

**AGREEMENT BETWEEN THE PORT OF SEATTLE
AND THE PUGET SOUND CLEAN AIR AGENCY
FOR REIMBURSEMENT OF PURCHASING DIESEL OXIDATION CATALYSTS
FOR CARGO HANDLING EQUIPMENT**

This agreement is entered into between the **Puget Sound Clean Air Agency**, (hereinafter referred to as the "Agency"), a municipal corporation of the laws of the State of Washington, and the **Port of Seattle** (hereinafter referred to as the "POS"), Pier 69, 2711 Alaska Way, Seattle WA 98111-1209.

I. RECITALS

WHEREAS, the Puget Sound Clean Air Agency has established the Diesel Solutions program to reduce emissions from diesel engine exhaust by retrofitting existing diesel vehicles and equipment used in public and private fleets with emission control equipment; and

WHEREAS, it is in the interest of the POS, its tenants, and the Agency to reduce air quality impacts associated with diesel equipment operations; and

WHEREAS, the POS leases its terminal facilities to tenants, such as American President Line ("APL"), and Marine Terminals Corporation ("MTC"), who operate and maintain a fleet of diesel powered cargo handling equipment (CHE); and

WHEREAS, the retrofitting of diesel equipment with diesel oxidation catalysts (DOCs) has been demonstrated to be effective in reducing air quality impacts, but diesel equipment operators are reluctant to install them because they are expensive, provide no other benefits and can increase operating costs; and

WHEREAS, on September 27, 2006, the POS submitted a proposal to the Agency whereby the POS stated it would be willing to purchase approximately 100 DOCs upfront, and sell them at reduced prices to APL and MTC, if POS was partially reimbursed for the difference through grant funding; and

WHEREAS, APL and MTC have each indicated that, if they were provided the DOCs at greatly reduced prices, they would be willing to absorb the costs to install and maintain DOC devices on their CHE, and the costs to fuel the retrofitted CHE with cleaner burning low or ultra low sulfur diesel fuel;

II. AGREEMENT

NOW, THEREFORE, the POS and the Agency agree as follows:

A. PURPOSE. The purpose of this Agreement is to establish procedures for the Agency to reimburse the POS for the cost of purchasing DOCs for up to 76 pieces of equipment owned by

APL and 37 pieces of equipment owned by MTC, pursuant to the Port of Seattle Seaport Cargo-Handling Equipment Retrofit Project Puget Sound Clean Air Agency Funding Proposal, dated September 27, 2006, and APL Sales Agreement Diesel Oxidation Catalyst Mufflers and MTC Sales Agreement Diesel Oxidation Catalyst Mufflers (see attached documents which are hereby incorporated by reference).

B. TERM. This Agreement shall commence on December 31, 2006 and shall terminate June 30, 2007.

C. REIMBURSEMENT. The POS may apply for reimbursement from the Agency for the costs of purchasing DOCs for installation on APL and MTC equipment operated at Terminal 5 and Terminal 46 respectively, in accordance with the attached documents and this Agreement. The request for reimbursement shall be limited to the cost of purchasing DOCs.

1. The maximum amount paid by the Agency under this Agreement shall not exceed \$60,000. Funding is provided through the State of Washington Department of Ecology Grant Number G0600058 for the Statewide School Bus Retrofit Program, pursuant to the Agency's Diesel Solutions Ports/Marine work plan for Fiscal Year 2007.
2. The POS may submit a request for reimbursement from the Agency for the cost of purchasing DOCs. The reimbursement request shall contain a cover letter showing the cost of each DOC, total project cost and the amount of reimbursement the POS is seeking from the Agency. In addition, the POS shall provide documentation supporting the POS reimbursement request, including a purchase order for purchasing each DOC.
3. The request for reimbursement shall be sent to the Agency's Manager of Finance and Purchasing. The request for reimbursement shall be submitted no later than ten (10) working days after the termination date of this Agreement.

D. HOLD HARMLESS/INDEMNIFICATION. To the extent legally permitted, each party shall indemnify and hold harmless the other party from and against any and all claims, actions, damages, liability, and expense, including, without limitation, reasonable attorney's fees, incurred as a result of such party's actions under this agreement; provided that, if such claims, actions, damages, liability, or expense arise from concurrent negligence of two or more of the parties, including instances where this agreement is subject to the provisions of RCW 4.24.115, then the obligation to indemnify under this Agreement shall be effective only to the extent of each party's own negligence. No party shall be required under this section to indemnify another for its sole negligence.

E. NOTICES. All notices hereunder may be delivered or mailed. If mailed, they shall be sent to the following respective addresses:

Port of Seattle:
Sarah Flagg
Pier 69
2711 Alaska Way
Seattle, WA 98111-1209

Puget Sound Clean Air Agency:

Tom Hudson
110 Union Street, Suite 500
Seattle, WA 98101

Or to such other respective addresses as either party hereto may hereafter designated in writing.

III. GENERAL PROVISIONS

A. APPLICABLE LAW. This Agreement shall be governed by the laws of the State of Washington.

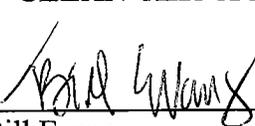
B. AMENDMENTS/MODIFICATIONS. This Agreement may be amended or modified only by written agreement of the parties.

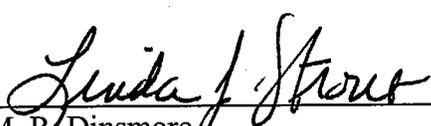
C. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties hereto and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect.

IN WITNESS HEREOF, the undersigned have, on the date set next to their signatures, executed this Agreement on behalf of the parties hereto.

**PUGET SOUND
CLEAN AIR AGENCY**

PORT OF SEATTLE

By: 
Bill Evans
Board of Directors, Chair

By: 
M. R. Dinsmore
for: Chief Executive Officer

Date: 2/1/07

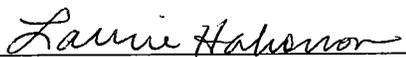
Date: 12-27-06

Attest:

By: 
Dennis J. McLerran
Executive Director

Date: 1/26/07

Approved as to form:

By: 
Laurie Halvorson
General Counsel

Date: 1/24/07

PORT OF SEATTLE
MEMORANDUM

DATE: June 29, 2006

TO: M.R. Dinsmore, Chief Executive Officer

FROM: Barbara Cole, Senior Environmental Program Manager

SUBJECT: Requesting signature of a sales agreement with APL for 76 diesel oxidation catalysts by the Chief Executive Officer

The air program staff in Seaport Environmental Programs has been working with seaport tenants on voluntary projects to retrofit cargo-handling equipment with advanced pollution controls such as diesel oxidation catalysts (DOCs). These voluntary projects are funded through a combination of the POS Green Ports Program Project #103296, a \$35,000 U.S. Environmental Protection Agency grant, and Puget Sound Clean Air Agency funds. Due to Washington State and federal grant requirements, the DOCs must be sold to participating seaport tenants. Attached is the sales agreement signed by APL, in which APL will purchase 76 DOCs from the Port of Seattle at \$20.00 per unit, for a total of \$1,520.00. This memo requests signature of the attached agreement by the Chief Executive Officer.

Reviewed + Approved
PO *CRW*
MRD/CSS for signature

**SALES AGREEMENT
DIESEL OXIDATION CATALYST MUFFLERS**

The Port of Seattle, in Seattle, Washington (Seller), agrees to sell and American President Lines, Ltd. (APL), of Seattle Washington (Buyer) agrees to buy 76 Diesel Oxidation Catalyst Mufflers at \$20.00 each, to be delivered by the Seller to Buyer at Terminal 5, 3443 West Marginal Way SW, Seattle, WA 98106. In consideration of the promises and of the mutual benefits to each party, it is further agreed as follows:

1. Description. The goods subject of this sale and which the Seller shall deliver to the Buyer and for which the Buyer shall pay shall conform to the following specifications:

<u>Number</u>	<u>Type of diesel oxidation catalyst muffler</u>
19	Cummins Emissions Solutions 200848N
43	Cummins Emissions Solutions 200316N
4	Cummins Emissions Solutions 200913N
8	Cummins Emissions Solutions 201350N
1	Cummins Emissions Solutions 201985N
1	Cummins Emissions Solutions 200921N

The model numbers of the goods, and the equipment on which they are to be installed, are listed in Schedule A (Inventory Form).

2. Delivery. Delivery shall be no later than five working days after final signatures of this Agreement, and shall be delivered by Seller to Buyer at Terminal 5, 3443 West Marginal Way SW, Seattle, WA 98106. Buyer agrees to provide the means to unload the goods at time of delivery.

3. Title. The Seller warrants that the title conveyed under the terms of this agreement shall be good and its transfer rightful, and that the goods shall be delivered free from any security interest or other lien or encumbrance. Title shall remain with the Seller until delivery and actual receipt thereof by the Buyer.

4. Risk of loss. Identification shall take place on the packaging of the goods, and the risk of loss shall pass on such identification.

5. Price and time of payment. The price of the equipment shall be \$20.00 per unit, for a total of \$1,520.00. This shall be paid at the time of delivery and at the place of delivery in bank draft or cashier's check or certified check.

Both parties agree that this price does not represent the goods' fair market value, but has been set to reflect the non-financial value that accrues to the Seller through the Buyer's actions in retrofitting their cargo handling equipment with these devices.

6. Inspection. Inspection shall be made by the Buyer at the time and place of delivery.

7. Conditions of Sale. Buyer acknowledges that Seller's costs for this equipment were paid in part through grant funds that the Seller received from the U.S. Environmental Protection Agency and the Puget Sound Clean Air Agency. All three agencies have a continuing interest in assuring that the equipment is installed, maintained and utilized as expected. Because of these circumstances, special conditions of sale and remedies apply.

a) *Use and Maintenance:* Buyer hereby agrees to perform the following actions:

- Install the mufflers on its cargo handling equipment according to manufacturer's directions and in accordance with warranty provisions;
 - Use the mufflers on equipment located within the jurisdiction of the Port of Seattle, unless written permission to relocate the devices is obtained from the Seller; and
 - Use and maintain the devices in good working order according to manufacturers directions and in accordance with warranty provisions, including using only those fuels containing 500 ppm of sulfur or less
- b) *Reporting*: Once per year, on or near the anniversary date of the sale, the Buyer shall complete the Inventory Form, attached hereto as Schedule A, and submit it to: Barbara Cole, Port of Seattle, P.O. Box 1209, Seattle WA 98111. This obligation shall continue for three (3) years from date of sale.

8. Warranty: THE SELLER WARRANTS THAT THE GOODS ARE AS DESCRIBED IN THIS AGREEMENT, BUT IT MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY IN RESPECT TO THE GOODS, AND SPECIFICALLY THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS.

Buyer shall be limited to the warranties of the manufacturers of the products sold, which are attached as Schedule B and C.

9. Remedies.

a) *Defective Goods*: Buyer's exclusive remedy and Seller's limit of liability for any and all losses or damages resulting from defective goods, or from any other cause, shall be for the purchase price of the particular delivery with respect to which losses or damages are claimed.

b) *Breach by Buyer*. In the event of any breach by Buyer, whether by way of wrongful rejection or revocation, or failure to fulfill the conditions of sale described in Section 7 above, the Seller shall be entitled to recover the fair market value of any goods tendered hereunder at the time of sale, and upon such recovery, said goods shall become the property of the Buyer, if still in possession of the Seller. It is acknowledged by the Buyer that the purpose of this provision for recovery of the market value is that these goods are not sold in the normal course of the Seller's business, and that Seller has unusual obligations pursuant to the Environmental Protection Agency and the Puget Sound Clean Air Agency grant rules.

11. Assignment and Delegation. Buyer may not assign its right or delegate its performance hereunder without the prior written consent of the Seller, and any attempted assignment or delegation without such consent shall be void.

12. Choice of Law. This contract is to be construed according to the laws of, and under the Uniform Commercial Code, as adopted by the State of Washington.

13. Integration of Contract. This document constitutes the full understanding of the parties, and no terms, conditions, understandings or agreement purporting to modify or vary the terms of this document shall be binding unless hereafter made in writing and signed by the party to be bound.

Buyer
Date:

[Signature] APL
6/19/06

Seller
Date:

[Signature]
M. R. Dinsmore
Chief Executive Officer
6/29/06

Attachment A

Unit	Description	Engine Make	Engine Model	Yr	DOC Part No	Installed Y/N	Still In Service Y/N
EMSF 586	92 HYSTER	Cummins	6CT	9/28/1992	200921N		
EMSU 309	97 MACK MS300P	Renault 6 Cyl.	1/1/1997	201985N		
EMSZ 021	91 TAYLOR	Cummins	M11-C	3/1/1991	200913N		
EMSZ 026	92 TAYLOR	Cummins	L10	5/1/1992	200913N		
EMSZ 034	91 TAYLOR	Cummins	M11-C	3/1/1991	200913N		
EMSZ 036	93 TAYLOR	Cummins	6BT	4/1/1993	200913N		
EMSZ 047	97 MIJACK/FANTUZZI	Cummins	M11-C	6/1/1997	201350N		
EMSZ 049	97 MIJACK/FANTUZZI	Cummins	M11-C	6/1/1997	201350N		
EMSZ 050	97 MIJACK/FANTUZZI	Cummins	M11-C	6/1/1997	201350N		
EMSZ 051	97 MIJACK/FANTUZZI	Cummins	M11-C	6/1/1997	201350N		
EMSZ 284	05 FANTUZZI	Cummins	QSM-11	1/1/2006	201350N		
EMSZ 285	05 FANTUZZI	Cummins	QSM-11	1/1/2006	201350N		
EMSZ 286	05 FANTUZZI	Cummins	QSM-11	1/1/2006	201350N		
EMSZ 287	05 FANTUZZI	Cummins	QSM-11	1/1/2006	201350N		
APST 183	00 CAPACITY	Cummins	6BTA	4/30/2001	200848N		
APST 184	00 CAPACITY	Cummins	B5.9C	4/30/1996	200848N		
APST 185	00 CAPACITY	Cummins	6BTA	4/30/1996	200848N		
EMST 742	06 CAPACITY	Caterpillar	C7	6/1/2006	200316N		
EMST 743	06 CAPACITY	Caterpillar	C7	6/1/2006	200316N		
EMST 744	06 CAPACITY	Caterpillar	C7	6/1/2006	200316N		
EMST 745	06 CAPACITY	Caterpillar	C7	6/1/2006	200316N		
EMST 746	06 CAPACITY	Caterpillar	C7	6/1/2006	200316N		
EMST 747	06 CAPACITY	Caterpillar	C7	6/1/2006	200316N		
EMST 748	06 CAPACITY	Caterpillar	C7	6/1/2006	200316N		
EMST 749	06 CAPACITY	Caterpillar	C7	6/1/2006	200316N		
EMST 750	06 CAPACITY	Caterpillar	C7	6/1/2006	200316N		

Attachment A

Unit #	Description	Engine Make	Engine Model	Doc Part No	Installed Y/N	Still in Service Y/N
EMST 751	06 CAPACITY	Caterpillar	C7	200316N		
EMST 752	06 CAPACITY	Caterpillar	C7	200316N		
EMST 753	06 CAPACITY	Caterpillar	C7	200316N		
EMST 754	06 CAPACITY	Caterpillar	C7	200316N		
EMST 755	06 CAPACITY	Caterpillar	C7	200316N		
EMST 756	06 CAPACITY	Caterpillar	C7	200316N		
EMST 757	06 CAPACITY	Caterpillar	C7	200316N		
EMST 758	06 CAPACITY	Caterpillar	C7	200316N		
EMST 759	06 CAPACITY	Caterpillar	C7	200316N		
EMST 760	06 CAPACITY	Caterpillar	C7	200316N		
EMST 761	06 CAPACITY	Caterpillar	C7	200316N		
EMST 762	06 CAPACITY	Caterpillar	C7	200316N		
EMST 763	06 CAPACITY	Caterpillar	C7	200316N		
EMST 764	06 CAPACITY	Caterpillar	C7	200316N		
EMST 765	06 CAPACITY	Caterpillar	C7	200316N		
EMST 397	97 OTTAWA	Cummins	6CT	200848N		
EMST 398	97 OTTAWA	Cummins	6CT	200848N		
EMST 399	97 OTTAWA	Cummins	6CT	200848N		
EMST 400	97 OTTAWA	Cummins	6CT	200848N		
EMST 401	97 OTTAWA	Cummins	6CT	200848N		
EMST 402	97 OTTAWA	Cummins	6CT	200848N		
EMST 403	97 OTTAWA	Cummins	6CT	200848N		
EMST 404	97 OTTAWA	Cummins	6CT	200848N		
EMST 406	97 OTTAWA	Cummins	6CT	200848N		
EMST 407	97 OTTAWA	Cummins	6CT	200848N		
EMST 408	97 OTTAWA	Cummins	6CT	200848N		

Attachment A

Unit	Description	Engine Make	Engine Model	Yr	Doc Part No	Installed Yr	Still In Service Yr
EMST 462	99 CAPACITY	Cummins	B5.9C	12/1/1999	200848N		
EMST 463	99 CAPACITY	Cummins	B5.9C	12/1/1999	200848N		
EMST 464	99 CAPACITY	Cummins	B5.9C	12/1/1999	200848N		
EMST 465	99 CAPACITY	Cummins	B5.9C	12/1/1999	200848N		
EMST 466	99 CAPACITY	Cummins	B5.9C	12/1/1999	200848N		
EMST 684	04 CAPACITY	Caterpillar	C7	11/1/2004	200316N		
EMST 685	04 CAPACITY	Caterpillar	C7	11/1/2004	200316N		
EMST 686	04 CAPACITY	Caterpillar	C7	11/1/2004	200316N		
EMST 687	04 CAPACITY	Caterpillar	C7	11/1/2004	200316N		
EMST 688	04 CAPACITY	Caterpillar	C7	11/1/2004	200316N		
EMST 689	04 CAPACITY	Caterpillar	C7	11/1/2004	200316N		
EMST 690	04 CAPACITY	Caterpillar	C7	11/1/2004	200316N		
EMST 691	04 CAPACITY	Caterpillar	C7	11/1/2004	200316N		
EMST 692	04 CAPACITY	Caterpillar	C7	11/1/2004	200316N		
EMST 693	04 CAPACITY	Caterpillar	C7	11/1/2004	200316N		
EMST 694	04 CAPACITY	Caterpillar	C7	11/1/2004	200316N		
EMST 695	04 CAPACITY	Caterpillar	C7	11/1/2004	200316N		
EMST 696	04 CAPACITY	Caterpillar	C7	11/1/2004	200316N		
EMST 697	04 CAPACITY	Caterpillar	C7	11/1/2004	200316N		
EMST 716	05 CAPACITY	Caterpillar	C7	4/1/2005	200316N		
EMST 717	05 CAPACITY	Caterpillar	C7	4/1/2005	200316N		
EMST 718	05 CAPACITY	Caterpillar	C7	4/1/2005	200316N		
EMST 719	05 CAPACITY	Caterpillar	C7	4/1/2005	200316N		
EMST 720	05 CAPACITY	Caterpillar	C7	4/1/2005	200316N		

**SALES AGREEMENT
DIESEL OXIDATION CATALYST MUFFLERS**

The Port of Seattle, in Seattle, Washington (Seller), agrees to sell Marine Terminals Corporation (MTC), of Seattle Washington (Buyer) agrees to buy 37 Diesel Oxidation Catalyst Mufflers at \$20.00 each, to be delivered by the Seller to Buyer at Terminal 46, 401 Alaskan Way South, Seattle, WA 98104. In consideration of the promises and of the mutual benefits to each party, it is further agreed as follows:

1. Description. The goods subject of this sale and which the Seller shall deliver to the Buyer and for which the Buyer shall pay shall conform to the following specifications:

<u>Number</u>	<u>Type of diesel oxidation catalyst muffler</u>
17	Cummins Emissions Solutions M111184
14	Cummins Emissions Solutions 201350N
4	Cummins Emissions Solutions 201861N
2	Cummins Emissions Solutions 200921N

The model numbers of the goods, and the equipment on which they are to be installed, are listed in Schedule A (Inventory Form).

2. Delivery. Delivery shall be no later than five working days after final signatures of this Agreement, and shall be delivered by Seller to Buyer at 46, 401 Alaskan Way South, Seattle, WA 98104. Buyer agrees to provide the means to unload the goods at time of delivery.

3. Title. The Seller warrants that the title conveyed under the terms of this agreement shall be good and its transfer rightful, and that the goods shall be delivered free from any security interest or other lien or encumbrance. Title shall remain with the Seller until delivery and actual receipt thereof by the Buyer.

4. Risk of loss. Identification shall take place on the packaging of the goods, and the risk of loss shall pass on such identification.

5. Price and time of payment. The price of the equipment shall be \$20.00 per unit, for a total of \$7400. This shall be paid at the time of delivery and at the place of delivery in bank draft or cashier's check or certified check.

Both parties agree that this price does not represent the goods' fair market value, but has been set to reflect the non-financial value that accrues to the Seller through the Buyer's actions in retrofitting their cargo handling equipment with these devices.

6. Inspection. Inspection shall be made by the Buyer at the time and place of delivery.

7. Conditions of Sale. Buyer acknowledges that Seller's costs for this equipment were paid in part through grant funds that the Seller received from the U.S. Environmental Protection Agency and the Puget Sound Clean Air Agency. All three agencies have a continuing interest in assuring that the equipment is installed, maintained and utilized as expected. Because of these circumstances, special conditions of sale and remedies apply.

- a) *Use and Maintenance:* Buyer hereby agrees to perform the following actions:
- Install the mufflers on its cargo handling equipment according to manufacturer's directions and in accordance with warranty provisions;

- Use the mufflers on equipment located within the jurisdiction of the Port of Seattle, unless written permission to relocate the devices is obtained from the Seller; and
 - Use and maintain the devices in good working order according to manufacturers directions and in accordance with warranty provisions, including using only those fuels containing 500 ppm of sulfur or less
- b) *Reporting*: Once per year, on or near the anniversary date of the sale, the Buyer shall complete the Inventory Form, attached hereto as Schedule A, and submit it to: Barbara Cole, Port of Seattle, P.O. Box 1209, Seattle WA 98111. This obligation shall continue for three (3) years from date of sale.

8. Warranty. THE SELLER WARRANTS THAT THE GOODS ARE AS DESCRIBED IN THIS AGREEMENT, BUT IT MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY IN RESPECT TO THE GOODS, AND SPECIFICALLY THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS.

Buyer shall be limited to the warranties of the manufacturers of the products sold, which are attached as Schedule B and C.

9. Remedies.

a) *Defective Goods*: Buyer's exclusive remedy and Seller's limit of liability for any and all losses or damages resulting from defective goods, or from any other cause, shall be for the purchase price of the particular delivery with respect to which losses or damages are claimed.

b) *Breach by Buyer*. In the event of any breach by Buyer, whether by way of wrongful rejection or revocation, or failure to fulfill the conditions of sale described in Section 7 above, the Seller shall be entitled to recover the fair market value of any goods tendered hereunder at the time of sale, and upon such recovery, said goods shall become the property of the Buyer, if still in possession of the Seller. It is acknowledged by the Buyer that the purpose of this provision for recovery of the market value is that these goods are not sold in the normal course of the Seller's business, and that Seller has unusual obligations pursuant to the Environmental Protection Agency and the Puget Sound Clean Air Agency grant rules.

11. Assignment and Delegation. Buyer may not assign its right or delegate its performance hereunder without the prior written consent of the Seller, and any attempted assignment or delegation without such consent shall be void.

12. Choice of Law. This contract is to be construed according to the laws of, and under the Uniform Commercial Code, as adopted by the State of Washington.

13. Integration of Contract. This document constitutes the full understanding of the parties, and no terms, conditions, understandings or agreement purporting to modify or vary the terms of this document shall be binding unless hereafter made in writing and signed by the party to be bound.

Paul Lam 09/25/06
 Buyer
 Date:

MR. DISMORE
 Seller
 Date:

1	5100	Magnum UTR Model TT-120	Sisu/Cummins/Engine 6BTA 5.9-C 177 HP	1994	M111184
2	5101	Magnum UTR Model TT-121	Sisu/Cummins/Engine 6BTA 5.9-C 177 HP	1994	M111184
3	5102	Magnum UTR Model TT-122	Sisu/Cummins/Engine 6BTA 5.9-C 177 HP	1994	M111184
4	5103	Magnum UTR Model TT-123	Sisu/Cummins/Engine 6BTA 5.9-C 177 HP	1994	M111184
5	5104	Magnum UTR Model TT-124	Sisu/Cummins/Engine 6BTA 5.9-C 177 HP	1994	M111184
6	5105	Magnum UTR Model TT-125	Sisu/Cummins/Engine 6BTA 5.9-C 177 HP	1994	M111184
7	5106	Magnum UTR Model TT-126	Sisu/Cummins/Engine 6BTA 5.9-C 177 HP	1994	M111184
8	5107	Magnum UTR Model TT-127	Sisu/Cummins/Engine 6BTA 5.9-C 177 HP	1994	M111184
9	5108	Magnum UTR Model TT-128	Sisu/Cummins/Engine 6BTA 5.9-C 177 HP	1994	M111184
10	5109	Magnum UTR Model TT-129	Sisu/Cummins/Engine 6BTA 5.9-C 177 HP	1994	M111184
11	5110	Magnum UTR Model TT-130	Sisu/Cummins/Engine 6BTA 5.9-C 177 HP	1994	M111184
12	5112	Magnum UTR Model TT-131	Sisu/Cummins/Engine 6BTA 5.9-C 177 HP	1994	M111184
13	5176	Magnum UTR Model TT-132	Magnum/Cummins/Engine 6BTA 5.9-C 177 HP	1999	M111184
14	5177	Magnum UTR Model TT-133	Magnum/Cummins/Engine 6BTA 5.9-C 177 HP	1999	M111184
15	5178	Magnum UTR Model TT-134	Magnum/Cummins/Engine 6BTA 5.9-C 177 HP	1999	M111184
16	5179	Magnum UTR Model TT-135	Magnum/Cummins/Engine 6BTA 5.9-C 177 HP	1999	M111184
17	5180	Magnum UTR Model TT-136	Magnum/Cummins/Engine 6BTA 5.9-C 177 HP	1999	M111184
18	7212	Taylor Sidepick Model TEC 155 H	Taylor/Cummins/Engine 6BTA 5.9	1989	201861N
19	6000	Taylor Toppick Model TEC 950 L	Cummins LT 10-C 250 HP	1994	201350N
20	6001	Taylor Toppick Model TEC 950 L	Cummins LT 10-C 250 HP	1990	201350N
21	6002	Taylor Toppick Model TEC 950 L	Cummins LT 10-C 250 HP	1994	201350N
22	6109	Taylor Toppick Model TEC 950 L	Cummins LT 10-C 250 HP	1994	201350N
23	6110	Taylor Toppick Model TEC 950 L	Cummins LT 10-C 250 HP	1994	201350N
24	6111	Taylor Toppick Model TEC 950 L	Cummins LT 10-C 250 HP	1994	201350N
25	6112	Taylor Toppick Model TEC 950 L	Cummins LT 10-C 250 HP	1994	201350N
26	6113	Taylor Toppick Model TEC 950 L	Cummins LT 10-C 250 HP	1994	201350N
27	6114	Taylor Toppick Model TEC 950 L	Cummins LT 10-C 250 HP	1994	201350N
28	6119	Taylor Toppick Model TEC 950 L	Cummins LT 10-C 250 HP	1995	201350N
29	6121	Taylor Toppick Model TEC 950 L	Cummins LT 10-C 250 HP	1995	201350N
30	6130	Taylor Toppick Model TEC 950 L	Cummins M11-6 260 HP	1997	201350N
31	6136	Taylor Toppick Model TEC 950 L	Cummins M11-6 260 HP	1997	201350N
32	6137	Taylor Toppick Model TEC 950 L	Cummins M11-6 260 HP	1998	201350N
33	6176	Taylor Toppick Model TEC 955 L	Cummins QS M11-335 HP	2005	201861N
34	6177	Taylor Toppick Model TEC 955 L	Cummins QS M11-335 HP	2005	201861N
35	6178	Taylor Toppick Model TEC 955 L	Cummins QS M11-335 HP	2005	201861N
36	2404	15 Ton Forklift Model TE 360	Cummins 6BT 5.9 152 HP	1994	200921N
37	2795	15 Ton Forklift Model TE 360	Cummins QSB 5.9 155 HP	2005	200921N

Fleetguard, Inc.
 1801 U.S. Hwy. 51/138
 P.O. Box 428
 Stoughton, Wisconsin 53589-0428
 U.S.A.



**FLEETGUARD, INC. DIESEL OXIDATION
 CATALYTIC MUFFLER (DOCM) STANDARD
 WARRANTY FOR BASE (TIER 1) RETROFIT
 (49 STATES) APPLICATIONS**

Fleetguard, Inc. warrants its products to be free of defects in materials and workmanship.

Engine Type	Engine Size	Warranty Period					
		Mechanical			Emissions		
		Years	Mileage	Hours	Years	Mileage	Hours
On-Road	ALL	5	150,000	5,400	5	150,000	5,400
Off-Road (Includes portable engines and Stationary)	ALL	5	N/A	1,850	5	N/A	1,850

The warranty protection for the original DOCM installed by the original equipment manufacturer (OEM) is in the table above. **IF ONE OF THE ELEMENTS IN THE TABLE IS OVER AND ABOVE THE SPECIFIED PERIOD, THE WARRANTY IS NULL AND VOID.** The DOCM must be installed on the appropriate diesel engine. Installation must be in accordance with all instruction and appropriate direction from Fleetguard, Inc. and/or the Engine OEM per the information provided on the datasheet. FES emission warranty endorses the following percent reductions in emission levels relative to base engine: 20 PM%, 40 CO%, N/A NOx%, and 50 HC%. Any Fleetguard, Inc. product determined by Fleetguard, Inc. to be defective in material or workmanship will be replaced by another product or by a credit for the original Fleetguard, Inc. selling price of the product.

***LIMITATIONS:**

The warranty protection for the DOCM does not provide for conditions where damage or defect is due to:

- Improper installation by not following Fleetguard, Inc. and the Engine OEM instructions for installation.
- Motor vehicle accident or any physical damage to the DOCM for any reason from any source.
- Engine oil consumption including particulate matter generation beyond the guidelines as set by the Engine OEM.
- Installation on an engine other than as recommended by the Engine OEM.
- Where any substances present in the exhaust stream are outside of guidelines as set by the Engine OEM.
- Improper inspection, cleaning or any attempt to repair the DOCM by anyone other than authorized personnel.
- Misrepresentative application information.
- Act of God.
- Improper maintenance or fuel system tampering.
- Where any blending of lube oils with diesel fuel occurs or any other liquids not approved by Fleetguard, Inc.
- Failure to follow OEM maintenance and operating procedures. Proper OEM maintenance and operating procedures are understood to be those procedures recommended by the OEM to ensure engine longevity and operation.
- Use of fuel and/or oil additives not recommended or approved by the Engine OEM.

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Fleetguard, Inc.
 1801 U.S. Hwy. 51/138
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 Stoughton, Wisconsin 53589-0428
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- Use of fuels containing sulfur or other chemical elements beyond guidelines as set by the Engine OEM for the appropriate device and calibration for the specific engine. Sulfur levels must not exceed 0.05% (five one hundredths of one percent) by weight (500 PPM).
- Where the root cause of the damage is due to an Engine malfunction.

Progressive engine damage will NOT be covered under this warranty where the DOCM is determined to be the root cause of the damage.

Service and/or warranty resulting from a suspected malfunction of a Fleetguard, Inc. DOCM covered by this warranty must be performed under the terms and conditions as follows:

1. All warranty claims must be filed with Fleetguard, Inc. within forty-five (45) days of occurrence of the potentially warrantable failure. This includes the Engine OEM dealers and distributors.
2. The repair of a DOCM is limited to its replacement and any attempts to repair a DOCM will result in the voiding of the warranty.

To assist in establishing warranty claim validity, Fleetguard, Inc. or the Engine OEM or its representatives will, at their discretion, have the right to and require:

1. Physical inspection of the equipment using the DOCM.
2. Information acquired by the manufacturer, dealer, purchaser and/or user relative to the application and use.
3. The failed DOCM MUST be returned to Fleetguard, Inc. for analysis and determination of root cause.
4. If the failure is warrantable, Fleetguard, Inc. will keep the failed hardware.

WITH THE EXCEPTIONS OF THE WARRANTIES PROVIDED HEREIN, FLEETGUARD, INC. MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED. FLEETGUARD, INC. MAKES NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, DESIGN, CONDITION, PERFORMANCE OR ANY OTHER ASPECT OF THE PRODUCTS, THEIR MATERIALS OR WORKMANSHIP.

IN NO EVENT SHALL FLEETGUARD, INC. BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES EXCEPT AS SET FORTH ABOVE.

This policy supercedes any and all other Base Retrofit Fleetguard, Inc. Warranty Statements for 49 States that apply to DOCM's.

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DOC Muffler Limited Warranty

Donaldson warranty for Diesel Oxidation Catalyst (DOC) mufflers meet the requirements of EPA's Voluntary Retrofit Program and California's Diesel-Retrofit Program. Donaldson DOC mufflers are defect warranted for parts and emissions performance as specified below.

Donaldson warrants DOC mufflers against failure due to defects in materials and workmanship for the period specified below. Donaldson's obligation under this warranty covers replacing the failed product only. If the Donaldson product failure is the sole and direct cause of damage to the equipment on which the product was properly installed, Donaldson will reimburse reasonable costs to restore the equipment to the condition it was in immediately before the failure. Engine and equipment manufacturers warranties remain in effect when Donaldson products are used.

Donaldson must be notified in writing of any claims covered by this warranty within one year of the date of failure. Donaldson, at its discretion, will either physically visit the site where the alleged failure has been found; or, request that all parts, Donaldson and other relevant parts, be shipped prepaid to its General Office, in care of the Product Lab or as otherwise specified.

Warranty Coverage

Warranty coverage begins on the date and mileage the product is purchased by the user and expires when the specified number of years or miles has passed, whichever occurs first.

The length of warranty for replacement products provided under warranty coverage is the balance of the warranty period remaining on the product being replaced.

Medium-duty On-Road Trucks & Buses

170-250 hp / 19,500-33,000 lbs. GVW 5 years or 100,000 miles/160,000 km

Heavy-duty On-Road Trucks

> 250 hp / > 33,000 lbs. GVW 5 years or 150,000 miles/240,000 km

WARRANTY
Donaldson[®]

Warranty Exclusions

Excluded from this warranty are any failures resulting from (but not limited to):

- Misapplication or improper installation of the converter muffler (failure to adhere to Donaldson installation guidelines)
- Failures or damage caused by mounting system failures
- Modifications, alteration or attempted repair of the DOC muffler
- Use of fuels not consistent with EPA/CARB regulations, fuel other than that for which the engine is calibrated or fuels blended with used lube oil
- Damage to catalyst caused by water entry.
- Operating conditions that result in plugged and/or poisoned catalysts, or consequential damage caused by a plugged core
- Progressive engine failures that allow lube oil, fuel or coolant to be present in the exhaust in excess of Engine manufacturer's specifications
- Physical damage caused by misuse, abuse or road hazards including (but not limited to) dents, cuts or fractures to the exterior or interior of the DOC muffler
- Meeting a specified emissions level
- Damage due to tampering or misadjustment of the engine control system.
- Damage due to shipping.
- Failure to return the warranty registration card.

The remedies provided shall constitute the sole and exclusive remedies of the user as well as the extent of Donaldson's liability for any breach of warranty or other claim arising out of any defective or nonconforming DOC muffler. Donaldson shall not be liable for any special, incidental, consequential, or exemplary damages. Donaldson's aggregate liability arising out of, connected with or relating to any claim made by the user, including recalls, may also be limited by warranty agreements Donaldson has with component suppliers and/or with an engine manufacturer.

The foregoing warranties are in lieu of all other warranties expressed or implied. Donaldson expressly disclaims the existence of all other warranties, including any expressed or implied warranty of merchantability or fitness for a particular purpose.



Donaldson.

Donaldson Company, Inc.
Minneapolis, MN
55440-1299

www.donaldson.com

United States & Canada
Distributors
Tel: 800-374-1374
Dealers
Tel: 888-888-3835

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at any time and without notice.

**Port of Seattle Seaport Cargo-Handling Equipment Retrofit Project
Puget Sound Clean Air Agency Funding Proposal
September 27, 2006**

The Port of Seattle is working collaboratively with Puget Sound Clean Air Agency (PSCAA) staff and all three of our major container terminal operators to reduce diesel emissions from cargo handling equipment (CHE) by replacement with new cleaner equipment, switching to cleaner fuels, and retrofitting the remaining older CHE with appropriate diesel oxidation catalysts (DOCs). The DOCs were purchased from Cummins Northwest by means of a competitive bid process. PSCAA staff served on the contract selection team for the project.

The Port of Seattle requests \$60,000 in funding assistance from PSCAA to complete the container terminal cargo handling equipment project by purchasing diesel oxidation catalysts (DOCs) from Cummins Northwest to retrofit cargo-handling equipment (CHE) operated at Terminal 5 by American President Lines (APL) and operated by Marine Terminals Corporation at Terminal 46. The Port has evaluated the APL and MTC fleets and determined 76 pieces of CHE are technically eligible for DOC retrofits at APL and 37 at MTC. The additional diesel oxidation catalysts would be purchased under the existing contracting arrangement that was established by the Port with Cummins Northwest.

The total expected costs for purchasing diesel oxidation catalysts for the remaining eligible cargo handling equipment on two Port of Seattle container terminals is \$128,850.00. APL and MTC are contributing the labor costs for installation of the DOCs and any on-going maintenance that may be necessary. The terminal operators are contributing the increased costs of switching from off road diesel to the lower sulfur fuels that are necessary for retrofitted equipment. The project is being jointly funded by the Port of Seattle.

The following tables reflect the proposed project costs and funding details.

Cargo Handling Equipment Operator	DOC costs
APL (Terminal 5)	\$81,140.00
MTC (Terminal 46)	\$40,710.00
Total DOC purchase costs	\$128,850.00

Funding Sources (DOCs only)	Amount
Port of Seattle	\$68,850.00
PSCAA for APL and MTC project (requested)	\$60,000.00
Total funding	\$128,850.00

Due to federal grant requirements and Washington State prohibitions on gifts of public funds, the Port must sell the DOCs to APL and MTC in the amount of \$20.00 per unit. APL and MTC will each sign a Sales Agreement with the Port of Seattle prior to purchase of the DOCs, which details conditions of sale. Conditions of sale included in the agreement are listed below. A copy of the Sale Agreement is attached.

Conditions of Sale. Buyer acknowledges that Seller's costs for this equipment were paid in part through grant funds that the Seller received from the Puget Sound Clean Air Agency. Both

agencies have a continuing interest in assuring that the equipment is installed, maintained and utilized as expected. Because of these circumstances, special conditions of sale and remedies apply.

Use and Maintenance: Buyer hereby agrees to perform the following actions:

- Install the mufflers on its cargo handling equipment according to manufacturer's directions and in accordance with warranty provisions;
- Use the mufflers on equipment located within the jurisdiction of the Port of Seattle, unless written permission to relocate the devices is obtained from the Seller;
- Use low or ultra low sulfur diesel fuel in equipment retrofitted with the diesel oxidation catalysts, and
- Use and maintain the devices in good working order according to manufacturers directions and in accordance with warranty provisions, including using only those fuels containing 500 ppm of sulfur or less

Please call me at 206-728-3326 or Sarah Flagg at 206-728-3249, if you have questions or need further information to consider this request for additional funding assistance for the Port of Seattle's container terminal cargo handling equipment retrofit project.

U.S. Environmental Protection Agency
Washington, D.C. 20460

**Certification Regarding
Debarment, Suspension and Other Responsibility Matters**

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; 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) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

**Linda J. Strout
Deputy Chief Executive Officer**

Typed Name & Title of Authorized Representative

Linda J. Strout

Signature of Authorized Representative

12-27-06

Date

I am unable to certify to the above statements. My explanation is attached.

Instructions

Under Executive Order 12549, an individual or organization debarred or excluded from participation in Federal assistance or benefit programs may not receive any assistance award under a Federal program, or a subagreement thereunder for \$25,000 or more.

Accordingly, each prospective recipient of an EPA grant, loan, or cooperative agreement and any contract or subagreement participant thereunder must complete the attached certification or provide an explanation why they cannot. For further details, see 40 CFR 32.510, Participants' responsibilities, in the regulation.

Where to Submit

The prospective EPA grant, loan, or cooperative agreement recipient must return the signed certification or explanation with its application to the appropriate EPA Headquarters or Regional office, as required in the application instructions.

A prospective prime contractor must submit a completed certification or explanation to the individual or organization awarding the contract.

Each prospective subcontractor must submit a completed certification or explanation to the prime contractor for the project.

How to Obtain Forms:

EPA includes the certification form, instructions, and a copy of its implementing regulation * (40 CFR Part 32) in each application kit. Applicants may reproduce these materials as needed and provide them to their prospective prime contractor, who, in turn, may reproduce and provide them to prospective subcontractors.

Additional copies/assistance may be requested from:

Office of Grants and Debarment
Suspension and Debarment Division
U.S. Environmental Protection Agency
401 M. Street, S.W.
Washington, D.C. 20460
(Telephone: 202-260-8025)