

**SACRAMENTO METROPOLITAN AIR QUALITY MANAGEMENT DISTRICT
SACRAMENTO EMERGENCY CLEAN AIR TRANSPORTATION PROGRAM (SECAT)**

This Agreement (Agreement) is between the Sacramento Metropolitan Air Quality Management District (SMAQMD), and **El Dorado County c/o Library Department** (Participant).

1.0 Recitals

- 1.1 SMAQMD is part of the Sacramento Federal Ozone Nonattainment Area (SFNA or Nonattainment Area). Ozone is formed by the interaction of Nitrogen Oxides (NOx) and other precursor pollutants. The majority of NOx in the SFNA is generated by vehicles, including heavy-duty vehicles and engines.
- 1.2 SMAQMD 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 SMAQMD 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 The state legislature established the Sacramento Emergency Clean Air and Transportation Program (SECAT Program) to help the air districts within the Nonattainment Area comply with the federal standards. (Health & Safety Code §44299.50 et seq.)
- 1.5 One of the air-quality-improvement methods identified in the SECAT Program is the development of a Fleet Modernization Program to promote the advance purchase and use of low-NOx on-road-heavy-duty vehicle and engine technology.
- 1.6 SMAQMD approved the Fleet Modernization Program Guidelines ("Guidelines"), on January 24, 2002, and are periodically revised. These Guidelines, and any subsequent amendments, will be automatically specifically incorporated into the Agreement as though fully set forth herein. SMAQMD also simultaneously approved the use of this Agreement form, as amended from time to time and authorized their Chief Executive Officer and SMAQMD's Air Pollution Control Officer (APCO), respectively, to execute this Agreement.
- 1.7 The Participant has reviewed and is familiar with the SECAT Program Policies and Guidelines.
- 1.8 The objective of the SECAT Program is to accelerate the modernization of the existing heavy-duty vehicles in the Sacramento Ozone Nonattainment Region through financial incentives that will encourage the voluntary purchase of heavy-duty vehicles using newer, lower emitting technology or alternative fuels, and the retrofitting of existing heavy-duty vehicle engines with technology that lowers engine emissions.
- 1.9 Through the SECAT Program, SMAQMD will provide financial incentives to vehicle owners that agree to surrender their heavy-duty trucks for destruction or to be used in the enhanced SECAT Program and then replace them with newer, lower-emission vehicles. Participants purchasing zero emission vehicles are not required to identify or destroy an old vehicle(s) to obtain financial incentives.
- 1.10 To ensure that actual reductions result from the SECAT Program, it is essential: (i) that the replaced vehicles, where applicable, be inspected to verify that they qualify for the Program, (ii) that the replaced vehicles, where applicable, be destroyed by a qualified salvage operation, (iii) that an Electronic Monitoring Unit, if available, be installed in the new vehicle to verify actual operation within the Sacramento Area Council of Governments (SACOG) Region (A map of the SACOG Region is included in Exhibit A), and (iv) that particulate emission control devices, if available, be installed to reduce particulate emissions.
- 1.11 Participant understands that the purpose of the Program, and this Agreement, is to help SMAQMD achieve clean air standards required by state and federal law.

- 1.12 The Participant wishes to participate in this process by using SECAT Program funds in the purchase of a low-NOx vehicle and related equipment.
- 1.13 The parties specifically recognize that SACOG 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 **"Certified"** means a vehicle or engine that is certified by California Air Resources Board (CARB) or the United States Environmental Protection Agency (USEPA) to an emission standard or standards.
- 2.1.2 **"Dealership"** means a business specializing in the sale of new and used heavy duty vehicles that has entered into an agreement with SMAQMD to assist in the implementation of the Program.
- 2.1.3 **"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.
- 2.1.4 **"Electronic Monitoring Unit" or "EMU"** means a SMAQMD-approved Global Positioning System (GPS) device that is installed on a 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 SMAQMD or its designee.
- 2.1.5 **"Equipment"** means the Replacement Vehicle identified in Exhibit C as well as the related devices required to be installed under Paragraph 2.3.4.
- 2.1.6 **"Existing Vehicle"** means the vehicle that the Program Participant surrenders for destruction.
- 2.1.7 **"Program"** means the SECAT Program and the SECAT Program Guidelines (as amended from time to time), which are incorporated into this Agreement as if fully set forth.
- 2.1.8 **"Participant"** means the individual, agency, or business entity that is receiving funds under this Participant Agreement.
- 2.1.9 **"Reimbursement Formula"** is the following calculation for determining the level of funds to be returned to SMAQMD if Participant fails to meet the operational requirements of the Agreement:

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

A = Amount Owed to SMAQMD
 I = Total Incentive Award
 L = Length of the Agreement in Months
 T = Elapsed New Equipment Project Life in Months
- 2.1.10 **"Replacement Vehicle"** means the newer, lower-emission vehicle described in Exhibit B, Sections 3 and 4. The vehicle must be certified by the California Air Resources Board in compliance with the Guidelines.

2.2 **Payment:**

- 2.2.1 **Payment:** SMAQMD will pay up to **\$100,000** to Participant to reimburse actual costs for the purchase of the New or Replacement Equipment identified in Exhibit B. 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 2.2.2, (iii) Participant satisfies the requirements in Section 2.5 (Inspections and Audits) and 2.6 (Invoice Requirements), and (iv) Exhibit Z has been signed by all parties. **If Participant purchases the New or Replacement Equipment/Engine(s) before this Agreement is signed by all parties, then Participant will NOT receive any grant funds.**
- 2.2.2 **Taxation:** 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 Payee Data Record form to SMAQMD prior to payment. SMAQMD 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 will:

- 2.3.1 **Time:** Order the Replacement Vehicle within 45 days of the date this Agreement is executed by the last signatory, and purchase and begin operating the Replacement Vehicle within the timeframe indicated in Exhibit B.
- (i) If the Participant does not meet the deadlines in this Section, SMAQMD may terminate this Agreement under Paragraph 2.9.1.
 - (ii) Participant may submit a written request to extend these deadlines if it is unable to meet them due to circumstances beyond the Participant's reasonable control.
- 2.3.2 **Operation:** Operate the Replacement Vehicle within the SACOG Region and ensure that the operation is consistent with the eligibility requirements in the Program and with the goals and objectives of the Program.
- 2.3.3 **Warranties:** Secure the manufacturer warranties for the Replacement Vehicle and operate the Replacement Vehicle within the manufacturer's specifications, including maintenance and fueling requirements.
- 2.3.4 **Additional Devices Requirements:**
- 2.3.4.1 **Electronic Monitoring Unit:** If requested by SMAQMD, install an EMU and provide proof of installation to SMAQMD within 90-days of the date of the request.
 - 2.3.4.2 **Hour Meter:** If the Participant has opted to accept hourly operational requirements rather than mileage requirements, it must install a SMAQMD-approved hour meter.
 - 2.3.4.3 **Fuel Meter:** If the Participant has opted to accept fuel operational requirements rather than mileage requirements, it must install a SMAQMD-approved fuel meter.
 - 2.3.4.4 **Notice and Repair:** Notify SMAQMD immediately if the EMU, hourly monitor, or fuel meter fails or becomes inoperable, and repair the devices as soon as practicable.
- 2.3.5 **Existing Vehicle Surrender:** For Vehicle Replacements:
- (i) Except as required under Section 2.3.5 (iii), (iv), and (v), Participant must surrender the Existing Vehicle to an approved salvage operation. Participant may arrange the delivery through an approved Dealership.

- (ii) When the Existing Vehicle is delivered to the SMAQMD-approved Dealership, salvage operation or other facility authorized under Section 2.3.5 (iii) and (iv), the Participant must ensure that it is in the same operating condition it was in at the first inspection.
- (iii) SMAQMD may opt to sell the destroyed and salvaged Existing Vehicle, and Participant retains no right to any proceeds from the destruction, salvage, and sale of the Vehicle by SMAQMD or the salvage operation. SMAQMD reserves the right to require the Participant to surrender the Existing Vehicle to a specific salvage operation. If SMAQMD opts to specify the salvage operation, SMAQMD must provide written notice to the Participant before the Participant delivers the Existing Vehicle to a salvage operation.
- (iv) SMAQMD may authorize or require the Participant to use an alternative disposal method that ensures emission reductions.
- (v) Participants purchasing a zero emissions vehicle are not required to surrender or destroy an Existing Vehicle.

2.3.6 **Program Guidelines:** Comply with all other requirements detailed in this Agreement or the Program and Guidelines.

2.3.7 **Disclosures:** Complete Exhibit E and, if this Agreement requires approval by the Board of Directors, Exhibit F.

2.3.8 **Branding and Promotion:** Comply with all applicable branding and promotion requirements in accordance with Exhibit G for Equipment (as defined in Paragraph 2.1.5) operating in the County of Sacramento.

2.3.9 **Buy America Requirements:** Ensure that all Replacement Vehicles funded under this Agreement have a final point of assembly in the United States of America, unless this requirement is waived in writing by SMAQMD.

2.4 **Participant's Warranties:** The Participant warrants that:

- (i) The Application Form has been completed and all of the information presented in the Form is complete and accurate. Participant's Application is incorporated by reference in this Agreement
- (ii) Both the Existing Vehicle, if applicable, and the Replacement Vehicle 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 Replacement Vehicle described in Exhibit B is not required by any law or regulation. (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 Replacement Vehicle, or 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.

2.5 **Inspections and Audits:** Each Replacement Vehicle and Existing Vehicle is subject to inspection by SMAQMD or its designee at any time. The Participant agrees to provide SMAQMD or its designee with on-site access to the Replacement Vehicle. 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 each Existing Vehicle to verify that the engine 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 Replacement Vehicle is purchased to verify that it meets the Program requirements.
- 2.5.3 **Salvage or Destruction Inspection:** SMAQMD or an SMAQMD-approved Dismantler will conduct inspections to ensure that, at the time of salvage, the Existing Vehicle is in the same condition it was in at the pre-inspection. If the condition of the Existing Vehicle has changed, SMAQMD may deny or decrease payment of the amounts in Section 2.2 (Payment). SMAQMD will also conduct a post-salvage inspection to verify destruction or disposal of the Existing Vehicle, if applicable.
- 2.5.4 **Audit Inspection:** SMAQMD will conduct audit inspections as necessary to verify the Replacement Vehicle is operating as required under the Program and meeting contractual requirements. Audits include both the physical equipment and the Participant's records. SMAQMD may also perform a fiscal audit of the project at any time.
- 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 documents identified below.
- 2.6.1 **Purchase Documentation:** A copy of the final purchase order and Program Participant purchase invoice, invoices for work performed to meet Program eligibility requirements, and the finance agreement for any portion of the vehicle purchase price to be privately financed. The documentation must include the odometer reading on the date the Replacement Vehicle is financed.
- 2.6.2 **DMV Registration:** A copy of the DMV registration for the Replacement Vehicle, listing Participant as the registered owner and SMAQMD as lien holder on the vehicle.
- 2.6.3 **Engine Warranty:** A copy of the engine warranty that verifies the Replacement Vehicle meets the Program requirements.
- 2.6.4 **Meter Installation:** If the Program Participant has opted to meet its performance obligations by complying with hour or fuel requirements, a copy of an invoice documenting that an hour or fuel meter has been installed on the Replacement Vehicle, and a written confirmation by Dealership that the meter is operational.
- 2.6.5 **Proof of Insurance:** A copy of proof of insurance demonstrating compliance with Section 3.5, and Exhibit D.
- 2.7 **Title and Finance Requirements:** The Participant agrees to the following vehicle title and finance requirements:
- (i) The Participant must provide a copy of the Replacement Vehicle's title to SMAQMD, demonstrating that SMAQMD is named as a lien holder of the vehicle. If SMAQMD is the sole lien holder, Participant will provide the original title to SMAQMD.
 - (ii) The Participant must be the registered owner of the Replacement Vehicle throughout the term of this Agreement.
 - (iii) If the Replacement Vehicle is financed, the Participant must list SMAQMD and the Finance Company as lien holders for the vehicle.
 - (iv) If the Replacement Vehicle is financed, and the vehicle loan is repaid before the termination of this Agreement, the Participant must ensure that SMAQMD is listed as the sole lien holder on the Replacement Vehicle for the entire remaining term of this Agreement.
 - (v) If the Replacement Vehicle is repossessed by the finance company, the Participant must immediately notify SMAQMD and must reimburse SMAQMD in accordance with Section 2.10 (Reimbursements).

- (vi) If the Replacement Vehicle is leased, the Participant must ensure that the leasing company lists SMAQMD as a lien holder on the vehicle title.
- (vii) If the Participant acquires a leased Replacement Vehicle and terminates the leasing agreement during the term of this Agreement, the Participant must ensure that SMAQMD is listed as the sole lien holder on the Replacement Vehicle for the entire remaining term of this Agreement.
- (viii) Any changes to the Replacement Vehicle's title must be preapproved in writing by SMAQMD.

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

2.8.1 Release of Financial Information: If the Participant is using commercial or other loans to purchase the Equipment, Participant authorizes the financing entity to release any and all financial information to SMAQMD 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: SMAQMD 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. With the exception of section 2.9.1 (i) actions, if SMAQMD intends to suspend or terminate it will give notice of this intent and allow Participant 45 days to cure the breach. No notice or opportunity to cure are required for 2.9.1 (i) actions. In no event will any payment by SMAQMD constitute a waiver by SMAQMD 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 SMAQMD with respect to the breach or default.

2.9.2 Refunds: If SMAQMD suspends or terminates this Agreement for any of the reasons stated in section 2.9.1, it will give notice of this intent and allow Participant 45 days to cure the breach. No notice or opportunity to cure are required for 2.9.1 (i) actions. SMAQMD will have the right to demand the repayment to SMAQMD 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. Refund is in addition to any other remedies available to SMAQMD.

2.9.3 Other Remedies: In addition to suspension, termination and refund demands, SMAQMD may impose any other remedies available by law, in equity, or otherwise specified in this Agreement.

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

2.9.5 Funding: The parties acknowledge that this Agreement will be funded by incentive fund revenues from other agencies and that SMAQMD may terminate this Agreement if it does not receive all or a portion of the revenues. If SMAQMD terminates this Agreement under this provision, it will serve notice of the action on the Participant within 10 working days.

2.10 Reimbursements: Notwithstanding the provisions in Section 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 SMAQMD 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 Section 3.1 (Term), it must refund a pro rata portion of the **\$100,000** to SMAQMD.

2.10.1 Reimbursement Determination: SMAQMD will determine whether a reimbursement is required after reviewing the annual reports required under Section 2.11 (Recordkeeping and Reporting Requirements). If the Participant has failed to submit a report for any year, SMAQMD may assume that none of the operational requirements (where required) 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 Section 3.1 (Term), SMAQMD may:

- (i) Demand full repayment of the Section 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 Replacement Vehicle 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 Replacement Vehicle with a new Replacement Vehicle certified to equal or lower emission levels than the inoperable Replacement Vehicle and complete performance of this Agreement or (ii) terminate the Agreement and a return a prorated portion of the **\$100,000**, based on the Reimbursement Formula.

2.10.5 Full or Partial Waiver: The APCO of SMAQMD 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.

2.10.6 Statute of Limitations: Because underperforming participants can reduce the pro rata amount owed by performing through the entire contract period, the statute of limitations period will not begin until the last day of the Agreement term.

2.11 Recordkeeping and Reporting Requirements:

2.11.1 Record Requirements: Participant must maintain adequate records to document compliance with this Agreement. Records include all driver log book entries, logs of miles travelled, logs of vehicle downtime, records of fuel consumed, and documents establishing the type and cost of maintenance performed. Participant must maintain the records for the term of the contract and the four years following the end date listed in Section 3.1 (Term) or from the conclusion of any audits or litigation concerning this Agreement, whichever is later. SMAQMD or SACOG 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.

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: The reports are due not later than January 31 of each year. SMAQMD may request additional performance or other documentation at its discretion and Participant must provide the requested information within 30 days of the request.

2.12 Sale of Equipment: Participant acknowledges and agrees that it may not sell or encumber the Replacement Vehicle without the prior written consent of SMAQMD. SMAQMD will not approve the sale, transfer, licensing, or subcontracting, unless, either 2.12.1 or 2.12.2 are satisfied:

2.12.1 **Performance Completed:** If performance is complete, SMAQMD will approve the sale or encumbrance after confirming that Participant has met the performance obligations.

2.12.2 **Performance Incomplete:** If performance is not complete, SMAQMD will approve the sale or encumbrance after both of the following occur:

(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 an Agreement with SMAQMD.

2.13 **Grant of Security Interest:** Participant grants to SMAQMD a security interest in the Replacement Vehicle 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 Replacement Vehicle.

2.14 **Notice of Contact Information Change:** It is the Participant's responsibility to ensure that its contact and address information in Section 3.28 (Communications) is current at all times. If SMAQMD 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 SMAQMD.

3.0 General Terms and Conditions

3.1 **Term:** This Agreement will begin upon execution by all parties and terminate on **12/31/2029**, and the parties agree that the statute of limitations period for demanding reimbursement does not begin to run until the Agreement termination date. Notwithstanding the expiration or earlier termination of this Agreement, SMAQMD's security interest in the Replacement Vehicle will continue in full force and effect until Participant fully satisfies its obligations under this Agreement.

3.2 **Inspections:** SMAQMD may conduct an audit of Participant's operations to verify that Participant is complying with the Agreement terms. Any inspection will be conducted at a reasonable time and with reasonable notice to Participant.

3.3 **Prohibition on Emission Reduction Credits:** The receipt of funds under this Agreement prohibits application for any form of emission reduction credit associated with reductions in oxides of nitrogen, reactive organic gases, and particulate matter for the purchase of the Replacement Vehicle. 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. The Participant retains all carbon and fuel credits associated with the purchase and use of the New Equipment unless otherwise prohibited. Participant may use the New Equipment to comply with regulatory requirements as long as the purchase is authorized in the applicable Program Guidelines.

3.4 **Voluntary Act:** The Participant's purchase of the Replacement Vehicle is a completely voluntary act and SMAQMD has made no representations nor guarantees to the Participant regarding the Equipment.

3.5 **Insurance:** The Participant must maintain the insurance coverage described in Exhibit D. The Participant must name SMAQMD as an additional insured and loss payee. The Participant must obtain and transmit to SMAQMD a yearly Certificate of Insurance from the Insurance Company(ies) listing SMAQMD as an additional insured and loss payee, and obligating the Insurance Company(ies) to provide at least 30 days notice to the Participant and SMAQMD 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 SMAQMD immediately.

- 3.6 **Notice of Significant Events:** Participant will provide to SMAQMD 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 Replacement Vehicle greater than 10% of its fair market value at the time of damage.
 - (vi) Repossession of the Replacement Vehicle.
- 3.7 **Ability to Perform:** If either of the events listed in this paragraph occur, the Participant must notify SMAQMD 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.
- 3.8 **Amendment:** No amendment, alteration or variation of the terms of this Agreement is valid unless made in writing and signed by all parties.
- 3.9 **Assignments:** No performance rendered or payment due under this Agreement may be delegated or assigned without the written consent of all the parties hereto. 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.
- 3.10 **Non-Discrimination:**
- 3.10.1 **Requirements:** Participant must not discriminate based on:
- (i) 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;
 - (ii) Sexual orientation as determined by federal, state, or local laws and regulations.
- 3.10.2 **Prohibited Discrimination:** Prohibited discrimination under this Agreement means disparate treatment on the basis of race, color, creed, religious creed, national origin, age, marital status, ancestry, medical condition, disability (including HIV and AIDS), gender identity, or sexual orientation. Discrimination includes, but is not limited to:
- (i) 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;
 - (ii) Subjecting persons to segregation or separate treatment in any matter related to the receipt of services;

- (iii) Restricting persons in any way from the enjoyment of any advantage or privilege enjoyed by others under this Agreement;
- (iv) 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 Agreement;
- (v) Assigning times or places for the provision of services on the basis of race, color, creed, religious creed, national origin, age, marital status, ancestry, medical condition, disability (including HIV and AIDS), gender identity or sexual orientation of the persons to be served.

3.11 **Subcontracts:** If the Participant submitted the name of a subcontractor in the proposal or application for this Agreement, SMAQMD'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 Disadvantaged Business Enterprises (DBE) as required by the Environmental Protection Agency:

- (i) Include DBEs on solicitation lists.
- (ii) Assure DBEs are solicited once they are identified.
- (iii) Divide total requirements into smaller tasks to permit maximum DBE participation, where feasible.
- (iv) Establish delivery schedules which will encourage DBE 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 DBEs.

3.12 **Successors:** This Agreement will bind the successors of SMAQMD and Participant in the same manner as if they were expressly named.

3.13 **Recordkeeping:** Not Applicable, see Section 2.11.

3.14 **Termination Notice Requirements:** Not Applicable

3.15 **Waiver of Claims:** Participant waives and releases any claims against SMAQMD and its respective officers, directors, agents, employees 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.

3.16 **Waiver of Agreement Provisions:** No waiver or modification of this Agreement will be binding upon either party unless made in writing and signed by a duly authorized representative of that party and no failure or delay in enforcing any right will be deemed a waiver. A waiver of a particular breach, or default, will not be deemed to be a waiver of any other subsequent breach or default.

3.17 **Time:** Time is of the essence with respect to the timely performance of each provision of this Agreement.

3.18 **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.

- 3.19 **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.
- 3.20 **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 the California Health & Safety Code. Notwithstanding the terms of this Agreement, the Parties are not permitted to undertake any actions that contravene the California Health & Safety Code or any other law or regulation.
- 3.21 **Payments that Contravene the Law:** SMAQMD has no liability for payments that are found to contravene the law. Participant will reimburse SMAQMD for any payments made by SMAQMD to Participant and later determined to contravene federal, state or local laws and regulations.
- 3.22 **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 SMAQMD employee. Participant is an independent contractor.
- 3.22.1 **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.
- 3.22.2 **Right to Bind:** Neither the Participant 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.
- 3.22.3 **Taxes:** SMAQMD will not 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.
- 3.23 **Conflict of Interest:** No officer or employee of SMAQMD 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 SMAQMD's governing body or hold any SMAQMD position which by rule, practice, or action nominates, recommends, supervises or authorizes the development or execution of this Agreement, or any payment to Participant.
- 3.24 **Indemnity:** The Participant agrees to indemnify and defend SMAQMD, its officers, directors, agents, employees and volunteers, from any and all damages, claims, expenses, or liabilities of any kind (including, but not limited to, reasonable attorneys' fees and costs) that:
- (i) Arise from, or are alleged to arise from, or are in any way connected with Participant's performance of this Agreement, or
 - (ii) Are related in any way to the vehicles or engines described in Exhibit B.
- 3.25 **Force Majeure:** If performance by SMAQMD 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 SMAQMD 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 SMAQMD.
- 3.26 **Two Originals:** This Agreement and any modification to this Agreement will be executed in two originals, one to be kept by SMAQMD and one to be kept by the Participant. Any of the originals are enforceable without the presentation of the other original.
- 3.27 **Entire Agreement:** This Agreement constitutes the entire Agreement between SMAQMD 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) Participant Agreement
- (ii) Exhibit A – Sacramento Area Council of Governments Region Map
- (iii) Exhibit B – Vehicle Information Form
- (iv) Exhibit C – Performance Requirements
- (v) Exhibit D – Insurance Requirements
- (vi) Exhibit E – Debarment and Licensing Certification Form
- (vii) Exhibit F – Levine Act Disclosure Statement
- (viii) Exhibit G – Branding and Promotion Requirements
- (ix) **Exhibit H to Y intentionally left blank**
- (x) Exhibit Z – Verified Information of New Equipment & (if applicable) New Termination Date for Agreement

3.28 **Communications:** Correspondence between SMAQMD and Participant should be addressed to the following:

To SMAQMD	To Participant
Gina O'Neal Sacramento Metropolitan AQMD 777 12th Street, Third Floor Sacramento, CA 95814-1908 Phone: (916) 622-8433 Fax (916) 874-4899	Bryce Lovell El Dorado County c/o Library 345 Fair Lane Placerville, CA 95667 Phone: (530) 621-5546 Fax:

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

3.29 **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 C with any other source of funds, including but not limited to other air districts or multidistrict funding under the Program, unless the Participant has disclosed to the SMAQMD to whom other applications were submitted, whether funds have been awarded or may be awarded, and the amount or potential amount of other funding used towards the purchase of the New Equipment. This disclosure does not apply to any future funding that may be received from the operation of the New Equipment.

Any owner or owner's designee who is found to have submitted multiple applications or signed multiple contracts for the same Equipment must, 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 Program solicitations. In addition, as a violation of law, including but not limited to the Health and Safety Code and Business and Professions Code, SMAQMD may levee fines and/or seek criminal charges.

Approved by El Dorado County c/o Library Department

Bryce Lovell
Library Director

Date: _____

Approved by the Sacramento Metropolitan Air Quality Management District

Alberto Ayala, Ph.D., M.S.E.
Executive Director/ Air Pollution Control Officer

Date: _____

Reviewed by:



Kathrine Pittard
District Counsel

EXHIBIT B

SACRAMENTO EMERGENCY CLEAN AIR AND TRANSPORTATION PROGRAM
VEHICLE INFORMATION FORM

Participant must purchase and begin operation within 180 days upon Agreement execution

SMAQMD Vehicle ID #: SMQV010152

Section 1: Existing Vehicle Information

Make: FORD	Model: E450	Model Year: 2024	GVWR: 14,500
Vehicle Identification Number:		License Plate Number:	Fleet Identification Number:

Section 2: Existing Engine Information

Make:	Model:	Year:	Serial Number:
Fuel Type:			HP: 0

Section 3: Existing Engine Retrofit System Information

Make:	Model:	Serial Number:
VDEC Strategy Family:		

Section 4: New or Replacement Vehicle Information

Make: FORD	Model: E450	Model Year: 2024	GVWR: 14,500
Vehicle Identification Number:		License Plate Number:	Odometer Reading: 0

Section 5: New Engine or Reconditioned Engine Information

Make:	Model:	Year:	Serial Number:
Fuel Type:	HP: 0	EPA Engine Family #:	

EXHIBIT C**PERFORMANCE REQUIREMENTS**

The below listed vehicle(s)/engine(s) must meet the minimum performance requirements shown to avoid reimbursement according to Paragraph 2.10 (Reimbursements) of this Agreement.

SMAQMD Vehicle ID #, Vehicle and Engine Year, Make & Model*	Vehicle and Engine Serial Numbers*	Anticipated Annual NOx Reduction (tons)	Maximum Incentive Amount
SMAQMD Vehicle ID #: SMQV010152 2024 FORD E450		CMP: 0.00	\$100,000
Total		CMP: 0.00	\$100,000

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

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, affecting the coverage required by these specifications. SMAQMD will be named as additional insured and loss payee on all required insurance policies for the equipment/vehicle(s)/engine(s) funded by this Agreement.

Minimum Scope of Insurance

During the term of this Agreement, Participant must, at its sole expense, obtain and maintain in full force and affect 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 equipment/vehicle(s) and engine(s) 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**DEBARMENT AND LICENSING CERTIFICATION FORM**

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

(a) Is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal, state, or local 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 Participant further certifies that it will 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, state, or local department/agency.

Dated this _____ day of _____, 20 _____

By _____
Authorized Signature for Participant

Bryce Lovell, Library Director

Printed Name and Title

El Dorado County c/o Library Department

Participant and Type of Entity (*Corp., Partnership, Sole Proprietor*)

345 Fair Lane

Address

Placerville, CA 95667

City/State/Zip Code

(530) 621-5546

Area Code/Telephone Number

bryce.lovell@edcgov.us

E-Mail Address

EXHIBIT F

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 he or she receives any political contributions totaling more than \$250 in the 12 months preceding the pendency of the contract award, and for three months following the final decision, from the person or company awarded the contract. 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: *(as of 1/23/2025; check for current list)*

Sarah Aquino
Caity Maple
Mai Vang
Eric Guerra
Patrick Kennedy

Roger Dickinson
Sergio Robles
Rosario Rodriguez
Porsche Middleton
Dr. David Sander

Patrick Hume
Rich Desmond
Phil Serna
Mathew Pratton

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.

DATE

(SIGNATURE OF AUTHORIZED OFFICIAL)

Bryce Lovell, Library Director

(TYPE OR WRITE APPROPRIATE NAME, TITLE)

El Dorado County c/o Library Department

(TYPE OR WRITE NAME OF COMPANY)

EXHIBIT G**BRANDING AND PROMOTION REQUIREMENTS**

Type of Project ¹	Required Branding
On-Road Vehicles including but not limited to EV school buses, shuttles/transit vehicles, medium- and heavy-duty trucks, bookmobiles, garbage/refuse trucks, fleet vehicles of any size, etc.	The exterior of all vehicles must be branded with the District's wordmark. The wordmark must be sized appropriately for the vehicle and the size and placement of the wordmark must be approved by the District.
Infrastructure including but not limited to EV charging stations, hydrogen fueling stations, etc.	All infrastructure must display signage on the equipment or near high-traffic areas of the project area. The signage must display District wordmark with an indication that the project was funded by the Sac Metro Air District. The District must approve the size and location of the signage.
Off-Road Vehicles and Equipment including but not limited to ATVs/UTVs, agricultural equipment including tractors, lawn and garden equipment, locomotive, etc.	All equipment must display a District approved decal. The District must approve the size and location of the decals. Hand-held equipment is exempt from this branding requirement.
¹ Project is defined as items funded in a single contract. Note: California Climate Investments (CCI) funded projects must comply with both District Branding and Promotion requirements as well as CCI Branding Guidelines .	
Required Promotion ²	
All Projects	Immediately upon passing all post-inspections, all Participants must at minimum provide to their project manager a high-quality photo of the project for use in District communication (separate from inspection photos) and a brief written testimonial on how the project is helping their organization. A posed photo of the project with the Participant or Participant's employees is encouraged for this requirement. Participants with business social media channels, websites, and/or newsletters must also share the required photo, accompanied by acknowledgement of the District's funding, in one or more of these communication platforms.
On-Road Vehicles, Locomotives, and Infrastructure Projects over \$500,000	In addition to complying with the "All Project" promotion requirements, the Participant must issue a news release that includes the District's logo and standard boilerplate language. For projects over \$2 million, the release must contain a quote provided by the District. Participant must provide a final copy of the release to the District.

EXHIBIT G (CONTINUED)

BRANDING AND PROMOTION REQUIREMENTS

On-Road Vehicles, Locomotives, and Infrastructure Projects over \$2,000,000	In addition to complying with the “All Projects” and “On-Road Vehicles, Locomotives, and Infrastructure Projects over \$500,000” promotion requirements, the Participant must host an event to showcase the project such as a press conference, grand opening, ribbon cutting, etc. The Participant is responsible for: • submitting to the District a proposed event date at least two months in advance; • providing to the District the name and contact information for the Participant's event coordinator; • planning and coordinating the event; • acknowledging the District's funding; • extending an invitation for a District representative to speak at the event; • requesting a District guest list to be included in the Participant's invitation list to the event; and • sharing any available event photos and/or video with the District for use in the District communications.
² District reserves the right to request revised materials if such materials do not meet minimum requirements under the District's Branding and Promotions Toolkit. Sample promotional materials, e.g., photos, testimonials, and news releases, are available in the District's Branding and Promotions Toolkit. <i>Note: Failure to comply with the Branding and Promotion requirements may result in a delay or withholding of fund disbursement. Specific requirements for District Branding and Promotion may be waived at the discretion of the District.</i>	

EXHIBIT Z
Section (i)

Verified Information of New Equipment & (if applicable) New Termination Date for Agreement

Exhibit Z will be added to Agreement # **VET-24-0054** after the Agreement is executed and the Post-inspection identified in Paragraph 2.5.2 (Post-inspection) for each New Equipment has been completed. All information in Exhibit Z will supersede the Vehicle/Equipment information in Exhibit B and the information in Exhibit C.

Exhibit Z will also supersede the funding allocation for each New Equipment in Exhibit C, provided that the total contract amount does not exceed: (a) the original Total Maximum Incentive Amount identified in Exhibit C and Paragraph 2.2.1 (Payment) of the Agreement and (b) the funding for each New Equipment does not exceed the Program Guideline allowances.

If the project implementation timeframe is less than the project credit life due to the date of the last New Equipment Post-inspection, then the new Agreement termination date is: _____. The new Agreement termination date in Exhibit Z will supersede the original Agreement termination date identified in Section 3.1 (Term).

Approved by El Dorado County c/o Library Department

(SAMPLE – DO NOT SIGN)

Bryce Lovell, Library Director

Date: _____

Approved by the Sacramento Metropolitan Air Quality Management District

(SAMPLE – DO NOT SIGN)

Paul Philley
Program Manager, Transportation & Climate Change Division

Date: _____

EXHIBIT Z
Section (ii)

SACRAMENTO EMERGENCY CLEAN AIR AND TRANSPORTATION PROGRAM
VEHICLE INFORMATION FORM

SMAQMD Vehicle ID #: _____

Section 1: Existing Vehicle Information

Make:	Model:	Model Year:	GVWR:
Vehicle Identification Number:		License Plate Number:	Fleet Identification #:

Section 2: Existing Engine Information

Make:	Model:	Year:	Serial Number:
Fuel Type:			HP:

Section 3: Existing Engine Retrofit System Information

Make:	Model:	Serial Number:
VDEC Strategy Family:		

Section 4: New or Replacement Vehicle Information

Make:	Model:	Model Year:	GVWR:
Vehicle Identification Number:		License Plate Number:	Odometer Reading:

Section 5: New Engine or Reconditioned Engine Information

Make:	Model:	Year:	Serial Number:
Fuel Type:	HP:	EPA Engine Family #:	

**EXHIBIT Z
Section (iii)**

PERFORMANCE REQUIREMENTS

The below listed vehicle(s)/engine(s) must meet the minimum performance requirements shown to avoid reimbursement according to Paragraph 2.10 (Reimbursements) of this Agreement.

SMAQMD Vehicle ID #, Vehicle and Engine Year, Make & Model*	Vehicle and Engine Serial Numbers*	Anticipated Annual NOx Reduction (tons)	Maximum Incentive Amount
SMAQMD Vehicle ID #: SMQV010152 2024 FORD E450		CMP: 0.00	\$100,000
Total		CMP: 0.00	\$100,000

* SMAQMD will fill in information upon verification of project completion