

CONTRACT FOR SERVICES

This Second Amendment (Contract) is entered into between the Sacramento Metropolitan Air Quality Management District (SMAQMD), a public agency of the State of California, and Katz & Associates, (Contractor).

1.0 Recitals

- 1.1 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.
- 1.2 On November 17, 2006 SMAQMD released a Request for Proposals (RFP) to interested parties qualified in the field of public relations and advertising.
- 1.3 Contractor responded to the RFP and as a result, is awarded this Contract for public relations and advertising services commencing February 15, 2007 and terminating February 14, 2009.
- 1.4 Due to funding requirements, Contractor was required to participate in a post award audit performed by auditors from the California Department of Transportation (Caltrans).
- 1.5 On April 24, 2007, the District received notification of CalTrans post award audit findings and recommendations, requiring that subcontractor, Glass McClure, submit a new indirect rate cost proposal.
- 1.6 The first Amendment implemented the indirect rate cost proposal required by the above mention.
- 1.7 On June 11, 2007, the District received a second notification from Caltrans with post award audit findings and recommendations relating to the contract language.
- 1.8 The SMAQMD is responsible for educating the public about particulate matter air pollution. In order to effectively manage the Particulate Matter/Wood Smoke Outreach as outlined in Exhibit A, Scope of Services, SMAQMD must increase funds for its services,
- 1.9 This Amendment is necessary to amend the existing Contract to include an additional \$220,000 in Measure A funds for particulate matter outreach, and to update contract language following the successful completion of the Caltrans post-award audit.

- 1.10 Under Resolution No. _____, dated August 23, 2007 the Board of Directors authorized the Air Pollution Control Officer to sign Contract Amendment No. E2006028-B to include \$220,000 in additional Measure A funds.

2.0 Terms and Conditions

The parties agree to the terms and conditions listed below:

- 2.1 **Scope of Services:** Contractor will perform the services described in Exhibit A.
- 2.2 **Payments:** SMAQMD will make the payments outlined in Exhibit B2 to the Contractor so long as the Contractor is providing the services set forth in Exhibit A and incorporate all post award audit recommendations.
- A. **Invoices:** Payment will be on a reimbursement basis. The Contractor will submit one original and one duplicate monthly invoice to SMAQMD in a SMAQMD-approved format.
1. The invoice must include an itemization of Contractor and subcontractor staff costs, including: name, position, task, date of service, date of meeting, meeting topics, number of hours worked, rate per hour and total cost.
 2. The invoice must also include appropriate documentation for all pre-approved expenses.
 3. Invoices that do not contain the information required under this section are incomplete and will not be paid until complete information is submitted.
 4. SMAQMD will authorize payment to Contractor no later than 30 calendar days after receipt of a completed invoice.
 5. Contractor must submit the final invoice within 30 days of the Contract termination date.
- B. **Invoicing Limitations:** The following restrictions limit SMAQMD's obligation to pay invoices:
1. Contractor is solely responsible for payment to all vendors, subcontractors and consultants used in the performance of this Contract. It is not the intent of SMAQMD and Contractor to create third party beneficiary rights in these entities.
 2. In the event Contractor fails to comply with any provision of this Contract, SMAQMD may withhold payment until Contractor has corrected the noncompliance.

3. If this Contract involves media placements, Contractor may not retain commissions on media placements purchased for the benefit of SMAQMD. At the discretion of SMAQMD, the value of any commissions will be applied toward the purchase of additional SMAQMD media placement or discounted from the total bill. Contractor will be paid an hourly rate for media placement services as provided for in this Contract.

2.3 **Rights to Contracted Products:**

- A. All reports, research data, and every other work product of any kind or character arising from or relating to this Contract is the exclusive property of SMAQMD. SMAQMD may use these work products for any purpose whatsoever and has the sole right to the copyright or trademark for these work products.
- B. All campaign themes, domain names, artwork, slogans, jingles, photographs, copy, layouts, advertising materials, research data and every other work product of any kind or character arising from or relating to the contract, or the contract for implementation thereof, shall become the property of the AQMD, and shall be delivered to the AQMD upon completion of its authorized use pursuant to the Contract. The AQMD may use such work products for any purpose.
- C. All works produced under this contract subject to protection under the United States Copyright Act of 1976, as amended, (17 U.S.C. Section 101, et seq.), shall be deemed works produced by a contractor for hire, and all copyright with respect thereto shall vest in AQMD without payment of royalty or any other additional compensation.

2.4 **Contract Term:** The term of this Contract will commence February 15, 2007 and terminate February 14, 2009.

2.5 **Applicable Laws/Choice of Law/Venue:** Contractor 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. Any action arising out of this Contract must be filed in a state court or federal court located in Sacramento, California.

2.6 **Status of Contractor:** Contractor is an independent contractor, and no relationship of employer-employee exists between SMAQMD and Contractor, or Contractor's employees, subcontractors, or consultants. Accordingly, Contractor, its employees, subcontractors and consultants do not have any of the entitlements of an SMAQMD employee.

- A. **Direction and Control:** Contractor is subject to the control and direction of the APCO regarding the designation of tasks to be performed and the results to be accomplished under this Contract, but not the means, methods, or sequence used by Contractor for accomplishing the tasks and results.

- B. **Direction of Third Parties:** If the Contractor employs any third persons, these persons will be under the exclusive control of Contractor. All terms of employment, including but not limited to hours, wages, working conditions, discipline, hiring, and discharging will be determined by Contractor.
 - C. **Right to Bind:** Neither the Contractor 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.
 - D. **Taxes:** SMAQMD will not make any deductions or withholdings from the compensation paid to Contractor. Contractor must issue all forms required by federal and state laws for income and employment tax purposes, including W-2 and 941 forms, for all of Contractor's assigned personnel.
- 2.7 **Conflict of Interest:** No officer or employee of SMAQMD has any pecuniary interest, direct or indirect, in this Contract or the proceeds of the Contract. No officer or employee of Contractor may serve on SMAQMD's governing body or hold any SMAQMD position which nominates, recommends, supervises or authorizes payment to Contractor.
- 2.8 **Nondiscrimination:**
- A. **Requirements:** Contractor must not discriminate based on:
 - 1. Color, race, creed, national origin, religion, sex, age, or physical or mental handicap in violation of Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d) and its implementing regulations, or in violation of any other state or federal law;
 - 2. Sexual orientation as determined by federal, state, or local laws and regulations.
 - B. **Prohibited Discrimination:** Prohibited discrimination under this Contract means disparate treatment on the basis of race, color, creed, national origin or sexual orientation. Discrimination includes, but is not limited to:
 - 1. Denying persons any service or benefit which is different, or is provided in a different manner or at a different time from that provided to other participants under this Contract;
 - 2. Subjecting persons to segregation or separate treatment in any matter related to the receipt of services;
 - 3. Restricting persons in any way from the enjoyment of any advantage or privilege enjoyed by others under this Contract;

4. Treating persons differently from others in determining whether they satisfy any admission, enrollment quota, eligibility, membership, or other requirement that individuals must meet in order to be provided any service or benefit under this Contract;
5. Assigning times or places for the provision of services on the basis of race, color, creed, national origin or sexual orientation of the persons to be served.

2.9 **Indemnification:**

- A. **Scope:** Contractor 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 Contractor in his/her performance of this Contract. SMAQMD will indemnify and defend Contractor, 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 Contract.
- B. **Counsel:** Contractor will also use counsel reasonably acceptable to SMAQMD in carrying out its obligations under this section. The provisions of this section will survive the expiration or early termination of this Contract.

2.10 **Waiver of Claims:** Contractor waives any claims against SMAQMD, its officers, agents, employees or volunteers from damage or loss caused by:

- A. Any suit or proceeding directly or indirectly attacking the validity of this Contract, or any part of this Contract.
- B. Any judgement or award: (i) declaring this Contract, or any part of this Contract, either void or voidable, or (ii) delaying the performance of any part of this Contract.

2.11 **Insurance:**

- A. **Insurance Requirement:** Contractor will maintain insurance to cover its operations throughout this Contract and any Contract extensions.
 1. The insurance must meet the requirements in Exhibit C.
 2. Any insurance or self-insurance maintained by SMAQMD will apply in excess of, and not contribute to, insurance maintained by Contractor.
 3. Contractor will give SMAQMD 30-days written notice prior to modifying the insurance obtained under this section. SMAQMD may object to the modification within 15 days of receiving the notice. If SMAQMD objects, it may demand the relief specified in paragraph 2.17 (B).
 4. This section does not limit Contractor's indemnification obligation in Section 2.9.

- B. **Involuntary Policy Modifications:** If Contractor's insurer modifies its insurance in any manner that affects the specifications in Exhibit C, Contractor must notify SMAQMD within 48 hours of the modification. SMAQMD may demand that Contractor obtain additional coverage sufficient to comply with the specifications in Exhibit C, or may terminate this Contract as provided in section 2.16 (B).

2.12.1 **Subcontracts and Assignments:** No performance required or payment due under this Contract may be subcontracted, delegated or assigned without the express written consent of SMAQMD.

- A. If the Contractor submitted the name of a subcontractor in the proposal or application for this Contract, SMAQMD's approval of the Contract is also an approval of the use of the named subcontractor.
- B. In the event that any part of this Contract is subcontracted, Contractor 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:
 - 1. Inclusion of MBEs and WBEs on solicitation lists.
 - 2. Assure MBEs and WBEs are solicited once they are identified.
 - 3. Where feasible, divide total requirements into smaller tasks to permit maximum MBE/WBE participation.
 - 4. Where feasible, establish delivery schedules which will encourage MBE and WBE participation.
 - 5. 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.
- C. Any subcontract in excess of \$25,000 entered into as a result of this contract, must contain all the provisions in this contract that are applicable to subcontractors.

2.14 **Successors:** This Contract will bind the successors of SMAQMD and Contractor in the same manner as if they were expressly named.

2.15 **Alterations:** No alternation or variation of the terms of this Contract is valid unless made in writing and signed by both parties.

2.16 **Recordkeeping:**

- A. **Records:** Contractor will maintain all necessary records, books and accounts to verify that the Contract funds are used only for the purposes stated in this Contract.
- B. **Audits:** SMAQMD may audit all expenditures made by the Contractor under this Contract. Contractor must ensure that SMAQMD staff have access, at all reasonable times, to the documents kept by Contractor in connection with all funds expended under this Contract.

- C. **Duration:** Contractor must maintain these documents for 5 years after the later of: the termination of this Contract, the termination of any Contract extensions, or the date of the final payment under the Contract. At the end of the 5-year period, Contractor must either continue to maintain the documents or surrender the documents to SMAQMD – unless the APCO states, in writing, that Contractor may destroy documents.

2.17 **Termination:**

- A. **30-day Notice Termination:** Either SMAQMD or Contractor may terminate this contract for any reason by giving the other party 30-days written notice. If this contract is terminated under this paragraph, SMAQMD may proceed with the work in any manner deemed proper by SMAQMD without recourse by Contractor, its officers, agents, employees or volunteers.
- B. **5-day Notice Termination:** SMAQMD, through its APCO, may terminate this Contract with 5 days written notice if Contractor fails to perform any of the terms and conditions of this Contract in the time and manner specified. If the Contract is terminated under this paragraph, SMAQMD may proceed with the work in any manner deemed proper by SMAQMD without recourse by Contractor, its officers, agents, employees or volunteers.
- C. **Immediate Termination:** SMAQMD, through its APCO, may terminate or amend this Contract without prior notice if advised that funds are not available for this Contract or any portion of this Contract, or if funds are not specifically appropriated for this Contract in SMAQMD's final budget for the term of this Contract and any extensions to the Contract. If SMAQMD terminates or amends this Contract under this paragraph, SMAQMD must serve notice of the action on the Contractor within 2 working days. Contractor will be paid for expenses listed in Exhibit B and work performed through the termination date.

2.18 **Disputes:**

- A. **APCO Decision:** Any dispute under this Contract will be settled in a written decision by the APCO. The APCO must mail a copy of the decision to Contractor. Contractor is not excused from performance of this Contract while the APCO's decision is pending.
- B. **Finality of the Decision and Exceptions:** The APCO's decision is final unless Contractor files a written appeal with the SMAQMD Board of Directors within 30 days from the date of the APCO's decision. Any appeal must detail the basis of the appeal and contain copies of all documentation supporting Contractor's position.
- C. **Appeals:** The SMAQMD Board will hear the appeal at a public Board meeting. The Contractor may present testimony and evidence supporting its position at the meeting. Contractor and SMAQMD will perform all duties and obligations in accordance with the APCO's decision pending final Board action. The decision of the Board is a final agency action and may be judicially appealed.

- 2.19 **Waiver of Contract 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 right under this Contract.
- 2.20 **Time:** Time is of the essence in the performance of each of the provisions of this Contract.
- 2.21 **Severability:** If any provision of this Contract is held invalid or unenforceable, its invalidity or unenforceability will not affect any other provisions of this Contract, and this Contract will be construed and enforced as if such provision had not been included.
- 2.22 **Payments that contravene the law:** SMAQMD has no liability for payments that are found to contravene the law. Contractor will reimburse SMAQMD for any payments made by SMAQMD to Contractor and later determined to contravene federal, state or local laws and regulations.
- 2.23 **Contingency Clause:** This contract is subject to any contingency clauses stated in Exhibit B2 - Payment Schedule and Terms.
- 2.24 **Special Provisions – Congestion Management and Air Quality (CMAQ) Funds:**
- A. **Applicability:** _____ (SMAQMD staff to initial if CMAQ funds will be used.) This section applies only if the Contractor will receive CMAQ funds. Inclusion of this section is a requirement of the SMAQMD Disadvantaged Business Enterprise (DBE) Program for CMAQ-funded projects. See Contract, Exhibit D.
 - B. The SMAQMD encourages the participation of DBEs as defined in Title 49, Code of Federal Regulations part 26 (49 CFR 26) in the performance of contracts financed in whole or in part with Federal Funds.
 - C. **Provisions:** If this project is funded by federal funds, this project is subject to 49 CFR 26 entitled “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.” If all or some of the funds paid to Contractor are CMAQ funds, the following additional contract terms apply:
 - i. **Subcontractor Payments:** The Contractor will pay each subcontractor for satisfactory performance no later than 10 days from the receipt of each payment the Contractor receives from SMAQMD. Any delay or postponement of payment from this time frame may occur only for good cause following written approval of SMAQMD. This paragraph applies to both Disadvantaged Business Enterprises (DBE) and nonDBE subcontractors.

- ii. **Retainage Releases:** The Contractor will release retainage payments to each subcontractor within 30 days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment from this time frame may occur only for good cause following written approval of SMAQMD. This paragraph applies to both Disadvantaged Business Enterprises (DBE) and nonDBE subcontractors.
- iii. **Nondiscrimination:** The Contractor or subcontractor will not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor will carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as SMAQMD deems appropriate. If there is a conflict between the provisions of this paragraph and section 2.4, this paragraph will control.

2.25 **Entire Agreement:** This Contract constitutes the entire agreement between SMAQMD and Contractor. Both parties revoke all prior or contemporaneous oral or written agreements between them that are inconsistent with this Contract. In the event of a dispute between the parties regarding the Contract, this Contract 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 Contract. This Contract consists of:

- A. Exhibit A – Scope of Services
- B. Exhibit B2 – Payment Schedule and Terms
- C. Exhibit C – Insurance Requirements
- D. Exhibit D – Disadvantaged Business Enterprises Requirements

2.26 **Communications:** Any communication between the parties that is required under the provisions of this Contract must be in writing, and be either: (i) personally delivered, (ii) sent by prepaid, certified first class mail, return receipt requested, or (iii) sent by facsimile (provided confirmation of delivery is obtained at the time of transmission). Communications must be addressed to the parties as follows:

To Contractor

Lori Pro시오, Vice President
 Katz & Associates
 1722 J Street, Suite 321
 Sacramento, CA 95814
 Phone: (916) 492-0923 ext 401
 Fax: (916) 492-0927

To SMAQMD

Larry Greene, APCO
 Sacramento Metropolitan AQMD
 777 12th Street, Third Floor
 Sacramento, CA 95814-1908
 Phone: (916) 874-4800
 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.

2.27 **Contract Manager: Christina Ragsdale** 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.

2.28 **Authority to Bind:** The persons signing on behalf of the parties to this Contract warrant that they have the legal authority to execute the Contract.

Sacramento Metropolitan Air
Quality Management District

Katz & Associates

Larry Greene
Air Pollution Control Officer

Sara M. Katz
President & CEO

Reviewed by:

Kathrine Pittard
District Counsel

Exhibit A
Scope of Services

Contractor shall proactively provide innovative, professional recommendations and services to the SMAQMD in the performance of the tasks described in this Scope of Services.

General Education and Outreach Campaign

Assist SMAQMD with general air quality public education and outreach. Campaign may include, but is not limited to:

- Web site content and design
- Radio and television commercials
- Print advertising
- Brochures and other printed materials
- Promotional items
- Exhibits and displays
- Community event participation

Spare The Air Campaign

Assist SMAQMD with annual Spare The Air campaign. The campaign seeks to reach the public through various methods with an immediate appeal to reduce driving during periods of unhealthy air quality. Campaign may include, but is not limited to:

- Web site content and design
- News conferences and special events
- Radio and television advisory commercials
- Print advertising
- Brochures and other printed materials
- Promotional items
- Exhibits and displays
- Community event participation

Particulate Matter/Wood Smoke Outreach

Assist SMAQMD with public outreach on particulate matter and wood smoke pollution, which takes place during the fall & winter months. Campaign may include, but is not limited to:

- Web site content and design
- News conferences and special events
- Radio and television advisory commercials
- Print advertising
- Brochures and other printed materials
- Promotional items
- Exhibits and displays
- Community event participation

Additional Project Development

Assist SMAQMD with additional project development, as approved by the APCO. Projects may include, but are not limited to: State Implementation Plan (SIP) outreach and rule development outreach.

Conditions. Contractor must:

1. Perform and complete all work required under this Contract in a professional manner and in accordance with the professional standards observed by competent practitioners of the profession in which Contractor, its subcontractors or agents, are engaged.
2. Coordinate closely with community organizations designated by the Contract Manager, for the purpose of maximizing community participation and consistency with any other related public education program.
3. Maximize any voluntary in-kind services or financial contributions that may be made to SMAQMD under this Contract, and list the services and financial contributions received in the monthly invoice. The list of in-kind services must include an approximate value for the services.
4. Contractor may be required to provide Meeting Reports summarizing topics covered, decisions made and responsibilities assigned.

Exhibit B2 Amendment
Payment Terms and Conditions

1. The cost proposal is subject to a post award audit. After any post award audit recommendations are received, the cost proposal shall be adjusted by the Contractor and approved by SMAQMD to conform to the audit recommendations. The Contractor agrees that individual items of cost may be incorporated into the agreement at SMAQMD's sole discretion. Refusal by the Contractor to incorporate the interim audit or post award recommendations will be considered a breach of the Contract terms and cause for termination of the Agreement.
2. All Travel must be pre-approved in writing prior to commencement of travel. Contractor will be reimbursed only for approved travel expenses. All travel expenses must be documented by receipts. Airline travel must include copies of airline tickets, dates of travel, purpose for travel and written record of prior APCO approval. Reimbursement for expenses will be made in accordance with the State Department of Personnel Administration Travel Guidelines.
3. The APCO has the sole discretion to determine whether Contractor has successfully completed the tasks.
4. \$2,420,000 is the maximum total payment budgeted for this Contract. There is no guarantee, either expressed or implied that the full amount of this contract will be authorized through task orders. It is the responsibility of the Contractor to successfully complete the requested services as outlined in Exhibit A, including expenses and the acquisition of materials and supplies, while remaining within this budget.
5. Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 4, Part 31.000 et seq., will be used to determine the allowability of cost individual items.
6. Contractor must comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
7. Any costs for which payment has been made to the Contractor that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq. are subject to repayment by Consultant to SMAQMD.
8. All subcontracts in excess of \$25,000 shall contain the above provisions 1 - 8.
9. Section 2.2 of this Contract contains additional reporting and fiscal requirements.

A. Acceptable Fees

1. The hourly rates agreed to by SMAQMD and Contractor shall not be increased during the term of this Contract.
2. SMAQMD will only pay for actual time spent completing an authorized task, with the time rounded to the nearest fifteen-minute increment.
3. It is understood that SMAQMD may occasionally ask Contractor to perform short-notice tasks. These tasks include creating display materials, assisting with special meetings or events, and responding to urgent outreach opportunities that were unanticipated. Contractor is required to use only as many employees as is reasonably necessary to perform the work.

B. Unacceptable Fees – The SMAQMD will not pay fees associated with the following:

1. Preparing bills and invoices
2. Responding to billing inquiries from any entity
3. Review of this contract with the SMAQMD
4. Improper staffing assignments (e.g., specialized personnel performing routine research tasks)
5. Duplicate charges for the same work effort caused by your staffing and supervising requirements
6. Employee courier services in excess of \$15.00 per delivery
7. Staff overtime
8. Arranging travel/accommodations
9. Collating, velobinding or faxing
10. Incoming faxes or emails

C. Expenses

1. Itemization. The SMAQMD requires expenses to be itemized by date incurred and by category (e.g., photocopy, long distance telephone, parking).
2. Detail. Each expense item must be adequately detailed so as to enable the SMAQMD to determine the exact nature, purpose and necessity of the expense.
3. Payment. All routine expenses should be paid directly by the Contractor and billed to the SMAQMD as disbursements. Actual receipts must be attached to your bill.

D. Non reimbursable costs: SMAQMD will not reimburse the Contractor for costs or fees associated with the following:

1. Conference reports, billing costs, supplies, copying, printing, postage, packaging, telephone calls and faxes.
2. Personnel Costs associated with making travel arrangements or general clerical support.
3. Markup. The SMAQMD will not reimburse the Contractor a “markup” percentage associated with the purchase of products of SMAQMD’s behalf from outside vendors (such as: television and radio commercials, print advertising, promotional items, print materials or exhibit booth space). Payment will be made on a reimbursement basis.

4. The purchase of equipment, including but not limited to the following, is not authorized under this Contract:
- ❖ Office equipment
 - ❖ Telephone equipment
 - ❖ Video equipment
 - ❖ Computer equipment
 - ❖ Computer software
 - ❖ Furniture
 - ❖ Refreshments during meetings
 - ❖ Publications/periodicals

E. Labor Rates Billing

The rates listed in Section E are inclusive and no other administrative fees or charges are authorized under this Contract except for charges authorized in Paragraph A. The listed straight rates below is a maximum and not to exceed.

Katz & Associates Personnel Rates

Position Title	Hourly rates		
	Straight	From	To
Kristina Ray, Vice President	144.61	1/1/07	12/31/07
	151.84	1/1/08	12/31/08
	159.44	1/1/09	12/31/09
Lori M Pro시오, Vice President	144.61	1/1/07	12/31/07
	151.84	1/1/08	12/31/08
	159.44	1/1/09	12/31/09
Tawny Watkins, Account Exec II	65.68	1/1/07	12/31/07
	68.97	1/1/08	12/31/08
	72.42	1/1/09	12/31/09
Jenny Fong, Asst Account Exec	45.99	1/1/07	12/31/07
	48.29	1/1/08	12/31/08
	50.70	1/1/09	12/31/09
Illeana Ortega, Account Coordinator	40.32	1/1/07	12/31/07
	42.33	1/1/08	12/31/08
	44.45	1/1/09	12/31/09
Account Supervisor	90.38	1/1/07	12/31/07
	94.90	1/1/08	12/31/08
	99.65	1/1/09	12/31/09
Senior Account Executive	77.89	1/1/07	12/31/07
	81.78	1/1/08	12/31/08
	85.87	1/1/09	12/31/09
Account Executive I	59.78	1/1/07	12/31/07
	62.77	1/1/08	12/31/08
	65.91	1/1/09	12/31/09
Project Support	34.71	1/1/07	12/31/07
	36.44	1/1/08	12/31/08
	38.26	1/1/09	12/31/09

Glass McClure Personnel Rates

	Rates	From	To
Paul McClure, Strategic Counsel	138.13	1/1/07	12/31/07
	145.04	1/1/08	12/31/08
Siobhann Mansour, Media Director	98.67	1/1/07	12/31/07
	103.60	1/1/08	12/31/08
Account Executive	63.67	1/1/07	12/31/07
	66.85	1/1/08	12/31/08
Assistant Account Executive	38.18	1/1/07	12/31/07
	40.09	1/1/08	12/31/08
Kathryn Baird, Media Director	119.37	1/1/07	12/31/07
	125.34	1/1/08	12/31/08
Beth Shaini, Media Planner	46.67	1/1/07	12/31/07
	49.00	1/1/08	12/31/08
Debi Giorchino, Senior Media Buyer	90.17	1/1/07	12/31/07
	94.68	1/1/08	12/31/08
Sean Hoffman, Media Buyer	48.79	1/1/07	12/31/07
	51.23	1/1/08	12/31/08
Erica Rau, Promotions Director	88.69	1/1/07	12/31/07
	93.12	1/1/08	12/31/08
Michelle Fuller, Promotions Manager	73.35	1/1/07	12/31/07
	73.87	1/1/08	12/31/08
Brantley Payne, Creative Director	100.79	1/1/07	12/31/07
	105.83	1/1/08	12/31/08
Jared Plemons, Copywriter	63.67	1/1/07	12/31/07
	66.85	1/1/08	12/31/08
Whitney Lofrano, Art Director II	60.47	1/1/07	12/31/07
	63.49	1/1/08	12/31/08
Darcey Self, Art Director I	44.03	1/1/07	12/31/07
	46.23	1/1/08	12/31/08
Lauren Inouye, Production Director	86.00	1/1/07	12/31/07
	90.30	1/1/08	12/31/08
Pamela Chao, Associate Producer	34.49	1/1/07	12/31/07
	36.21	1/1/08	12/31/08

Tricia Denney, Creative Services Mgr.	63.67	1/1/07	12/31/07
	66.85	1/1/08	12/31/08
Flannery Aquino, Traffic Coordinator	29.70	1/1/07	12/31/07
	31.19	1/1/08	12/31/08

Bolded rates indicate changes from the original contact.

F. Billing Restrictions

1. The salary rates listed in Section E identify the rate that the SMAQMD will pay for work performed at the payroll title levels indicated. It is understood that the Contractor may use the individuals listed or may use individuals with similar qualifications at the same payroll title level. Individuals listed may be promoted and change payroll title levels. The SMAQMD may request that specific tasks be performed by selected individuals deemed by SMAQMD to have unique abilities.

2. Contractor is required to notify SMAQMD in writing if the identity of an individual performing the task changes or if a listed individual is moved to a different payroll title. The notice must be received prior to the billing period in which increase or change will commence. SMAQMD may object to the change if it deems the change unreasonable.

Exhibit C
Insurance Requirements

Without limiting Contractor's indemnification, Contractor will procure and maintain for the duration of the contract, insurance against claims for injuries or persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives or employees. SMAQMD will retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If, in the opinion of the SMAQMD's Liability & Property Insurance Office, the insurance provisions in these requirements do not provide adequate protection for SMAQMD and for members of the public, SMAQMD may require Contractor to obtain insurance sufficient in coverage, form and amount to provide adequate protection. SMAQMD's requirement must be reasonable but will be imposed to assure protection from and against the kind and extent of risks that exist at the time a change in insurance is required.

Verification of Coverage

Contractor will furnish SMAQMD with certificates evidencing coverage required above. 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 that Contractor provide complete, certified copies of any policy of insurance offered in compliance with these specifications. As an alternative to insurance certificates, the Contractor's insurer may voluntarily provide complete, certified copies of all required insurance policies, including endorsements, affecting the coverage required by these specifications.

Minimum Scope of Insurance

Coverage will be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
3. Worker's Compensation insurance as required by the State of California.
4. Employer's Liability Insurance.

Minimum Limits of Insurance

Contractor will 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 will apply separately to this project/location or the general aggregate limit will be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation: Statutory

4. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

Deductible and Self-Insured Retention

Any deductibles or self-insured retention must be declared to and approved by SMAQMD. At the option of SMAQMD, either: the insurer will reduce or eliminate such deductibles or self-insured retention as respects SMAQMD, its officers, officials, employees and volunteers; or the Contractor will procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. SMAQMD, its officers, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; or premises owned, occupied, or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage may not contain special limitations on the scope of protection afforded to SMAQMD, its officers, officials, employees, agents or volunteers.
2. For any claims related to this project, the Contractor's insurance coverage will be primary insurance as respects SMAQMD, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by SMAQMD, its officers, officials, employees, agents or volunteers will be excess of the Contractor's insurance and will not contribute to it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties will not affect coverage provided to SMAQMD, its officers, official, employees, agents or volunteers.
4. The Contractor's insurance will apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

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 may waive or alter this requirement, or accept self-insurance in lieu of any required policy of insurance if, in the opinion of the Claims Manager (Special District Risk Management Authority) or District Counsel, the interests of SMAQMD and the general public are adequately protected.

Exhibit D
Disadvantaged Business Enterprises Requirements

I. DBE Participation Information

(Contractor must check Option 1 or Option 2 below)

_____ Option 1 – No certified DBE participation proposed under this Contract.

_____ Option 2 – It is proposed that the following DBE(s) be used on this Contract

Name of Certified DBE	DBE Certification No.
DBE Address	DBE Telephone No.
	DBE E-Mail Address
Capacity of DBE (e.g., contractor, subcontractor, vendor)	\$ Amount DBE Participation
Description of services or material to be provided by DBE	
Submitted By:	
Signature	Date
Print Name and Title	
Name of Contractor, if different than signatory	

II. Identifying DBEs

Contractor shall be fully informed in respect the requirements of the DBE Regulations. The DBE Regulations in their entirety are incorporated herein by this reference. The regulations include the following information:

- A. A DBE must be a small business concern as defined pursuant to Section 3 of U.S. Small Business Act and relevant regulations promulgated pursuant thereto.
- B. A DBE may participate as a prime contractor, subcontractor, joint venture partner with a prime or subcontractor, vendor of material or supplies or as a trucking company.
- C. A DBE joint venture partner must be responsible for specific contract items of work, or clearly defined portions thereof. Responsibility means actually performing, managing and supervising the work with its own forces. The DBE joint venture partner must share in the capital contributions, control, managements, risks and profits of the joint venture commensurate with its ownership interest.
- D. A DBE must perform a commercially useful function, i.e., must be responsible for the execution of a district element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- E. DBEs must be certified by the California Unified Certification Program (CUCP). Listings of DBEs certified by the CUCP are available from the following sources:
 - 1) The Caltran's "Civil Rights" web site at: <http://www.dot.ca.gov/hq/bep>.
 - 2) The Caltran's DBE Directory. This Directory may be obtained from the Department of Transportation, Materiel Operations Branch, Publication Distribution Unit, 1900 Royal Oaks Drive, Sacramento, California 95815, Telephone: (916) 445-3520.
- F. When Reporting DBE participation, bidders may count the cost of materials or supplies purchased from DBEs as follows:
 - 1) If the materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost of the materials or supplies will count toward DBE participation. A DBE manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
 - 2) If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided in this paragraph F.2. if the person owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.

Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this paragraph F.2.

- 3) If the DBE is neither a manufacturer nor a regular dealer, count only the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

G. When reporting DBE participation, bidders may count the participation of DBE trucking companies as follows:

- 1) The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract.
- 2) The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- 3) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
- 4) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
- 5) The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.
- 6) For the purposes of this paragraph G, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

H. Bidders are encouraged to use services offered by financial institutions owned and controlled by DBEs.