

**DOCKETED**

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| <b>Docket Number:</b>   | 22-HERS-01  |
| <b>Project Title:</b>   | 2022 HERS Provider Applications for the 2022 Building Energy Efficiency Standards |
| <b>TN #:</b>            | 247320  |
| <b>Document Title:</b>  | Application for Confidential Designation  |
| <b>Description:</b>     | N/A   |
| <b>Filer:</b>           | CHEERS Staff  |
| <b>Organization:</b>    | CHEERS  |
| <b>Submitter Role:</b>  | Applicant   |
| <b>Submission Date:</b> | 11/7/2022 2:48:35 PM  |
| <b>Docketed Date:</b>   | 11/7/2022   |



## APPLICATION FOR CONFIDENTIAL DESIGNATION (Title 20 Cal. Code. Regs., § 2505 et seq.)

CEC-13 (Revised 11/2021)

CALIFORNIA ENERGY COMMISSION

**All confidential filings:** Individual documents may not exceed 30 MB<sup>1</sup> or be password protected.<sup>2</sup> The application must be a separate document from the confidential materials. The application itself is not confidential and is a public record. The application will be reviewed and acted upon by the Executive Director in consultation with the Chief Counsel of the Energy Commission. (§ 2505, subd. (a))

If you have questions, contact the Docket Unit at (916) 654-5076 or email: [docket@energy.ca.gov](mailto:docket@energy.ca.gov).

**Existing proceedings:** Applications for confidentiality and the confidential documents must be uploaded directly to the Docket Unit through the e-filing system. Paper copies or CDs do not need to be submitted. Links to the e-filing system are provided on most proceeding webpages labeled “**Submit e-filing.**” Alternatively, go to: [https://efiling.energy.ca.gov/Login.aspx?perms\\_1&returnurl=http%3A//efiling.energy.ca.gov/EFiling/EfileSelect/Proceeding.aspx](https://efiling.energy.ca.gov/Login.aspx?perms_1&returnurl=http%3A//efiling.energy.ca.gov/EFiling/EfileSelect/Proceeding.aspx). Registration is necessary the first time documents are uploaded. Once registration is complete, to submit a confidential filing click on **Quick Actions** from the **DASHBOARD** and select **Submit Confidential e-filing** from the dropdown list. The application must be uploaded first followed by one or more confidential files.

**Filings not associated with any proceeding:** Applications for confidentiality and the confidential materials must be submitted directly to the **Docket Unit** in paper form or on a CD, but not by email. Two copies must be submitted, on separate media if electronic, each marked with a descriptive title and “Confidential.” (§ 1208.1)

### TO: Energy Commission Docket Unit

Applicant: CHEERS

Address: 1610 R Street, Suite 200, Sacramento, CA 95811

Phone and E-mail: 1 (800) 424-3377, [application@cheers.org](mailto:application@cheers.org)

Proceeding or Project Name: CHEERS 2022 HERS Provider Application

Docket Number: 22-HERS-01

- 1(a). Title, date, and description (including number of pages) of the information or data for which you request confidential designation. **Information or data seeking a designation of confidentiality must be included with this application.**

CHEERS 2022 HERS Provider Application Materials

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- 1(b). Specify the part(s) of the information or data for which you request confidential designation.

Exhibits C, D - These materials were revised per CEC staff comment and are updated sections of the CHEERS 2022 HERS Provider Application. These exhibits are substantially similar to those previously granted confidentiality per Docket 22-HERS-01, TN # 246464.

<sup>1</sup> Contact the Docket Unit if you cannot reduce the size of your file.

<sup>2</sup> If you wish to protect the files while in transit, you may combine them in a password-protected .zip file..



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2. State and justify the length of time the Energy Commission should keep the information or data confidential.

Six years or longer period consistent with prior confidentiality approvals provided to HERS Provider applicants.

3(a). State the provision(s) of the Public Records Act (Gov. Code, § 6250 et seq.) or other law that allows the Energy Commission to keep the information or data confidential, and explain why the provision(s) apply to that material.

CA Government Code Section 6254, Title 20 CCR Section 2505. The information seeking confidential designation qualifies as proprietary information and trade secrets that derive value from not generally being known to the public. CHEERS has pursued reasonable efforts to maintain their secrecy.

3(b). Discuss the public interest in nondisclosure of the material submitted for a confidential designation. If the material contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please state how it would be lost, the value of the information to the applicant and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

CHEERS has spent substantial resources developing the processes, programs, and documents related to our HERS Provider Applications. Subject matter experts, HERS Trainers, software engineers, field technicians, program managers, and many other industry professionals have been employed to create these materials on behalf of CHEERS. If these materials were freely disclosed, a competitor could replicate these materials at no cost, materially impacting CHEERS' competitive advantage. CHEERS has spent millions of dollars over the last several code cycles creating and revising the processes, programs, procedures, and guidelines outlined in these documents. CHEERS has not distributed or provided these documents to anyone outside of CHEERS employees.

4. State whether the information or data can be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.

The material seeking confidential designation cannot be disclosed even if aggregated. Given the minimal number of HERS Provider applications submitted, any masking or aggregation would still likely reveal unique propitiatory information and would be harmful to CHEERS.

5. State how the material is kept confidential by the applicant and whether it has even been disclosed to a person other than an employee of the applicant. If it has, explain the circumstances under which disclosure occurred.

The material seeking confidential designation has not been disclosed to a person other than CHEERS staff and CHEERS Rater candidates. Rater candidates are required to execute a user agreement in which they agree not to distribute CHEERS training material.

I certify under penalty of perjury under the laws of the State of California that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge and that I am authorized to make the application and certification on behalf of the applicant.

Dated: November 7, 2022

Signed:



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CEC-13 (Revised 03/17)

CALIFORNIA ENERGY COMMISSION

Name (print or type): Jim Hodgson

Title: (print or type) Executive Officer

Representing: CHEERS

Include additional signature blocks if there are multiple partners in the project with shared responsibilities for making the request.