks.
- 5 SMAQMD will authorize payment to Recipient no later than 45 calendar days after receipt of the completed invoice.
- 6 Recipient must submit the final invoice within 30 days of the Contract termination date.

1.1.1 INSURANCE REQUIREMENTS

EXHIBIT C

1.2 Verification of Coverage

Recipient shall furnish the District 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 the District before work commences.** The District reserves the right to require Recipient to provide complete, certified copies of any policy of insurance offered in compliance with these specifications. As an alternative to insurance certificates, Recipient's insurer may voluntarily provide complete, certified copies of all required insurance policies, including endorsements, effecting the coverage required by these specifications.

1.3 Minimum Scope of Insurance

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

Coverage shall 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.

1.4 Minimum Limits of Insurance

Recipient shall 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 shall apply separately to this project/location or the general aggregate limit shall 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.

1.5 Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII. The District 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 the District and the general public are adequately protected.