

RESOLUTION NO. 2011-677

Adopted by the Sacramento City Council

December 13, 2011

ESTABLISHMENT OF A CAPITAL IMPROVEMENT PROJECT, EXECUTION OF AN AGREEMENT AND APPROPRIATION OF FUNDS FOR THE BIKE PARKING PROGRAM (K15125200)

BACKGROUND

- A. The Bike Parking Program has been in effect for the past three years using existing funds from Downtown Transportation System Management Program (T15087700) and Measure A/Transportation Sales Tax On-Street Bikeway Improvement Program (K15120000). The program continues to fulfill requests since its inception. To date 110 racks have been installed.
- B. The Sacramento Metropolitan Air Quality Management District (SMAQMD) has offered to supplement the existing program by providing funds. This funding requires the City to enter into an agreement to install a minimum of 150 bike racks in the public right-of-way; SMAQMD will reimburse the City in the amount of \$85,600. Completion of the bike rack installations will be completed by May 30, 2013.
- C. As the responsible agency, the City will deliver the project in accordance with the cooperative agreement between the City of Sacramento, Department of Transportation (DOT) and the Sacramento Metropolitan Air Quality Management District (SMAQMD). The establishment of the Capital Improvement Project is necessary for the program implementation.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The Bike Parking Program (K15125200) is established as a new Capital Improvement Project.
- Section 2. The City Manager is authorized to execute a cooperative agreement with the Sacramento Metropolitan Air Quality Management District (SMAQMD) to receive \$85,600 in grant funds for the Bike Parking Program (K15125200).
- Section 3. The FY11/12 Capital Improvement Program is amended by appropriating \$85,600 (Fund 3702) to the Bike Parking Program (K15125200).
- Section 4. Exhibit A is hereby incorporated into and is a part of this Resolution.

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Exhibit A: Agreement/Memorandum of Understanding

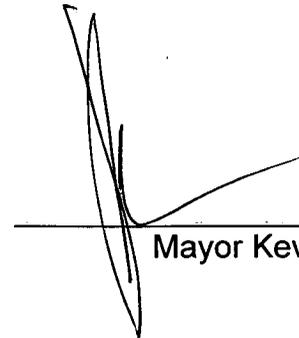
Adopted by the City of Sacramento City Council on December 13, 2011 by the following vote:

Ayes: Councilmembers Ashby, Cohn, D Fong, R Fong, McCarty, Pannell, Schenirer, Sheedy, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: None.



Mayor Kevin Johnson

Attest:



Shirley Concolino, City Clerk

**SACRAMENTO METROPOLITAN AIR QUALITY MANAGEMENT DISTRICT
MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding (MOU) is made between the **Sacramento Metropolitan Air Quality Management District (SMAQMD)**, a California local public agency, and the **City of Sacramento**.

1.0 Recitals

- 1.1 Health and Safety Code Sections 40961 designates SMAQMD as the local agency within the boundaries of the Sacramento district with the primary responsibility for the development, implementation, monitoring, and enforcement of air pollution control strategies, clean fuels programs, and motor vehicle use reduction measures.
- 1.2 Health and Safety Code Sections 41062 and 41082 authorize SMAQMD to implement programs to reduce transportation emissions, including programs to encourage the use of alternative fuel and low-emission vehicles.
- 1.3 SMAQMD continues to strive to reduce emissions from all sources in order to meet both State and federal ambient air quality standards. Personal travel via motor vehicles contributes significantly to the overall emission inventory for the Sacramento region.
- 1.4 A key strategy in reducing air pollution in the Sacramento region is to lower vehicle trips and vehicle miles traveled by implementing programs to encourage and enable the use of bicycles for errand, commute, and recreational travel.
- 1.5 Under Resolution No. 2008-025, dated May 22, 2008, the Board of Directors authorized SMAQMD to accept funding for the Bicycle Parking Program.
- 1.6 Under Resolution No. On October 28, 2010 the SMAQMD Board of Directors approved resolution 2010-035 which authorized, in consultation with the District Counsel, the Air Pollution Control Officer to enter into Memorandums of Understanding with participating municipalities regarding the installation and maintenance of bicycle parking devices.
- 1.7 Resolution No. 2010-035 also authorizes the APCO to enter into various contracts totaling up to \$256,500.00 to implement the bicycle parking program.
- 1.8 Based on population information from State of California's Department of Finance 2008 E-5 City/County Population and Housing Estimates, \$85,600.00 is allocated to the City of Sacramento.
- 1.9 The City of Sacramento has an existing and effective program to expand bicycle parking in the City. Since 2009, the City of Sacramento's Department of Transportation has fabricated and installed 98 U-shaped bike racks, officially named "SacRacks", in high-demand locations within the City. SMAQMD funding will allow the City of Sacramento to increase the size and scope of this existing program.

- 1.10 The City of Sacramento has agreed to accept \$85,600 from the SMAQMD to augment their existing program.
- 1.11 The City of Sacramento can acquire and install racks at an approximate cost of \$560.00 per rack.
- 1.12 The City of Sacramento agrees to accept all responsibility for any future liability associated with any bicycle parking device installed with SMAQMD funding.
- 1.13 The City of Sacramento accepts all responsibility for any permitting, installation, and maintenance costs associated with any bicycle parking device installed with SMAQMD funding.

NOW, THEREFORE, in consideration of the mutual promises hereafter set forth, SMAQMD and the City of Sacramento agree as follows:

2.0 Terms and Conditions

- 2.1 **Purpose of MOU**
The purpose of this MOU is to provide funds to the City of Sacramento to purchase and install bicycle parking devices in support of the Bicycle Parking Program.
- 2.2 **Term of MOU**
The term of this MOU will commence upon execution by all parties and terminate **June 30, 2013**.
- 2.3 **Payment**
Upon execution of this MOU by both parties, City of Sacramento will invoice SMAQMD in the amount of **\$85,600**.
- 2.4 **Performance**
City of Sacramento will install a minimum of 150 bicycle racks by **May 30, 2013**.
- 2.5 **Final Report**
By **June 30, 2013**, the City of Sacramento will submit to the SMAQMD a final report that includes a narrative outlining the City of Sacramento's Bicycle Parking Program, a list of locations that received bicycle parking devices that were underwritten with SMAQMD funding, and images depicting a typical installation.
- 2.6 **Indemnification**
The City of Sacramento will indemnify and defend SMAQMD, its officers, agents and employees from any and all liabilities of any kind that arise from any willfully negligent or wrongful acts or omissions of City of Sacramento in its performance of this MOU. SMAQMD will indemnify and defend the City of Sacramento, its officers, agents, and employees, from any and all liabilities of any kind that arise from any negligent or wrongful acts or omissions of SMAQMD in its performance of this MOU. The indemnifying party will consult with the indemnified parties in the selection of counsel.

2.7 **Successors**

This MOU will bind the successors of SMAQMD and City of Sacramento in the same manner as if they were expressly named.

2.8 **Alteration**

No alteration or variation of the terms of this MOU is valid unless made in writing and signed by both parties.

2.9 **Termination**

Either party may terminate this MOU without cause upon thirty (30) days written notice serviced upon the other party. Any unspent funds will be returned to SMAQMD. The City of Sacramento will retain responsibility for any bicycle parking devices installed prior to the termination of the MOU.

2.10 **Waiver of MOU Provisions**

Waiver by either party of any default, breach or condition precedent will not be construed as waiver of any other default, breach or condition precedent or right under this MOU.

2.11 **Severability**

If any provision of this MOU is held invalid or unenforceable, its invalidity or unenforceability will not affect any other provisions of this MOU, and this MOU will be construed and enforced as if such provision had not been included.

2.12 **Audit of City of Sacramento Records**

With regard to this MOU, the City of Sacramento will maintain appropriate financial records, and SMAQMD may demand access to these financial records to perform an audit. The City of Sacramento must make these records available to SMAQMD within 90-days after receiving a request for the records.

2.13 **Statutory Limitations**

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

2.14 **Communications**

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

<p>To SMAQMD: Larry Greene Executive Director/APCO Sacramento Metropolitan AQMD 777 12th Street, Third Floor Sacramento, CA 95814-1908 Phone: (916) 874-4800 Fax: (916) 874-4805</p>	<p>To City of Sacramento: Jerry Way Director of the Department of Transportation City of Sacramento 915 I Street, Room 2000 Sacramento, CA 95814-2604 Phone: (916) 808-7100 Fax: 916-808-5573</p>
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- A. **Change of Address:** Either party may change the address for service by giving 15 days advance written notice to the other party.
- B. **Effective Date:** All notices will be effective upon receipt and will be deemed received: (i) upon delivery, if personally delivered, (ii) on the 5th day following deposit in the mail, if sent by certified mail, or (iii) upon the date stated in the facsimile delivery confirmation, if sent by facsimile.

2.15 **Contract Manager**
 Larry Robinson is SMAQMD's named Contract Manager for this MOU. It is the responsibility of the Contract Manager to: 1) verify compliance with the terms and conditions of the MOU, 2) determine that the work has been completed, 3) ensure that funding is available to pay approved invoices, and 4) approve all invoices under the MOU. The APCO may redesignate a new Contract Manager.

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

Executed by:
 Sacramento Metropolitan Air Quality
 Management District

City of Sacramento

 Larry Greene
 Executive Director/APCO

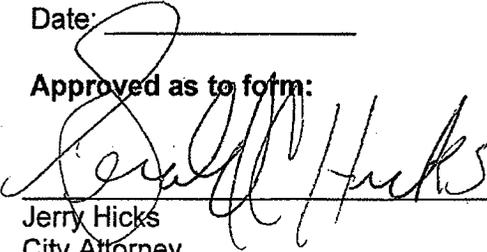
 Jerry Way
 Director of the Department of
 Transportation

Date: _____

Date: _____

Reviewed by:

 Kathrine Pittard
 District Counsel

Approved as to form:


 Jerry Hicks
 City Attorney