

FUNDING AGREEMENT

This Funding Agreement (Agreement) is entered into between the Sacramento Metropolitan Air Quality Management District (SMAQMD), a local public agency within the State of California, and Cascade Sierra Solutions (CSS), a non-profit agency.

1.0 Recitals

- 1.1 Diesel Particulate Matter has been classified by the California Air Resources Board (CARB) as a toxic air contaminant, and reductions from diesel-fueled vehicles, especially heavy-duty diesel vehicle, is necessary to improve human health in our region.
- 1.2 Under Health and Safety Code Section 40961, the District is the local agency within the boundaries of Sacramento District with the primary responsibility for the development, implementation, monitoring, and enforcement of air pollution control strategies, clean air programs and motor vehicle use reduction measures.
- 1.3 Health and Safety Code Section 41014 authorizes the SMAQMD to conduct public education, marketing, demonstration, monitoring, research and evaluation programs and projects respecting transportation emission control measures.
- 1.4 Health and Safety Code Section 41063 authorizes the District to develop and implement programs to reduce transportation emissions.
- 1.5 Health and Safety Code Section 41081 (d) authorizes funds received by the Sacramento District to be used to implement low-emission vehicle strategies from vehicular sources, including, but not limited to, a clean fuels program and motor vehicle use reduction measures.
- 1.6 On February 5, 1998, Resolution No. 98-007 authorized the Board of Directors to create the Heavy-Duty Low Emission Vehicle Incentive Program for the purpose of reducing emissions from heavy-duty mobile sources operating within the Sacramento Federal Ozone Non-Attainment Area.
- 1.7 CSS is a non-partisan organization, originating in Oregon and focusing on emission reductions and fuel efficiency on heavy-duty trucks.
- 1.8 CSS supports the United States Environmental Protection Agency's SmartWay Program by implementing programs that reduce emissions from long-haul trucks; it also furthers the public education mission of SMAQMD.
- 1.9 CSS intends to open a series of retail centers (Store Front Centers) along Interstate 5 Corridor to display heavy-duty truck-related technology.
- 1.10 CSS will utilize funds received under this Agreement to help off-set costs associated with the development and implementation of emission reduction programs.

- 1.11 CSS intends to target long-haul truck operators within the Sacramento Federal Ozone Non-Attainment area by distributing public education materials and providing on-site education to operators visiting the Store Front Center at the Sacramento 49er Truck Center.
- 1.12 Resolution No. _____, dated August 23, 2007, authorizes the APCO, in consultation with District Counsel, to negotiate and sign an Agreement with Cascade Sierra Solution to help fund the Store Front Center programs at the 49er Travel Plaza in Sacramento.

2.0 Terms and Conditions

The parties agree to the terms and conditions listed below:

- 2.1 **Purpose of Agreement:** Under this Agreement, CSS will accept funds from SMAQMD in support of the development and implementation of the Store Front Center emission reduction programs at the 49er Travel Plaza in Sacramento. CSS will provide truck owners with technical and regulatory information about emission reduction equipment through an educational and one-stop shopping store front center, and will provide incentive funding and grant assistance to the tuck owners to help off-set technology costs.
- 2.2 **Term of Agreement:** The term of this Agreement will commence upon execution of all parties and terminate June 30, 2008.
- 2.3 **Scope of Services:** CSS will perform the services described in Exhibit A
- 2.4 **Payments:** Upon execution of this Agreement by both parties, CSS may invoice the SMAQMD in the amount not to exceed \$200,000 so long as CSS is providing the services set forth in Exhibit A.
- 2.5 **Status of CSS:** CSS is a private non-profit organization with 501(C) (3) status and no relationship of employer-employee exists between SMAQMD and CSS, or CSS's employees, subcontractors, or consultants. Accordingly, CSS, its employees, subcontractors and consultants do not have any of the entitlements of a SMAQMD employee.
 - A. **Direction and Control:** CSS is subject to the control and direction of SMAQMD regarding the use of the funds allocated under this Agreement and the results to be accomplished under this Agreement, but not the means, methods, or sequence used by CSS for accomplishing the tasks and results.
 - B. **Direction of Third Parties:** If CSS employs any third persons, these persons will be under the exclusive control of CSS. All terms of employment, including but not limited to hours, wages, working conditions, discipline, hiring, and discharging will be determined by CSS.

C. **Taxes:** SMAQMD will not make any deductions or withholdings from the funds paid to CSS. CSS must issue all forms required by federal and state laws for income and employment tax purposes, including 1099s, W-2 and 941 forms, for all of CSS's assigned personnel.

2.6 **Indemnification:** CSS will indemnify and defend SMAQMD, its officers, agents, employees and volunteers from any and all liabilities of any kind that arise from any negligent or wrongful acts or omissions of their performance of this Agreement. SMAQMD will indemnify and defend CSS, its board, officers, agents, and employees, from any and all liabilities of any kind that arise from any negligent or wrongful acts or omissions of SMAQMD in its performance of this Agreement.

2.7 **Alteration:** No alteration or variation of the terms of this Agreement is valid unless made in writing and signed by both parties.

2.8 **Termination:**
 Either Party may terminate this Agreement without cause upon thirty (30) days written notice served upon the other Party. Any funds not expended as of the termination date will be returned to SMAQMD.

2.9 **Insurance:** CSS will purchase and maintain insurance to cover its operations throughout this agreement and any agreement extensions.

2.10 **Notices:**
 Any notice, demand, request, consent, or approval that either party hereto may be or is required to give the other, must be in writing, and be either personally delivered or sent by prepaid, certified first class mail, return receipt requested, addressed as follows:

| To CSS | To SMAQMD |
|---|---|
| Sharon Banks Chief Executive Officer Cascade Sierra Solutions 32850 East Pearl St. Coburg, OR 97408 Phone: (541) 302-0900 Fax: (541) 302-0937 | Larry Greene Air Pollution Control Officer SMAQMD 777 12 th Street, Suite 300 Sacramento, CA 95814 Phone (916) 874-4802 Fax (916) 874-4805 |

A. **Change of Address:** Either party may change the address for service by giving 15 days advance written notice to the other party.

B. **Effective Date:** All notices will be effective upon receipt and will be deemed received (i) upon delivery if personally delivered, (ii) on the 5th day following deposit in the mail, if sent by certified mail, or (iii) upon the date stated in the facsimile delivery confirmation, if sent by facsimile.

2.11 **Audit of CSS Records:**

CSS will maintain appropriate financial records, and SMAQMD may demand access to these financial records to perform an audit. CSS must make these records available to SMAQMD within 90-days after receiving a request for the records.

2.12 **Severability:**

If any provision of this Contract 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 the invalid or unenforceable provision had not been included.

2.13 **Statutory Limitations:**

This Agreement and any payments for compensation and expenses are subject to the provisions and limitations imposed by federal and State law. SMAQMD has no liability for payment of any compensation and expenses that are found to be in contravention of federal or State law. CSS reimburse SMAQMD for any funds paid by it under this Agreement that are later determined to be in contravention of any federal and State law.

2.14 **Contract Manager:** Mike Neuenburg is the SMAQMD's named Contract Manager for this Agreement. It is the responsibility of the Contract Manager to: 1) verify compliance with the terms and conditions of the Agreement and 2) ensure that funding is available to pay approved invoices.

Executed by:

Sacramento Metropolitan Air
Quality Management District

Cascade Sierra Solutions

Larry Greene
Air Pollution Control Officer

Sharon Banks
Chief Executive Officer

Date: _____

Date: _____

Reviewed by:

Kathrine Pittard
District Counsel

Exhibit A
Scope of Services

1. CSS will use the funds for the implementation of the Store Front Center program, which will provide equipment and outreach to long-haul truckers by:
 - a. Providing technical assistance.
 - b. Coordinating incentives and financing to facilitate the sale of energy saving and emission reduction technologies.
 - c. Displaying SmartWay approved heavy-duty truck energy and emission reduction products.
 - d. Committing to install, a minimum of 1,200 upgraded equipment for trucks traveling throughout California, including the Sacramento region
 - e. Providing a classroom equipped with videoconferencing to present emerging technologies.

2. **Project Tasks and Estimated Schedule:**

Table 1

| Task | Month(s) | Action |
|-------------|-----------------|--|
| 1 | 0 | Complete contract |
| 2 | 2-3 | Develop and purchase marketing materials |
| 3 | 2-3 | Purchase educational hardware and related marketing hardware |
| 4 | 4-5 | Selection and stocking of equipment/installers |
| 5 | 5 | Store Front Center Grand Opening |
| 7 | Monthly | New Vehicle data |

3. **Deliverables:** CSS will provide the following data to SMAQMD:
 - a. Monthly vehicle database information on new installations:

Examples of data to include truck vehicle identification number, make, model, year, engine make, model, year, engine serial number, horsepower rating, equipment upgrades and baseline miles.
 - b. Annual truck mileage and fuel usage data on the trucks upgraded at the Sacramento 49er facility and all CSS upgraded trucks traveling throughout the Sacramento region on an annual basis for five years.
 - c. The format of the data may be transmitted by spreadsheet in a manner agreeable to both parties.
 - d. CSS will monitor the program to ensure that the expected emissions reductions occur. CSS and SMAQMD will forward a copy of all project reports to ARB.
 - e. CSS will monitor the program for the full project life. CSS and SMAQMD will submit a copy of the required project reports to ARB by June 30, 2008. This must include data as submitted for the Carl Moyer Program reporting requirements for Year 9 projects, including equipment usage location and emission benefits information.

Exhibit B
Payment Terms and Conditions

1. CSS must perform and complete all work required under this Agreement in a professional manner and in accordance with the professional standards observed by competent practitioners of the profession in which CSS, its subcontractors and agents, are engaged.
2. The APCO has the sole discretion to determine whether CSS has successfully completed the tasks.
3. Payment will be made upon execution of this agreement. CSS must submit one original and one duplicate invoice to SMAQMD at the completion of each outreach effort.
4. Contractor will not be paid for travel and expenses under this Contract.
5. It is understood by Contractor that \$200,000 is the maximum amount budgeted for this Agreement.
6. It is the responsibility of the CSS to successfully complete the requested services as outlined in Exhibit A, acquisition of materials and supplies, while remaining within the approved budget.