SUBJECT: Approval of Budget Modification No. 35 to Appropriate CARB Carl Moyer Program Grant (13MOYFA1) Funding and Award of Contract to Purchase Fire Pumper (F1109-16)

BACKGROUND
Economic operations of the City’s fleet require that vehicles be replaced before operating costs become excessive. This year the City’s replacement schedule includes a 25-year old Pierce Arrow fire pumper truck with more than 13,000 hours of usage. The unit’s age, mileage, and breakdown record make its replacement appropriate at this time. An Invitation for Bids (IFB) was issued in October 2011 for the pumper, but bid pricing came in higher than anticipated and above the available budgeted funding. To fund the difference, the City has secured a grant through the Bay Area Air Quality Management District (BAAQMD).

Two actions are required by Council to complete the purchase of the fire pumper: the first is to approve Budget Modification No. 35 to appropriate $42,000 in grant funding to the Fleet Equipment Acquisition Fund, and the second is to award the contract for vehicle purchase to KME Fire Apparatus of Ontario, California, in the amount of $490,522, including all taxes and fees. A contingency of 2%, equal to $9,810, is included in the recommendation for a total contract amount of $500,332.

DISCUSSION
The existing 1987 Pierce Arrow fire truck has become costly to repair and is underpowered, which increases response times to emergencies. The new fire pumper will provide several advantages:

- The all-wheel ABS braking system will shorten stopping distances, thus reducing the risk of accidents.
- New electronic controls provide state-of-the-art engine protection to guard against overheating, power loss and reduction in water pressure.
- The cab design promotes ease of entry and exit and provides greater space to mount required accessories.

Bid specifications were prepared by the Fleet Services Division and the Department of Public Safety. Purchasing staff issued Invitation for Bids No. F1109-16 which was broadcast to potential suppliers through the City’s Onvia DemandStar public procurement network.

Sealed bids were received and publicly opened on November 16, 2011. Eight bids were received from seven suppliers.

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Total Bid</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fire Truck Headquarters of Oakland, CA (Option A)</td>
<td>$ 479,058</td>
</tr>
</tbody>
</table>
The lowest bid did not meet City specifications regarding the engine torque requirements nor the design of the sub-frame assembly, and was deemed non-responsive. Staff has determined that the fire pumper offered by the second lowest bidder, KME Fire Apparatus, meets City specifications and recommends that the contract be awarded to that firm as the lowest responsive and responsible bidder.

KME held their low bid pricing of $482,295 for several months but now requires a 1.7% increase to help offset increases in the costs of components for the apparatus (as referenced in correspondence incorporated into the Draft Purchase Order in Attachment B). The increase amounts to an additional $8,227 (which includes sales tax), for a total of $490,522. A 2% contingency is also recommended should small modifications be required at the time of manufacture.

The City applied for and has been awarded a grant (project 13MOYFA1) under the Carl Moyer Memorial Air Quality Standards Attainment Program, sponsored by the California Air Resources Board (CARB), and administered in our area by the Bay Area Air Quality Management Board (BAAQMD). The Carl Moyer Program (CMP) provides incentive grants to reduce emissions caused by heavy duty diesel engines. To ensure emission reduction goals, the grant agreement requires that the existing unit's engine be rendered inoperable and not be put back into service. Once this occurs, staff will evaluate disposal options to maximize the surplus value.

**FISCAL IMPACT**
The total cost to purchase the fire pumper, including applicable taxes, is not anticipated to exceed $500,332. $460,000 in budgeted funds is available in the Fleet Equipment Acquisition account in the current fiscal year. The cost difference between the available budget and bid pricing is mainly due to changes in Federal emissions standards which require engine manufacturers to outfit diesel engines with additional clear air components.

Budget Modification No. 35 has been prepared to appropriate $42,000 in grant revenues, which will fund the difference between the purchase price and the amount currently budgeted in the Fleet Equipment Acquisition account.

**Budget Modification No. 35, FY 2011/2012**

<table>
<thead>
<tr>
<th>General Services Fund – Fleet Sub-Fund</th>
<th>Current</th>
<th>Increase/ (Decrease)</th>
<th>Revised</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenues</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Carl Moyer Program Grant</td>
<td>0</td>
<td>$42,000</td>
<td>$42,000</td>
</tr>
<tr>
<td>Expenditures</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Account 020700 – Fleet Equipment Acquisition</td>
<td>$1,300,322</td>
<td>$42,000</td>
<td>$1,343,322</td>
</tr>
</tbody>
</table>
PUBLIC CONTACT
Public contact was made through posting of the Council agenda on the City's official notice bulletin board, posting of the agenda and report on the City's web page, and the availability of the report in the Library, City Clerk's Office, Community Center, and Senior Center.

RECOMMENDATION
It is recommended that Council:

1. Approve Budget Modification No. 35 to appropriate $42,000 in grant funding to support the purchase of a fire pumper; and
2. Award a contract, in substantially the same form as the attached Draft Purchase Order in the amount of $490,522, to KME Fire Apparatus for the fire pumper purchase; and
3. Approve a 2% contingency of $9,810, to be used for minor modifications during the manufacturing process.

Reviewed by:

Grace Leung, Director, Finance
Prepared by: Pete Gonda, Purchasing Officer
Prepared by: Tony Vargas, Fleet Manager

Reviewed by:

Kent Steffens, Director, Public Works

Reviewed by:

Frank Grgurina, Director, Public Safety

Approved by:

Gary Luebbers
City Manager

Attachments
A. MOU Agreement Between the Bay Area Air Quality Management District and the City of Sunnyvale Granting Program Funds for the CARB Carl Moyer Project Grant Funds
B. Draft Purchase Order
CARL MOYER PROGRAM GRANT AGREEMENT
BETWEEN
THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT
AND
CITY OF SUNNYVALE

This Carl Moyer Program grant agreement ("Agreement") is made and entered into between City of Sunnyvale, hereinafter referred to as "Grantee," and the Bay Area Air Quality Management District, hereinafter referred to as the "Grantor" or "Air District," hereinafter collectively referred to as the "Parties."

RECITALS

1) The Carl Moyer Memorial Air Quality Standards Attainment Program, California Health and Safety Code section 44275 et seq. ("Program"), is an incentive program to provide grants in order to reduce emissions of oxides of nitrogen, particulate matter (PM10), and reactive organic compounds in the State from sources of air pollution, such as heavy-duty and light-duty diesel vehicles, off-road construction equipment, marine vessels and agricultural sources of pollution, by measures such as replacement of engines with cleaner-than-required engines or installation of emission reduction equipment ("Equipment").

2) The California Air Resources Board ("CARB"), which oversees and administers the Program, has adopted guidelines and criteria for the Program's implementation entitled, The Carl Moyer Program Guidelines, Approved Revision 2011, and subsequent CARB advisories issued for Program implementation (together the "CARB Program Guidelines"). The Air District implements the Program in the San Francisco Bay Area air basin in accordance with the CARB Program Guidelines and the criteria and guidelines of the Air District.

3) The Air District determined that the Grantee has proposed a project to install Equipment that is eligible for Program funding and meets the CARB Program Guidelines and the Air District's criteria and guidelines, including cost-effectiveness requirements, based on the information provided in the Grantee's project application ("Project").

4) This Agreement is made pursuant and in accordance with the requirements of the Program, established by the California State Legislature and implemented by CARB. All Equipment funded under the terms of this Agreement must be certified as required by CARB Program Guidelines. Any questions or disputes the Parties may have regarding the implementation of this Agreement shall be resolved in accordance with the guidelines for the Program as promulgated by CARB.

5) On February 2, 2011, the Board of Directors of the Air District authorized the Air District's Executive Officer/APCO to execute Grant Agreements for projects meeting all of the Program criteria and guidelines, with total individual grant amounts up to $100,000.

SECTION I

Grantee AGREES:

1) To implement the Project in accordance with the terms and conditions of this Agreement and all attachments hereto. Failure to do so will be deemed a breach of this Agreement, and the Air District may terminate this Agreement pursuant to the termination provisions herein.

2) To maintain the Project Equipment according to the manufacturer's specifications throughout the Project Term, which is set forth in Section III.1 below. No tampering or modification of the Project Equipment is allowed.

3) To complete the Project in accordance with the payment and reporting conditions identified in Attachment A. The Air District's funding obligation under this Agreement is limited to reimbursement of Eligible
Costs, the amount of which shall not exceed the Total Grant Funds Awarded, specified in Paragraph 4 of Attachment A. Any Project cost overruns are the sole responsibility of the Grantee.

4) To allow the staff and third-party representatives of the Air District and CARB to inspect the Project Equipment and to conduct financial and performance audits of the Project. Grantee further agrees to cooperate fully with such inspections and audits, including providing on a timely basis copies of any Project records related to performance of this Agreement requested by the Air District or CARB.

5) To acknowledge the Air District and the Carl Moyer Program as a funding source for the Project in any related media events, articles, news releases or other publicity materials. Grantee must obtain prior written approval by the Air District in order to disseminate any report or other document describing the Program, the Project, or this Agreement.

6) To assure that all funds received under this Agreement are expended only in accordance with the requirements of the Program, this Agreement, and all applicable provisions of law and regulations.

7) To permanently destroy and remove from service any Equipment replaced as part of the Project and to provide documentation to support destruction of the Equipment. Failure to permanently destroy the Equipment shall be deemed a breach of this Agreement.

8) To monitor the operational status of the Project Equipment throughout the Project Term. Grantee will notify the Air District in writing of any change in operational status of the Project Equipment funded and installed under this Agreement within 30 calendar days of its occurrence. For purposes of this Agreement, a “change in operational status” occurs whenever any Project Equipment is removed from active service, relocated outside the boundaries of the Air District, wrecked, scrapped, sold, or transferred to another entity, before full completion of the Project Term. If Grantee fails to provide the required written notice of a change in operational status on a timely basis, the Grantee is subject to the repayment requirements set forth in Paragraph 15 of Attachment A.

9) To neither seek nor accept any additional grant funds or incentives from any State of agency or any local air quality district in order to implement this Project. Grantee shall be deemed in breach of this Agreement if Grantee seeks or accepts such funds or incentives and as a result, the Air District may terminate this Agreement for breach, which shall disqualify Grantee from participating in the Carl Moyer Program for 2 years.

10) To obtain and maintain throughout the Project Term the insurance coverage specified in “Insurance Requirements,” Attachment B, and to comply with all insurance requirements set forth therein, including the provision of documentation of said insurance coverage. Failure to obtain and maintain the insurance coverage or to comply with all insurance requirements shall be deemed a breach of this Agreement.

11) Grantee shall use the Air District’s approved logo as specified below:
   a) The logo shall be displayed on the vehicle(s) identified in the Project Description (Attachment A, Paragraph 6);
   b) The logo shall be used on any printed material intended for public consumption associated with the Project; and
   c) The logo shall be used on any signs posted at the site of any construction associated with the Project.

12) To maintain and retain the Project records for at least two years after contract expiration or three years after final project payment, whichever is later.

13) To comply with all “Special Conditions,” set forth in Attachment A.
SECTION II

AIR DISTRICT AGREES:

1) To reimburse Grantee for Eligible Costs in an amount not to exceed the "Total Grant Funds Awarded," set forth in Attachment A.

2) To endeavor to pay the undisputed invoiced amount of the Eligible Costs within thirty (30) calendar days of receipt of the invoice.

3) To deliver the payment following the Air District's verification that Grantee has completed the Project. Verification by Air District will include physical inspection of any Equipment specified in Attachment A, confirmation that the Equipment is operational and in service, and has reviewed and accepted evidence of the permanent destruction of any Equipment replaced as part of the Project.

4) To provide reasonable notice to Grantee prior to the Air District or CARB conducting an inspection or audit of the Project. What constitutes "reasonable notice" shall be based in part upon any prior notice from CARB received by the Air District of such CARB audit or inspection.

SECTION III

AIR DISTRICT AND GRANTEE AGREE:

1) Project Term: This Agreement will commence as of the Effective Date of this Agreement and shall remain in effect until the conclusion of all Project Equipment Operational Periods ("Project Term"), unless it terminates earlier as provided below. A Project Equipment's Operational Period concludes upon the satisfaction of the earlier of that Project Equipment’s usage requirement or project life requirement. The Project Equipment's Operational Periods (if there are multiple Project Equipment) are set forth in Paragraph 7 of Attachment A. In no event shall Grantee operate the Project Equipment less than three (3) years under the terms of this Agreement.

2) Termination:

   a) Either party may terminate this Agreement at will, and without specifying any reason, at any time prior to the Air District’s transfer of Project funds by notifying the other party in writing. The notice of termination shall specify the effective date of termination, which shall be no less than thirty (30) calendar days from the date of delivery of such notice. Notice shall be delivered in accordance with the Notice provisions set forth in Paragraph 5 below.

   b) The Air District may terminate this Agreement for breach of the Agreement by Grantee by giving Grantee a minimum of ten (10) business days written notice of such breach and the opportunity to cure the breach within that period of time. The notice will specify the amount of Project Grant Funds to be reimbursed to the Air District, if any, which Grantee shall reimburse within thirty (30) days of the effective date of termination. The Air District shall calculate the reimbursement based on the repayment formula set forth in Paragraph 15 of Attachment A.

   c) The Air District shall not pay any Project Grant Funds in the event that this Agreement is terminated and no funds have been expended by Grantee. If the Project has been completed and the Air District has paid the grant funds to Grantee, Grantee may not terminate this Agreement pursuant to subparagraph 2(a), unless it reimburses the Air District the amount of Project Grant Funds due based on the repayment formula set forth in Paragraph 15 of Attachment A.

3) Additional Acts and Documents: Each party agrees to do all such things and take all such actions, and to make, execute and deliver such other documents and instruments that are reasonably required to carry out the provisions, intent and purpose of this Agreement. All attachments to this Agreement are expressly incorporated herein by this reference and made a part hereof as though fully set forth.

4) Indemnification: Grantee shall indemnify and hold harmless the Air District, its officers, employees,
agents, representatives, and successors-in-interest from and against any and all liability, loss, expense, including reasonable attorneys' fees, or claims for injury or damages arising out of the performance by Grantee of its duties and obligations under this Agreement, and arising out of the operation of the engine and vehicle, vessel, locomotive or other equipment that is the subject of this Agreement by the Grantee or its officers, agents, employees, representatives and successors in interest.

5) Notices: Any notice required under this Agreement shall be in writing and made by personal delivery service, first class mail, or certified mail (return receipt requested) to the addressee for notice set forth below, or to such addressees which may be specified in writing by the Parties. Notices are effective upon receipt. Each Party shall promptly inform the other of any changes of addressees and any changes of address.

Grantee Company
Company Address
City, State Zip Code

Air Pollution Control Officer
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

6) Contacts: The Contact for the Grantee shall be the person named in the Project application, which shall also list the Contact’s address, telephone number, fax number and email address. The Contact shall be the liaison to the Air District pertaining to implementation of this Agreement and shall be the contact for information about the Project. The Grantee shall notify the Air District of a change of the Contact’s name or contact information in writing no later than thirty (30) days from the date of any change. The Contact for the Air District shall be the person named in the Air District’s project application form. The Air District shall notify the Grantee of a change of the Contact’s name or contact information in writing no later than thirty (30) days from the date of any change.

7) Project Number: All correspondence shall reference this Agreement, which is the same as the “Project Application Number.”

8) Integration of Agreement: This Agreement represents the final, complete and exclusive statement of the agreement between the Grantee and the Air District and supersedes all prior and other contemporaneous understandings and agreements of the Parties pertaining to this Agreement. Neither Party has been induced to enter into this Agreement by, nor is either party relying upon any representation or warranty outside those expressly set forth herein.

9) Amendment: This Agreement may not be modified except in writing, signed by both Parties hereto, and any attempt to modify this Agreement orally shall be void and of no effect. Any change in Project scope shall constitute an amendment under this Agreement.

10) Independent Contractor: Grantee is an independent contractor. None of Grantee's officers, employees, agents, contractors, subcontractors, or vendors are, nor shall they be considered, officers, employees, agents, contractors, subcontractors, or vendors of the Air District.

11) Assignment: Grantee may not assign, sell, transfer, license, or subcontract or otherwise transfer any rights or obligations under this Agreement without the prior written consent of the Air District.

12) Waiver: No waiver of a breach, of failure of any condition, or of any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be
deemed a waiver of any other breach, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies. Further, the failure of a party to enforce performance by the other party of any term, covenant, or condition of this Agreement, and the failure of a party to exercise any rights or remedies hereunder, shall not be deemed a waiver or relinquishment by that party to enforce future performance of any such terms, covenants, or conditions, or to exercise any future rights or remedies.

13) Severability: If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions thereof shall not be affected.

14) Effective Date: The effective date of this Agreement is the date the Air District’s Executive Officer/Air Pollution Control Officer executes this Agreement.

15) Eligible Costs: Only the actual Project costs for the Project Equipment that a) are listed in Paragraph 5 of Attachment A and b) are incurred after the Effective Date and prior to termination of the Project or upon Air District’s verification that Grantee has completed the Project, whichever occurs first, are eligible for reimbursement with Program Grant funds (“Eligible Costs”).

16) Cost Reduction: In the event that the “Total Project Cost” is less than the amount listed in Attachment A, the Air District shall recalculate its contribution to the Project in accordance with the provisions of Paragraph 4 of Attachment A.

17) Force Majeure: Neither the Air District nor Grantee shall be liable for or deemed to be in default for any delay or failure in performance under this Agreement or interruption of services resulting, directly or indirectly, from acts of God, enemy or hostile governmental action, civil commotion, strikes, lockouts, labor disputes, fire or other casualty, judicial orders, governmental controls, regulations or restrictions, inability to obtain labor or materials or reasonable substitutes for labor or materials necessary for performance of the services, or other causes, except financial, that are beyond the reasonable control of the Air District or Grantee, for a period of time equal to the period of such force majeure event, provided that the party failing to perform notifies the other party within fifteen (15) calendar days of discovery of the force majeure event, and provided further that that party takes all reasonable action to mitigate the damages resulting from the failure to perform. Notwithstanding the above, if the cause of the force majeure event is due to party’s own action or inaction, then such cause shall not excuse that party from performance under this Contract.

18) Governing Law: Any dispute that arises under or relates to this Agreement shall be governed by law, including Health & Safety Code section 44280 et seq., its accompanying regulations and the CARB Carl Moyer Program guidelines, excluding any laws that direct the application of another jurisdiction’s laws. Venue for resolution of any dispute that arises under or relates to this Agreement shall be San Francisco, California.

19) Emissions Testing: The Air District may conduct emissions testing, at its expense, on any Project Equipment that is purchased or modified as part of the Project, including a vehicle or vessel. Testing will be limited to no more than once per year during the duration of this Agreement. Testing will be conducted according to a schedule agreed upon by both Parties.

20) Emission Reductions: The Air District retains the exclusive right to claim any emission reduction credits under state or federal law that might result from emissions reduced by the Project implemented pursuant to this Agreement. The emissions reduced by the Project may not be used by Grantee to comply with any local, state, or federal air pollution regulation or law, or used to fulfill Grantee’s obligations arising out of any order, settlement contract, memorandum of understanding, or other binding legal document.

21) Preliminary Inspection: At the Air District’s discretion, Air District shall perform a preliminary inspection of the Project equipment prior to implementation of the Project. Grantee shall facilitate and cooperate with any Air District inspection. Grantee must demonstrate to the Air District that the Equipment to be replaced under this Agreement is fully operational at the time of the preliminary inspection. Grantee must also
facilitate the Air District in obtaining and confirming equipment information (e.g. Model year, serial numbers, power, etc.) at the time of inspection. Failure to demonstrate that the Equipment to be replaced is operational at the time of the preliminary inspection shall be deemed a breach of this Agreement, and the Air District may terminate the Agreement.

22) Post-Project Inspection: Air District shall perform a post-project inspection of the Equipment funded under the terms of this Agreement to verify that the Project has been implemented according to the terms of this Agreement. Grantee shall facilitate the Air District inspection and make the new Equipment available for the post-project inspection, which may include a test to verify that the Equipment is fully operational. The post-project inspection will include verification of the destruction of the replaced Equipment. Grantee must contact the Air District to arrange a post-project inspection and should provide at least 2 business days advanced notice for scheduling.

23) Compliance with Carl Moyer Program Guidelines: The Grantee agrees to implement the Project in accordance with all requirements of the CARB Program Guidelines. Any questions or disputes the Parties may have regarding the implementation of this Agreement shall be resolved in accordance with the applicable CARB Program Guidelines.

24) Enforcement: Both the Air District and CARB have the authority to inspect the Project, enforce the terms of this Agreement, and pursue repayment of grant funds for noncompliance with the terms and conditions of this Agreement or applicable state laws or regulations throughout the Project Term. The following circumstances are the bases under which the Air District seeks repayment of grant funds: Grantee’s failure to comply with the terms of this Agreement, including the requirements set forth in Section I; Grantee’s failure to implement the Project, as defined in Paragraph 6 of Attachment A; Grantee’s failure to comply with the Project requirements set forth in Attachment A; and Grantee’s actions specified in Attachment A, Paragraph 15, which could reduce the air quality benefits of this Project.
IN WITNESS WHEREOF, the Parties to this Agreement have caused this Agreement to be duly executed on their behalf by their authorized representatives.

SIGNATURES:

Bay Area Air Quality Management District

By: ________________________________ Date: __________

Jack P. Broadbent
Executive Officer/Air Pollution Control Officer
Bay Area Air Quality Management District

Approved as to legal form:

By: ________________________________

Brian C. Bunger
District Counsel
Bay Area Air Quality Management District

Grantee

By: ________________________________ Date: __________

Gary Luebbers
City Manager
City of Sunnyvale
ATTACHMENT A - PROJECT SPECIFIC INFORMATION

[Note: The section numbers shown in parenthesis below refer to Sections in the Agreement.]

1. Grantee: City of Sunnyvale
2. Project Number (Section III.7): 13MOYFA1
3. Air District Approval Date (Section III.14): The Effective Date of this Agreement.
4. Total Grant Funds Awarded (Sections I.3, II.1, and III.15): $43,000.00

The Air District will pay the percentage of the Eligible Costs of the Project Equipment, as adjusted and, set forth in Table I below; payment shall not exceed the permitted Funds Awarded for the individual Project Equipment. In no event shall the Total Grant Funds Awarded for all Project Equipment exceed the maximum of $43,000.00. Air District grant funds may only be used for direct costs to purchase the Project Equipment described in this Agreement.

5. Total Project Cost (Sections I.3 and III.15): A detailed breakdown of project costs and Equipment information is shown in Table I:

Table I: Detailed Project Description

<table>
<thead>
<tr>
<th>Baseline Equipment ID (Description)</th>
<th>Project Description*</th>
<th>Eligible Costs</th>
<th>Maximum % of funding</th>
<th>Total Usage &amp; Project Life</th>
<th>% Operation in Air District</th>
<th>Funds Awarded</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fire Pumper / Unit 084-1 1987/ Pierce / Arrow</td>
<td>Fire Pumper 2012 / KME Kovatch / Predator</td>
<td>$251,316.45</td>
<td>80%</td>
<td>9,872 Gallons / 10 Years</td>
<td>100%</td>
<td>$43,000.00</td>
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<tr>
<td>1987 / Detroit Diesel / 6V 92TA / 350 HP</td>
<td>2012 / Cummins / ISX / 450 HP</td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

Total award: $43,000.00

* Grantee may propose Equivalent Equipment subject to advanced written approval from the Air District. The Equivalent Equipment must result in the same or better emissions reductions and meet or exceed the operational parameters specified in Attachment A of this Agreement.

** Percentage of usage occurring in impacted communities.

6. Project Description: Emergency Vehicle Replacement Project

Table I provides the details of the existing and funded Equipment. Any change in Project Equipment specifications or Project Description must receive written approval in advance by the Air District. For equipment replacement projects the old Equipment must be fully operational at the time of preliminary inspection by Air District staff. If the old Equipment is not operational, the grant funding may be withdrawn by the Air District. For repower and equipment replacement projects, the old Equipment shall be destroyed upon completion of the Project.

7. Project Term (Section III.1 & Section III.14): The required usage and project life for each of the Project Equipment are specified in Table I above. The Project Term concludes upon the satisfaction of the earlier of the usage and project life requirements.
8. **Operating Parameters:** Air District has awarded this Grant based upon Grantee's agreement to operate the funded Equipment for the usage identified in Table 1 of this Attachment. Grantee shall operate the Equipment within the Air District as specified in Table 1. In no event shall Grantee operate the Equipment less than three (3) years under the terms of this Agreement. Pursuant to Paragraph 15 of this Attachment, Grantee may be required to repay Grant funds if unable to satisfy the Project's usage and project life requirements identified in Table 1.

9. **Project Schedule:** By no later than June 15, 2013, the Project must be completed by Grantee and inspected by the Air District, and Grantee must have submitted its request for payment in accordance with Paragraph 13 of this Attachment.

10. RESERVED.

11. RESERVED.

12. RESERVED.

13. **Project Implementation Report and Request for Payment (Section I):** No later than thirty (30) days from completion of the work set forth in the Project Description, Grantee shall submit a Project Implementation Report, an IRS W-9 form and a project invoice to request payment of the Eligible Costs of the Project. The Project invoice shall:
   - Provide documentation for all Eligible Costs, document the Equipment serial number(s), and include a description of the Equipment purchased.
   - Demonstrate the costs are Eligible Costs and have been expended in compliance with the Project Description and, the Project Schedule.
   - Itemize the total funds requested for this reimbursement, which shall include an itemization of payments to vendors, consultants, and contractors.
   - Include copies of invoices that document the goods and services provided by vendors, consultants, and contractors and documentation of the total hours incurred to complete the Project, the hourly rates of any labor charges, the costs of such goods, and any other Eligible Costs.
   - Be submitted with a summary sheet that specifies the Program Project Number. If costs are incurred that are not directly related to the Project as described in Paragraph 6 of this Attachment, all such costs must either be deleted when the Project invoice is prepared, or clearly identified as costs that are not eligible for reimbursement by the Air District.

The Grantee may seek an interim payment from the Air District. To request an interim payment, the Grantee must submit an updated Project schedule that identifies the anticipated completion date, together with invoices for costs incurred to date, to the Air District. The Air District has the sole discretion to approve an interim payment for Eligible Costs incurred to date.

Upon verification that the Project has been completed according to the terms of this Agreement, that the Equipment has been installed and is fully operational, and that for repower and replacement projects, the old Equipment has been removed from service and destroyed, the Air District will issue final payment of the Grant Funds Awarded.

14. **Annual Monitoring Reports:** Grantee shall submit an annual monitoring report each calendar year for the Project Term, in a format approved by the Air District. The monitoring report shall provide information regarding annual fuel consumption, annual hours of operation, locations where the unit described in Paragraph 6 of this Attachment operated, percentage of operating hours within the boundaries of the Air District, and proof of insurance. The first annual report shall be submitted by August 1, 2012 to cover the period from July 1, 2011 through June 30, 2012. The first annual report shall include a report on the Grantee's progress in meeting milestones listed in the Project Schedule as set forth in Paragraph 9 of this
Attachment. Subsequent annual reports shall be submitted by August 1st of each succeeding year with the final annual monitoring report due by August 1st in the last year of the Project Term. If Grantee fails to submit annual monitoring reports in a timely fashion, the Air District shall perform a project performance audit. Failure to submit monitoring reports could be considered a breach of Contract and may jeopardize Grantee’s eligibility to apply for grant funding for any future projects.

15. Repayment of Grant Funds For Failure to Complete Project: Grantee shall repay the Total Grant Funds Awarded on a prorated basis for selling, retiring, scrapping, or removing any Project Equipment from service within the boundaries of the Air District during the Project Term prior to having achieved the total usage of operation for the Project Equipment or for failing to achieve the total usage of operation by the end of the Project Term. The fraction of funds to be repaid will be determined by subtracting the usage of the Project Equipment at the time of sale, retirement, scrapping, or removal from service from total usage pursuant to Paragraph 7 of this Attachment and dividing that result by the total usage. The Air District may waive such repayment if it determines at its sole discretion, that Grantee’s failure to complete the Project was due to events beyond Grantee’s reasonable control.

The Air District may waive repayment by the Grantee if, prior to a sale of the Project Equipment, the Grantee enters into a written agreement with the Air District and the subsequent owner who agrees to assume all obligations under this Agreement and specifically agrees to continue operation of the Project Equipment in order to provide equivalent emission reductions required by this Agreement.

16. Special Conditions

A. At the request of the Grantee, the Air District and Grantee have agreed that the Air District shall pay the total eligible grant award to the equipment vendor designated by the Grantee. This payment will be made as a two party check to the Grantee and the designated vendor.

B. Accident Report: If the replacement vehicle is involved in an accident, the Grantee must report the accident to the Air District staff within 14 days. The Grantee must provide a police report of the accident, a letter from the insurance company regarding the accident, and any additional information requested by the Air District. The Grantee must repair the vehicle and return it to operation, if possible. Down time due to an accident will be credited toward the performance requirements as long as the information is reported and the repairs are made as soon as possible. If the vehicle is totaled, the Grantee and the Air District must come to an agreement regarding any requirements that still need to be met.

C. Grantee shall ensure that if the Project Equipment are new engines, they shall be equipped with a tamper-proof, non-resetting hour meter. If the hour meter fails during the Project Term, the Grantee must notify the Air District and take action to fix the device or provide other documentation of operating hours.

D. For Grantees subject to ARB regulations that allow for fleet-averaging, Project Equipment funded as part of this Grant Agreement:
   1. Must be included when defining the size of the fleet for determining regulatory requirements.
   2. Must not be used to generate credits or compliance extensions, and must be excluded when determining regulatory compliance.

E. Grantee certification:
   1. I have disclosed to the Air District all other public funds that they have been applied for or received for the Project.
   2. I certify that the fleet, engine(s), or equipment/vehicles are in compliance with all applicable federal, state, and local air quality rules and regulations as of the Effective Date of this Grant Agreement.
   3. I understand that I must maintain compliance with all applicable federal, state, and local
air quality rules and regulations for the Project Term.

4. I will not apply for, or receive other public funds for the Project. The only exception to this is funding provided by federal programs to reduce greenhouse gas emissions (GHG) or funding provided by the Alternative and Renewable Fuel and Vehicle Technology Program to reduce GHG.

Signature: ____________________________

Name (printed): ____________________________

Title: ____________________________ Date: ____________________________
ATTACHMENT B - INSURANCE REQUIREMENTS

Grantee to initial next to each checked box indicating they have read their project insurance requirements.

Verification of Coverage:
Grantee shall provide the Air District certificates and/or other evidence of the insurance coverage required below. The Air District reserves the right to require Grantee to provide complete, certified copies of any insurance offered in compliance with these specifications. Certificates, policies and other evidence provided shall specify that the Air District shall receive 30 days advanced notice of cancellation from the insurers.

Minimum Scope of Insurance
Throughout the Term as defined in Section III of the Agreement of which this Attachment is a part, Grantee shall obtain and maintain in full force and effect the insurance as set forth below:

1. Liability Insurance:

Corporations and Public Entities - a limit of not less than $1,000,000 per occurrence. Such insurance shall be of the type usual and customary to the business of the Grantee, and to the operation of the vehicles, vessels, engines or equipment operated by the Grantee.

Single Vehicle Owners - a limit of not less than $750,000 per occurrence. Such insurance shall be of the type usual and customary to the business of the Grantee, and to the operation of the vehicles, vessels, engines or equipment operated by the Grantee.

At the time the Grantee submits invoices for payment to the Air District, the Grantee must demonstrate that the equipment purchased in the Funding Agreement, of which this is an Attachment, is covered under the following property insurance, if grantee has not already demonstrated possession of this insurance to the Air District. The property insurance must remain effective from the date of the invoice to the Air District to the end of the project life as defined in Section IV of the Agreement.

2. Property Insurance for Repower and New Vehicle/Equipment Purchase:

in an amount of not less than the insurable value of Grantee's vehicles, vessels, engines or equipment funded under the Agreement of which this Attachment is a part, and initial covering all risks of loss, damage or destruction of such vehicles, vessels, engines or equipment.

Acceptability of Insurers
Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII. The Air District may, at its sole discretion, waive or alter this requirement or accept self-insurance in lieu of any required policy of insurance.
# Draft Purchase Order

**PO004035**

**ORDER DATE:** 05/10/2012

**BILL TO:**
City of Sunnyvale  
Finance Department  
Accounts Payable  
PO Box 3707  
Sunnyvale, CA 94088-3707

**DELIVERY DATE:** 03/15/2013

**PAYMENT TERMS:**

**FOB POINT:**

**DEST:**
Destination, freight included in price

**REQ. NO:** RQ008656

**REQUISITIONER:** PGONDA

**CHARGE/OBJ CODE(S):** 020700 5135

**TOTAL:** $500,331.89

---

### ITEM DESCRIPTION

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<tr>
<th>ITEM</th>
<th>DESCRIPTION</th>
<th>QTY</th>
<th>UNIT</th>
<th>UNIT COST</th>
<th>TOTAL</th>
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<tbody>
<tr>
<td>1</td>
<td>One (1) fire pumper truck and accessories in accordance with the specifications, terms and conditions of Invitation for Bids No. F1109-16 and vendor's response, attached and incorporated by this reference.</td>
<td>53138.00</td>
<td>EA</td>
<td>$1.0000</td>
<td>$453,138.00</td>
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<td>2</td>
<td>Contingency</td>
<td>9810.00</td>
<td>DL.R</td>
<td>$1.0000</td>
<td>$9,810.00</td>
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**TOTAL:** $500,331.89

---

**BUYER:**

Dietz, Noel  
PHONE (408) 730-7399  
FAX (408) 730-7710
BID FORM  
FOR  
ONE (1) FIRE PUMPER TRUCK  

Honorable City Council  
City of Sunnyvale  
Sunnyvale, California  

The undersigned bidder hereby offers to sell and deliver one (1) fire pumper truck and accessories, as required, to the City of Sunnyvale in strict compliance with the specifications, terms and conditions stated herein.

<table>
<thead>
<tr>
<th>Bid Item No.</th>
<th>Description</th>
<th>Qty</th>
<th>Total Delivered Price</th>
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</thead>
<tbody>
<tr>
<td>1.</td>
<td>Fire Pumper Truck and Accessories</td>
<td>1 EA</td>
<td>$445,538.00</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Sales Tax (8.25%)</td>
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<td>$36,756.89</td>
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<td>COST WITH TRADE IN ALLOWANCE</td>
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<tr>
<td>2. Trade In</td>
<td></td>
<td></td>
<td>($ _________ )</td>
</tr>
<tr>
<td></td>
<td>1987 Pierce Arrow, E3789-02</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Additional Information Required of Bidder

1. Delivery __270____ calendar days after receipt of order.

2. Equipment offered manufactured at __1_ Industrial Complex, Nesquehoning, PA 18240

3. Method of delivery __Apparatus will be driven to destination__

4. The unit price bid shall be guaranteed for a period of __120____ calendar days after the bid opening.

5. Prompt Payment Terms Offered 100% prepayment ARO order: __-$_11,756.00__

6. If bidder is awarded contract, bidder will extend pricing to other government agencies? X yes ____ no

   If yes, enter number of calendar days bid pricing will be extended to other agencies __120__

7. Authorized Service Facility Nearest to the City of Sunnyvale

   Location __Valley Power Systems 855 Stillwater Road, W. Sacramento, CA 95891__

   Distance from Sunnyvale, California __120____ Miles

   Contact Person __Dales Eckhart__

   Contact Person's Telephone Number __916-372-5078__

8. Manufacturer's Experience Delivering Fire Apparatus __30+____ Years.

9. Anticipated Service Life of Apparatus Offered __30+____ Years.
I checked with the factory decision makers. KME will honor the revised pricing for purchase in June.

Dean
Sent from my Verizon Wireless BlackBerry

Noel,  

With Council approval on 6/12, the PO would be issued on 6/13.

Noel

>>> On 5/8/2012 at 11:51 AM, Dean Carriger <dcarriger@KOVATCH.com> wrote:
Noel,

When will the PO be issued, with Council approval on the 12th of June?

Dean
Sent from my Verizon Wireless BlackBerry

From: Noel Dietz <NDiez@ci.sunnyvale.ca.us>
Date: Tue, 8 May 2012 14:59:33 -0400
To: Dean Carriger <dcarriger@KOVATCH.com>
Subject: Fire Pumper Pricing

Dean,

Tony Vargas has let me know that our application for grant funding has been approved and that we would like to move forward with the purchase of the fire pumper, seeking Council approval on June 12, 2012. Would the revised pricing of March 14 still be in effect for a contract awarded on that date?

Regards,
Noel

Noel Dietz, CPPB
Information Technology Coordinator
Purchasing Division
City of Sunnyvale
Ms. Dietz,

This letter is response to your request for a price extension on Bid # F1199-16, One (1) Fire Pumper Truck. Kovatch Fire Apparatus (KME) has patiently waited for a purchase order from our City for the past four months, realizing that several internal issues needed to be resolved in your purchasing process. As required in your specification document (Section V, Item B) KME has made available to you our original bid price of $445,538.00.

Due to certain circumstances within your agency you have not been able to issue a purchase order within the time frames established in the above mentioned section, and have requested that KME extend its pricing for several months. KME is willing to provide you with an extension of our obligation to furnish your agency with a Fire Pumper Truck, however there will be a price increase.

The price increase is required to help offset increases in the costs of components for the apparatus. Normally, throughout the State when an IFB is released the process for awarding the job to the successful bidder takes 30-45 days from the date of the bid opening. Increases in component costs can be estimated for short periods of time, but in this case projections for four to five months were not possible.

KME will provide an extension with the following amendments:

- The price will increase by $7,600.00 (1.6%)
- The new vehicle price will now be $453,138.00
- The new price does not include sales tax
- The new price will be honored for a period of forty-five (45) days (April 29, 2012)

Thank you for considering our extension letter, and please contact me if you have any questions.

Dean G. Kriger
California Sales Manager
KME Fire Apparatus