



Hosting, Maintenance and Modification of the MSRC Website

www.CleanTransportationFunding.org

Request for Proposals

P2025-05

December 6, 2024

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SECTION 1 – Solicitation Overview

I.A. Introduction

The Mobile Source Air Pollution Reduction Review Committee (MSRC) requests proposals from qualified website providers to assist in the hosting, maintenance, and minor modification of the MSRC's website. For the purpose of this solicitation, the terms "bidder", "contractor" and "website developer" are used interchangeably.

To reduce the need to photocopy, package, and physically submit paper applications, the solicitation requires that proposals be submitted electronically in PDF format using the MSRC website. We believe this benefits the proposer, the MSRC staff, and the environment.

I.B. Background

The Mobile Source Air Pollution Reduction Review Committee, or "MSRC", is responsible for funding transportation projects that reduce air pollution in Southern California. The MSRC was created in 1990 by the California State Legislature as part of Assembly Bill (AB) 2766, which authorizes the Department of Motor Vehicles to collect a \$4 surcharge on vehicle registration fees. Under AB 2766, the MSRC receives 30% of the surcharge as part of a Discretionary Fund to support projects that reduce pollution from mobile sources, such as cars, trucks, and buses. The Discretionary Fund has an annual budget of approximately \$15 million.

In 1999, the MSRC contracted with a website development firm for the design, development, activation, testing, hosting, and maintenance of its first website. Located under the domain name www.msrc-cleanair.org, the MSRC used this site as a medium to disseminate both time sensitive and historical information to current MSRC contractors, prospective project applicants, and other interested parties. The website was developed and ultimately launched in July 2000. In 2005, the MSRC contracted with a website development firm to develop a successor website which incorporated most of the features of the original plus substantial new functionality. Similar processes occurred in 2011 and 2016. A few upgrades have been made in the ensuing years, but essentially this is the current MSRC website located under the domain name www.CleanTransportationFunding.org. Key features of the current website include:

- Ability for the public to download current solicitation documents in either Microsoft Word and PDF format;
- A key-word searchable library containing summaries of MSRC-funded projects, photos and final reports for many projects;
- Current MSRC and MSRC-Technical Advisory Committee (MSRC-TAC) meeting agendas and archives of past meeting agendas and minutes;
- Current and past MSRC articles and press releases;
- History of the MSRC, related statutes and list of current MSRC and MSRC-TAC members;
- A subscription system by which interested parties can sign up to receive e-mail notifications of solicitations, agendas, and news articles, as well as a related system to assemble and distribute an electronic newsletter;

- An interface for MSRC contractors to download guidance documents and templates; and
- Ability to submit applications and proposals online.

Furthermore, much of the current website’s content is able to be added, deleted or modified by MSRC staff without assistance of the website contractor.

The current website has served the MSRC well for eight years. The MSRC does not necessarily see a need for a major overhaul of the website at the present time, but the current contract for hosting and maintenance of the site is approaching a close. Therefore, the purpose of this Request for Proposals (RFP) is to solicit qualified firms to submit proposals in accordance with requirements specified herein for the uninterrupted continued hosting and maintenance of the MSRC website, including future minor modifications to the website. As a point of reference, in recent years the MSRC has expended approximately \$10,000 per two-year period for these types of costs.

Although the MSRC does not envision a need to overhaul the website significantly, it is always possible that a need for more substantive modifications will be identified during the course of the contract. For example, the MSRC is currently investigating the potential of changing their mechanism for managing posting of solicitations and receipt of responses to solicitations. If such a decision is made, moderate website revisions would be necessary. Bidders are asked to provide assurance of their capability and willingness to perform moderate levels of modification and their rates for such work. If such a modification is needed, a task-specific quote would be sought and if approved by MSRC and the South Coast AQMD Board, a contract modification would be processed.

I.C. Schedule of Events

This solicitation will be conducted in accordance with the timeline illustrated in Table I, below. Proposals may be submitted at any time during the period commencing December 6, 2024 and ending January 16, 2025. *Please note that proposals must be received no later than 5:00 p.m. on January 16, 2025.*

Table I - Key Procurement Events & Dates

| MSRC Website Development Key Procurement Events | Date |
|--|-----------------------------------|
| Request for Proposals Release | December 6, 2024 |
| Optional Bidders’ Conference, 1:30 p.m. via video conference | January 8, 2025 |
| Latest Date and Time to Submit Proposal | January 16, 2025 @ 5:00 pm |
| Proposal Evaluation Period | January 17-28, 2025 |
| Interviews/Oral Presentations of Short-Listed Bidders | Week of February 3, 2025* |
| Contractor Selection Review & Approval by MSRC-TAC | March 6, 2025 |
| Contractor Selection Review & Approval by MSRC | March 20, 2025 |
| South Coast AQMD Governing Board Approval | April 4, 2025 |
| Contract Execution/Authority to Proceed | May 28, 2025 |

*Tentative

I.D. Optional Bidders' Conference

An optional Bidders' Conference for the MSRC Website Hosting and Maintenance RFP will be held on Wednesday, January 8, 2025. This will be the best opportunity to discuss and clarify any questions Bidders may have regarding the RFP directly with MSRC staff. The purpose of the conference is to provide new or updated solicitation information, provide clarification regarding this RFP, and answer general questions regarding proposal preparation. The location and time for the Bidders' Conference is as follows:

| | |
|-------------------------|-----------------------|
| Time: | 1:30 p.m. – 2:30 p.m. |
| Zoom Webinar ID: | 936 5949 1548 |
| Teleconference Dial In: | +1 669 900 6833 |

In addition, MSRC staff members are available to answer questions and provide guidance as appropriate during the proposal preparation period. Please refer to Section I.E. of this document for a list of MSRC Staff contacts.

I.E. If You Need Help

This RFP can be obtained by accessing the MSRC website at www.CleanTransportationFunding.org. MSRC staff members are available to answer questions during the proposal acceptance period. In order to help expedite assistance, please direct your inquiries to the applicable staff person, as follows:

- For **General and Administrative Assistance**, please contact:

Cynthia Ravenstein
MSRC Contracts Administrator
Phone: 909-396-3269
E-mail: Cynthia@CleanTransportationFunding.org

- For **Technical Assistance**, please contact:

Ray Gorski
MSRC Technical Advisor
Phone: 909-396-2479
E-mail: Ray@CleanTransportationFunding.org

- For **Contractual Assistance**, please contact:

Anish Pathak
South Coast AQMD Procurement Manager
Phone: 909-396-2430
E-mail: apathak@aqmd.gov

I.F. Addenda

The MSRC may issue supplementary information or guidelines relative to this RFP during the proposal preparation period of January 17 through 28, 2025.

Please note that the source of MSRC **Clean Transportation Funding™** is motor vehicle registration fees collected by the California Department of Motor Vehicles (DMV) in accordance with the California Health and Safety Code. Thus, the availability of MSRC **Clean Transportation Funding™** is contingent

upon the timely receipt of funds from the DMV. Neither the MSRC nor South Coast AQMD can guarantee the collection or remittance of registration fees by the DMV.

SECTION II: Statement of Work

II.A. Contractor Minimum Qualifications

Bidders responding to this solicitation must show evidence of at least four (4) years related experience, including serving as prime contractor for the ongoing hosting and maintenance of a minimum of ten (10) websites, at least two (2) of which are for public agencies. Bidder must have demonstrated expertise in art direction, writing, programming, systems administration, database design, and multimedia programming. Contractor must be willing to work closely with MSRC-TAC members and MSRC/South Coast AQMD staff on a continuing basis throughout the course of the contract term (see II.B. below regarding term).

All proposals must contain the following information:

1. A thorough description of how the Bidder satisfies the requirements listed under Section II.A, Designer/Contractor Minimum Qualifications;
2. A description demonstrating how the Bidder will fulfill items listed under Sections II.B, Performance Requirements and II.C., Description of MSRC Website Requirements and Content;
3. Key personnel and reporting structure, including resumes or background descriptions of all key personnel to be assigned to this project;
4. Information on work similar to the MSRC Website Hosting and Maintenance project completed by Bidder over the past four (4) years. A minimum of three (3) complete references must be submitted, including domain names for websites hosted and maintained by the Bidder;
5. A list of work to be subcontracted by the Bidder to fulfill the items listed under Section II, Statement of Work. Information on subcontractor qualifications must also be included in the proposal submission, including resumes of individuals supporting the work effort in a subcontractor capacity;
6. A summary of the approach the Bidder will use to work with MSRC-TAC members and MSRC/South Coast AQMD staff to ensure project communications will be conducted efficiently and that project milestones will be met.

II.B. Performance Requirements

1. Period of Performance - The period of performance will commence on the date the contract is signed by all parties and extend for two (2) full years. The contract may be extended, or successor contract let, for an additional two-year option, upon agreement by both parties.

2. Delivery Deadlines - Deadlines shall be negotiated with the successful bidder prior to contract execution.

II.C. Description of MSRC Website Requirements & Content

The following Sections describe the minimum requirements to be implemented within the Statement of Work covered by this RFP.

1. Website Hosting and Maintenance

The Bidder shall describe their ability to host the website and their customer support services in detail. It is important for MSRC staff to be able to update most website content without contacting the contractor; explain how your proposal will satisfy this requirement. Bidder is expected to provide website hosting with bandwidth as needed, security, backups, and adequate storage. Maintenance shall include 24/7 monitoring for rapid response in the event of a system or hardware failure, all security updates applied as they become available, and corrections applied to maintain proper functionality of existing features. It is anticipated that hosting and minor maintenance, backup, and recovery, would be covered under a set monthly fee.

The Bidder shall also describe their plan for managing the transition of website domain, website content/data and any anticipated downtime for this process.

The MSRC is requiring Bidders to specify the hosting approach, and to include any necessary hardware as part of their proposals. Any software licensing costs, domain registrations, browser upgrades, and their renewals where applicable, must also be included for the term of the maintenance period. Hardware, including any hardware provided out of the selected Bidder's existing inventory, will become property of the MSRC.

2. Website Modifications

On an as-needed basis, the Contractor may be asked to make minor modifications to the existing website. Some examples include adding/deleting authorized users, posting forms, or adding a subsection to existing page. Hourly rates for on-call services shall be clearly detailed and any terms and conditions that may apply should be fully disclosed.

3. Technical Environment

Please refer to Attachment A for a description of the current website configuration. It is the MSRC's requirement that the existing website remain fully operational during transition.

4. Software Ownership Rights/Confidentiality

The Bidder shall be required to agree and shall provide a written statement specifying that all rights, title and interest in work product developed under this project, including but not limited to website software, source code, documentation, reports, files, and all derivative works thereof, shall remain with MSRC/South Coast AQMD. This shall include work product developed by Bidder/Contractor and its employees, subcontractors and agents. The Bidder shall be required to agree that any and all work product shall be deemed to be works made for hire within the meaning of the copyright laws of the U.S. and that MSRC/South Coast AQMD shall own all rights, including, but not limited to, all copyright rights, in and to such Work Product. Bidder shall be required to warrant that any Work Product produced will be original work and will not infringe upon or violate any rights, including any patent, copyright, trademark or trade secret of any person or entity. Furthermore, all software source codes, graphic elements, and any other intellectual property associated with the website shall be provided to the MSRC within one month of activation (after it is live and accepted by the MSRC), and any updates or changes will be provided to the MSRC at the end of the contract term.

The Bidder shall also acknowledge that all information and graphic materials provided to the Bidder by MSRC/South Coast AQMD for use in development and incorporation into the Project is confidential. The Bidder shall agree not to use any MSRC information or graphic materials for the Bidder's own

benefit, or divulge, disclose, or communicate in any manner said items to any third party without the prior written consent of the MSRC.

SECTION III: Proposal Preparation & Submission

A proposal must be completed and electronically submitted in response to this RFP. Only proposals that follow the instructions within this RFP will be reviewed and evaluated. The following instructions are intended to assist the Bidder in preparing a proposal for consideration under this RFP.

In general the Proposal should be concise, well organized and demonstrate the Bidder's qualifications and experience applicable to the Project

Proposals are to reflect and/or include the following elements, in the following order:

III.A. Proposal Preparation Instructions

1. Cover Letter - Transmittal of the proposal must specify the subject of the proposal, the RFP number, and Bidder's name, address, e-mail address, and telephone number. The letter shall specify contact person(s) for technical and contractual matters, and be signed by the person(s) authorized to contractually bind the bidding entity. For joint venture proposals, the Bidder must include a statement confirming authorization to act on behalf of all co-bidders. The Bidder must include a letter of confirmation from all proposing entities of a joint proposal including project contact name and all other information as required of the Bidder.
2. Project Description and Statement of Work – This section comprises the body of the proposal. The Bidder should describe their project concept in detail, addressing all project requirements as specified in RFP Sections II.A., II.B., and II.C., above. Bidders should place special emphasis on the following key proposal elements:
 - a) Website Hosting and Maintenance – Describe in detail the proposed methodology for website administration, including program documentation and reporting, and website maintenance;
 - b) Bidder Qualifications – The Bidder shall fully describe their firm's qualifications and experience in performing the type of work as described in Section II.A. of this RFP. If subcontractors are being used or the proposal is being submitted by a team of firms, a full description of each participating firm should be included. All key personnel are to be identified and resumes provided as part of any proposal submitted;
 - c) Related Work - The Bidder shall list at least three (3) successfully completed projects of a similar nature to that described in this RFP for the design and activation of a website. Submit only those projects in which the Bidder served as the lead Contractor. Provide a brief description of the work performed, note what elements of the desired MSRC site are exemplified therein, and include the organization's name, project contact name, telephone numbers, value of the contract, and website address. The website references will be assessed as part of the evaluation process.
3. Schedule - This section shall identify anticipated dates of completion of all tasks specified in the Project Description and Statement of Work.
4. Project Organization - This section shall describe the organization proposed to implement the project. This shall include assigned personnel, all subcontractors and their related tasks and responsibilities, clearly detailed.

5. Conflict of Interest - Address any possible conflicts of interest with other clients affected by actions performed by the firm on behalf of the MSRC. Although the Bidder will not be automatically disqualified by reason of work performed for such firms, the MSRC reserves the right to consider the nature and extent of such work in evaluating the proposal.
6. Cost Proposal – shall be broken down as follows:
 - a) Line-Item Budget - The Line-Item Budget shall detail the following cost components for initial two-year contract term for the Bidder and any subcontractors for the Project:
 - i. Labor - Identify each professional category of direct project support, the number of hours for each, and the fully burdened rate per hour. The rates quoted must include labor, general, administrative, and overhead costs;
 - ii. Equipment and Supplies - Provide an itemized list of equipment to be used and/or purchased, including the manufacturer, number of each, and the unit cost. **Please note that all equipment purchased in fulfillment of this contract will remain the property of the South Coast AQMD;**
 - iii. Subcontractor Costs - Identify any subcontractors by name, the basis for the subcontractor's selection, and describe in detail the work the subcontractors will be hired to perform, list their cost per hour or per day, and the number of hours or days their services will be used and the related tasks;
 - iv. Miscellaneous Costs - if any.
 - b) Maintenance & Minor Modification Costs – proposal for continuing the MSRC Website hosting, maintenance and minor modifications for an additional two-year option period. The cost breakdown for the priced option should include all costs included with website hosting and minor maintenance, on a line-item basis as defined above.
 - c) Moderate Modification Costs – as referenced in Section I.B., the MSRC may determine that more substantial modifications are needed. If not already included in the above, provide fully burdened rates for this work.

Consider the following when preparing the cost schedules:

- Charges for supplies, equipment, and subcontractors will be paid at cost. No profit will be paid on these costs;
- The Bidder must warrant that the cost proposal will remain in effect for at least 90 days and state such in this section;
- Costs are reimbursed on an as-incurred basis only; describe billing procedures for the project and how costs will be documented for invoicing the MSRC for reimbursement of expenditures;
- The Bidder is required to certify as part of their proposal submission that the prime contractor and subcontractor rates contained in the proposal are no higher than the rates offered to the prime or subcontractor's most-favored customer;
- Identify all subcontractors by name, and include their hourly or daily rate of compensation and the number of hours or days their services will be utilized. If subcontractors are not yet identified, provide an estimate of their rates of compensation and number of hours or days the subcontractors' services will be utilized.

7. Certifications – All applicants must complete and submit the following forms, located in Attachment B, as elements of their Application:
 - a) W-9 Form and Form 590
 - b) Campaign Contribution Disclosure Form
 - c) Business Status Certifications Form

III.B Proposal Submittal Instructions

1. Format – The sections described above, including certifications, are to be compiled into a **single PDF document** for submittal to the MSRC Clean Transportation Funding website. **Please note that ONLY PDF format can be accepted. Microsoft Word documents cannot be accepted by the MSRC Website.** Applicants will need to register on the MSRC Clean Transportation Funding website. No videos will be accepted with proposals. However, images from relevant websites may be included.
2. Due Date - The latest date and time to submit a proposal is January 16, 2025 at 5:00 p.m. Prospective bidders are encouraged to begin the process early in case of any difficulties encountered during the registration or submission process.

PLEASE NOTE THAT ANY PROPOSAL TIME STAMPED 5:01 P.M. OR LATER ON January 16, 2025 WILL NOT BE REVIEWED AND WILL NOT BE AWARDED FUNDING. No exceptions will be granted regardless of reason or circumstances.

3. Additional Grounds for Rejection - A proposal may be immediately rejected if:
 - It is not prepared in the format described contained within this RFP; or
 - It is not signed by an individual authorized to represent the proposing entity.
4. Disposition of Proposals - The MSRC reserves the right to reject any or all proposals. All responses become the property of MSRC. One copy of the proposal shall be retained for South Coast AQMD files.
5. Modification or Withdrawal - Once submitted, proposals cannot be altered without the prior written consent of MSRC. All proposals shall constitute firm offers and may not be withdrawn for a period of ninety (90) days following the last day to accept proposals.

SECTION IV. Proposal Evaluation Process

The MSRC-TAC and MSRC Staff will evaluate all proposals to determine responsiveness to the RFP. South Coast AQMD staff may provide administrative and technical assistance during the proposal evaluation process.

Proposals will be evaluated and points awarded based upon the criteria outlined below. The evaluation criteria are included to provide the Bidder additional guidance as to the particular components of the proposal that will be evaluated.

The MSRC reserves the right to approve only a portion of the Bidder's Statement of Work and funding request. In this case, the Bidder will be required to submit a revised work statement, schedule of deliverables, and cost breakdown within forty-five (45) calendar days of notification of selection.

Each Bidder should review the attached Sample Contract (Attachment C). Any exceptions to the sample contract terms and conditions should be identified in the Bidder's initial proposal.

The most qualified Bidders will be short-listed and may be interviewed by an MSRC-TAC Evaluation Subcommittee the week of February 3, 2025. Please keep this week as clear as possible for potential interviews. Interviews may be at the South Coast AQMD Headquarters in Diamond Bar, California or via videoconference at the discretion of the Evaluation Subcommittee. (Please see Section I.C, Table 1 – Key Procurement Events and Dates). The proposals and interviews will be evaluated based on the selection criteria below.

The MSRC reserves the right to not make any award. The project will be effectuated through a contract with South Coast AQMD, which must also approve the award.

IV.A Proposal Evaluation & Contractor Selection Criteria

Proposals will be evaluated based on the proposals demonstrating an understanding of the RFP objectives and work involved, and on the demonstrated capability of the Bidder to accomplish the work. The following evaluation criteria form the basis upon which proposal scoring and selection will be conducted. The maximum score available is 110 points.

1. Proposal Completeness

Maximum Points Available: 10 points

Proposals will be evaluated on their completeness, accuracy and responsiveness to the RFP and all of its requirements.

2. Qualifications, Staffing and References

Maximum Points Available: 30 points

Bidders must have extensive and successful experience in the hosting and maintenance of websites of similar scope within this RFP. The Bidder shall detail previous work experience. In addition, each Bidder shall provide a minimum of three (3) references and current website addresses from the last four (4) years to demonstrate the skills necessary to complete projects similar in scope to the current proposed project.

3. Statement of Work

Maximum Points Available 35 Points

As discussed in the RFP Section II, Subsection II.C., Bidders are required to submit a discussion of the hosting and maintenance approach. Bidders shall clearly and professionally describe their understanding of the Project. Responses must thoroughly address all areas. The technical merits of the Bidder will be evaluated, based upon the level of completeness and specificity of the proposed concepts.

4. Cost Proposal

Maximum Points Available 25 Points

Bidders are required to submit a detailed cost breakdown for the proposed project. Following a comprehensive review of the cost proposal, the Evaluation Subcommittee will assign a score based upon the competitiveness, completeness, documentation quality, accuracy, and substantiation of the information provided. Costs will be assessed to determine if they are reasonable and appropriately

allocated among tasks. Consideration will also be given to the number of hours assigned to Bidder's staff in relationship to tasks to be performed, hourly rates, and whether the costs are realistic in relationship to projects of similar size.

5. DVBE/Local Business/Small Business Status

Maximum Points Available: 10 points

It is the policy of the MSRC to encourage participation by disabled veteran business entities, local businesses and small business and in the bidding process. The MSRC shall provide five (5) points each for Proposers who meet the following criteria, with the maximum points available not to exceed ten (10) points. Points will only be awarded should the Proposer, upon submission of its proposal, provide documents from a state or local agency certifying that it qualifies in the categories described below:

#1 "Disabled Veteran" as used herein is a United States military, a naval, or air service veteran with at least 10 percent service-connected disability. "Disabled Veteran Business Enterprise" as used herein means a sole proprietorship or partnership or corporation which is at least 51 percent owned by one or more disabled veterans and whose management and control of the daily business operations are by one or more disabled veterans.

#2 "Local Business" as used herein means a Proposer which can demonstrate that it has an on-going business within the South Coast AQMD at the time of the bid application and performs 90% of the work related to the contract within the South Coast AQMD.

#3 "Small Business" as used herein means a business that is:

- 1) Independently owned and operated business, and
- 2) Not dominant in its field or operation and
- 3) Together with affiliates is either a service, construction, or non-manufacturer with 100 or fewer employees, and average annual gross receipts of ten million dollars or less over the previous three years, or a manufacturer with 100 or fewer employees.

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Attachment A: Information on Existing MSRC Website

- Hardware
 - Single server for routine operations
 - 1.8GB RAM
 - 22 GB of 30GB Disk space (73%)
 - Website currently at 9.2GB (including documents and images)
 - 3 mirrors nationwide
 - Backup daily
 - Monitoring system
- Operating System: CentOS 7
- Apache 2.0
- PHP 7.0+ Compatible
 - CMS
 - Drupal 8.x
 - HTML 5
 - CSS 3.0
 - Javascript ECMA 5+
- Database
 - MYSQL
 - 1 GB ram
 - 5 GB storage
- Usage
 - average 457 clicks per month over last several months. Once additional funding opportunities launched, expect uptick in usage
 - Slightly less than 20% coming from mobile devices

Attachment B: Certification

BUSINESS STATUS CERTIFICATIONS

Federal guidance for utilization of disadvantaged business enterprises allows a vendor to be deemed a small business enterprise (SBE), minority business enterprise (MBE) or women business enterprise (WBE) if it meets the criteria below.

- is certified by the Small Business Administration or
- is certified by a state or federal agency or
- is an independent MBE(s) or WBE(s) business concern which is at least 51 percent owned and controlled by minority group member(s) who are citizens of the United States.

Statements of certification:

As a prime contractor to South Coast AQMD, _____ (name of business) will engage in good faith efforts to achieve the fair share in accordance with 40 CFR Section 33.301, and will follow the six affirmative steps listed below **for contracts or purchase orders funded in whole or in part by federal grants and contracts.**

1. Place qualified SBEs, MBEs, and WBEs on solicitation lists.
2. Assure that SBEs, MBEs, and WBEs are solicited whenever possible.
3. When economically feasible, divide total requirements into small tasks or quantities to permit greater participation by SBEs, MBEs, and WBEs.
4. Establish delivery schedules, if possible, to encourage participation by SBEs, MBEs, and WBEs.
5. Use services of Small Business Administration, Minority Business Development Agency of the Department of Commerce, and/or any agency authorized as a clearinghouse for SBEs, MBEs, and WBEs.
6. If subcontracts are to be let, take the above affirmative steps.

Self-Certification Verification: Also for use in awarding additional points, as applicable, in accordance with South Coast AQMD Procurement Policy and Procedure:

Check all that apply:

- | | |
|---|--|
| <input type="checkbox"/> Small Business Enterprise/Small Business Joint Venture | <input type="checkbox"/> Women-owned Business Enterprise |
| <input type="checkbox"/> Local business | <input type="checkbox"/> Disabled Veteran-owned Business Enterprise/DVBE Joint Venture |
| <input type="checkbox"/> Minority-owned Business Enterprise | <input type="checkbox"/> Most Favored Customer Pricing Certification |

Percent of ownership: _____ %

Name of Qualifying Owner(s): _____

State of California Public Works Contractor Registration No. _____ MUST BE INCLUDED IF BID PROPOSAL IS FOR PUBLIC WORKS PROJECT.

I, the undersigned, hereby declare that to the best of my knowledge the above information is accurate. Upon penalty of perjury, I certify information submitted is factual.

NAME

TITLE

TELEPHONE NUMBER

DATE

Definitions

Disabled Veteran-Owned Business Enterprise means a business that meets all of the following criteria:

- is a sole proprietorship or partnership of which is at least 51 percent owned by one or more disabled veterans, or in the case of any business whose stock is publicly held, at least 51 percent of the stock is owned by one or more disabled veterans; a subsidiary which is wholly owned by a parent corporation but only if at least 51 percent of the voting stock of the parent corporation is owned by one or more disabled veterans; or a joint venture in which at least 51 percent of the joint venture's management and control and earnings are held by one or more disabled veterans.
- the management and control of the daily business operations are by one or more disabled veterans. The disabled veterans who exercise management and control are not required to be the same disabled veterans as the owners of the business.
- is a sole proprietorship, corporation, partnership, or joint venture with its primary headquarters office located in the United States and which is not a branch or subsidiary of a foreign corporation, firm, or other foreign-based business.

Joint Venture means that one party to the joint venture is a DVBE and owns at least 51 percent of the joint venture. In the case of a joint venture formed for a single project this means that DVBE will receive at least 51 percent of the project dollars.

Local Business means a business that meets all of the following criteria:

- has an ongoing business within the boundary of South Coast AQMD at the time of bid application.
- performs 90 percent of the work within South Coast AQMD's jurisdiction.

Minority-Owned Business Enterprise means a business that meets all of the following criteria:

- is at least 51 percent owned by one or more minority persons or in the case of any business whose stock is publicly held, at least 51 percent of the stock is owned by one or more minority persons.
- is a business whose management and daily business operations are controlled or owned by one or more minority person.
- is a business which is a sole proprietorship, corporation, partnership, joint venture, an association, or a cooperative with its primary headquarters office located in the United States, which is not a branch or subsidiary of a foreign corporation, foreign firm, or other foreign business.

"Minority" person means a Black American, Hispanic American, Native American (including American Indian, Eskimo, Aleut, and Native Hawaiian), Asian-Indian American (including a person whose origins are from India, Pakistan, or Bangladesh), Asian-Pacific American (including a person whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the United States Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, or Taiwan).

Small Business Enterprise means a business that meets the following criteria:

- a. 1) an independently owned and operated business; 2) not dominant in its field of operation; 3) together with affiliates is either:
 - **A service, construction, or non-manufacturer with 100 or fewer employees, and average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three years, or**
 - A manufacturer with 100 or fewer employees.
- b. Manufacturer means a business that is both of the following:
 - 1) Primarily engaged in the chemical or mechanical transformation of raw materials or processed substances into new products.
 - 2) Classified between Codes 311000 to 339000, inclusive, of the North American Industrial Classification System (NAICS) Manual published by the United States Office of Management and Budget, 2007 edition.

Small Business Joint Venture means that one party to the joint venture is a Small Business and owns at least 51 percent of the joint venture. In the case of a joint venture formed for a single project this means that the Small Business will receive at least 51 percent of the project dollars.

Women-Owned Business Enterprise means a business that meets all of the following criteria:

- is at least 51 percent owned by one or more women or in the case of any business whose stock is publicly held, at least 51 percent of the stock is owned by one or more women.
- is a business whose management and daily business operations are controlled or owned by one or more women.
- is a business which is a sole proprietorship, corporation, partnership, or a joint venture, with its primary headquarters office located in the United States, which is not a branch or subsidiary of a foreign corporation, foreign firm, or other foreign business.

Most Favored Customer as used in this policy means that the South Coast AQMD will receive at least as favorable pricing, warranties, conditions, benefits and terms as other customers or clients making similar purchases or receiving similar services.

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

^a Go to www.irs.gov/FormW9 for instructions and the latest information.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

Individual/sole proprietor or single-member LLC
 C Corporation
 S Corporation
 Partnership
 Trust/estate

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ^a

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

Exemption from FATCA reporting code (if any) _____

Other (see instructions) ^a

(Applies to accounts maintained outside the U.S.)

Print or type. See Specific Instructions on page 3.

Part I

5 Address (number, street, and apt. or suite no.) See instructions.

6 City, state, and ZIP code

7 List account number(s) here (optional)

| | | | | | | | | |
|---|--|--|--|--|--|--|--|--|
| Requester's name and address (optional) | | | | | | | | |
| Social security number | | | | | | | | |
| | | | | | | | | |

Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

or

| | | | | | | | | |
|--------------------------------|--|--|--|--|--|--|--|--|
| Employer identification number | | | | | | | | |
| | | | | | | | | |

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here

Signature of U.S. person ^a

Date ^a

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number

(SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

Note: If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note: ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

| IF the entity/person on line 1 is a(n) . . . | THEN check the box for . . . |
|--|---|
| • Corporation | Corporation |
| • Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes. | Individual/sole proprietor or single-member LLC |
| • LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes. | Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation) |
| • Partnership | Partnership |
| • Trust/estate | Trust/estate |

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

| IF the payment is for . . . | THEN the payment is exempt for . . . |
|--|---|
| Interest and dividend payments | All exempt payees except for 7 |
| Broker transactions | Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012. |
| Barter exchange transactions and patronage dividends | Exempt payees 1 through 4 |
| Payments over \$600 required to be reported and direct sales over \$5,000 ¹ | Generally, exempt payees 1 through 5 ² |
| Payments made in settlement of payment card or third party network transactions | Exempt payees 1 through 4 |

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note: You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.SSA.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/Businesses and clicking on Employer Identification Number (EIN) under Starting a Business. Go to www.irs.gov/Forms to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to www.irs.gov/OrderForms to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.

You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.

You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLÉ accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

| For this type of account: | Give name and SSN of: |
|--|---|
| 1. Individual | The individual |
| 2. Two or more individuals (joint account) other than an account maintained by an FFI | The actual owner of the account or, if combined funds, the first individual on the account ¹ |
| 3. Two or more U.S. persons (joint account maintained by an FFI) | Each holder of the account |
| 4. Custodial account of a minor (Uniform Gift to Minors Act) | The minor ² |
| 5. a. The usual revocable savings trust (grantor is also trustee) | The grantor-trustee ¹ |
| b. So-called trust account that is not a legal or valid trust under state law | The actual owner ¹ |
| 6. Sole proprietorship or disregarded entity owned by an individual | The owner ³ |
| 7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A)) | The grantor* |
| For this type of account: | Give name and EIN of: |
| 8. Disregarded entity not owned by an individual | The owner |
| 9. A valid trust, estate, or pension trust | Legal entity ⁴ |
| 10. Corporation or LLC electing corporate status on Form 8832 or Form 2553 | The corporation |
| 11. Association, club, religious, charitable, educational, or other tax-exempt organization | The organization |
| 12. Partnership or multi-member LLC | The partnership |
| 13. A broker or registered nominee | The broker or nominee |

| For this type of account: | Give name and EIN of: |
|---|-----------------------|
| 14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments | The public entity |
| 15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B)) | The trust |

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

*Note: The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at spam@uce.gov or report them at www.ftc.gov/complaint. You can contact the FTC at www.ftc.gov/idtheft or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see www.IdentityTheft.gov and Pub. 5027.

Visit www.irs.gov/IdentityTheft to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

TAXABLE YEAR

2024 Withholding Exemption Certificate

590

The payee completes this form and submits it to the withholding agent. The withholding agent keeps this form with their records.

Withholding Agent Information

Name _____

Payee Information

Name _____ SSN or ITIN FEIN CA Corp no. CA SOS file no.

Address (apt./ste., room) _____

City (if you have a foreign address, see instructions.) _____ State _____ ZIP code _____

Exemption Reason

Check only one box.

By checking the appropriate box below, the payee certifies the reason for the exemption from the California income tax withholding requirements on payment(s) made to the entity or individual.

- Individuals — Certification of Residency:**
I am a resident of California and I reside at the address shown above. If I become a nonresident at any time, I will promptly notify the withholding agent. See instructions for General Information D, Definitions.
- Corporations:**
The corporation has a permanent place of business in California at the address shown above or is qualified through the California Secretary of State (SOS) to do business in California. The corporation will file a California tax return. If this corporation ceases to have a permanent place of business in California or ceases to do any of the above, I will promptly notify the withholding agent. See instructions for General Information D, Definitions.
- Partnerships or Limited Liability Companies (LLCs):**
The partnership or LLC has a permanent place of business in California at the address shown above or is registered with the California SOS, and is subject to the laws of California. The partnership or LLC will file a California tax return. If the partnership or LLC ceases to do any of the above, I will promptly inform the withholding agent. For withholding purposes, a limited liability partnership (LLP) is treated like any other partnership.
- Tax-Exempt Entities:**
The entity is exempt from tax under California Revenue and Taxation Code (R&TC) Section 23701 _____ (insert letter) or Internal Revenue Code Section 501(c) _____ (insert number). If this entity ceases to be exempt from tax, I will promptly notify the withholding agent. Individuals cannot be tax-exempt entities.
- Insurance Companies, Individual Retirement Arrangements (IRAs), or Qualified Pension/Profit-Sharing Plans:**
The entity is an insurance company, IRA, or a federally qualified pension or profit-sharing plan.
- California Trusts:**
At least one trustee and one noncontingent beneficiary of the above-named trust is a California resident. The trust will file a California fiduciary tax return. If the trustee or noncontingent beneficiary becomes a nonresident at any time, I will promptly notify the withholding agent.
- Estates — Certification of Residency of Deceased Person:**
I am the executor of the above-named person's estate or trust. The decedent was a California resident at the time of death. The estate will file a California fiduciary tax return.
- Nonmilitary Spouse of a Military Servicemember:**
I am a nonmilitary spouse of a military servicemember and I meet the Military Spouse Residency Relief Act (MSRRA) requirements. See instructions for General Information E, MSRRA.

CERTIFICATE OF PAYEE: Payee must complete and sign below.

Our privacy notice can be found in annual tax booklets or online. Go to ftb.ca.gov/privacy to learn about our privacy policy statement, or go to ftb.ca.gov/forms and search for 1131 to locate FTB 1131 EN-SP, Franchise Tax Board Privacy Notice on Collection. To request this notice by mail, call 800.338.0505 and enter form code 948 when instructed.

Under penalties of perjury, I declare that I have examined the information on this form, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. I further declare under penalties of perjury that if the facts upon which this form are based change, I will promptly notify the withholding agent.

Type or print payee's name and title _____ Telephone _____

Payee's signature ► _____ Date _____

2024 Instructions for Form 590

Withholding Exemption Certificate

References in these instructions are to the California Revenue and Taxation Code (R&TC).

General Information

California Revenue and Taxation Code (R&TC) Section 18662 requires withholding of income or franchise tax on payments of California source income made to nonresidents of California. For more information, See General Information B, Income Subject to Withholding.

Registered Domestic Partners (RDPs) – For purposes of California income tax, references to a spouse, husband, or wife also refer to a California RDP unless otherwise specified. For more information on RDPs, get FTB Pub. 737, Tax Information for Registered Domestic Partners.

A Purpose

Use Form 590, Withholding Exemption Certificate, to certify an exemption from nonresident withholding.

Form 590 does not apply to payments of backup withholding. For more information, go to ftb.ca.gov and search for **backup withholding**.

Form 590 does not apply to payments for wages to employees. Wage withholding is administered by the California Employment Development Department (EDD). For more information, go to edd.ca.gov or call 888.745.3886.

Do not use Form 590 to certify an exemption from withholding if you are a **seller of California real estate**. Sellers of California real estate use Form 593, Real Estate Withholding Statement, to claim an exemption from the real estate withholding requirement.

The following are excluded from withholding and completing this form:

- The United States and any of its agencies or instrumentalities.
- A state, a possession of the United States, the District of Columbia, or any of its political subdivisions or instrumentalities.
- A foreign government or any of its political subdivisions, agencies, or instrumentalities.

B Income Subject to Withholding

Withholding is required on the following, but is not limited to:

- Payments to nonresidents for services rendered in California.
- Distributions of California source income made to domestic nonresident partners, members, and S corporation shareholders and allocations of California source income made to foreign partners and members.
- Payments to nonresidents for rents if the payments are made in the course of the withholding agent's business.
- Payments to nonresidents for royalties from activities sourced to California.

- Distributions of California source income to nonresident beneficiaries from an estate or trust.
- Endorsement payments received for services performed in California.
- Prizes and winnings received by nonresidents for contests in California.

However, withholding is optional if the total payments of California source income are \$1,500 or less during the calendar year.

For more information on withholding, get FTB Pub. 1017, Resident and Nonresident Withholding Guidelines. To get a withholding publication, see Additional Information.

C Who Certifies this Form

Form 590 is certified (completed and signed) by the payee. California residents or entities exempt from the withholding requirement should complete Form 590 and submit it to the withholding agent before payment is made. The withholding agent is then relieved of the withholding requirements if the agent relies in good faith on a completed and signed Form 590 unless notified by the Franchise Tax Board (FTB) that the form should not be relied upon.

An incomplete certificate is invalid and the withholding agent should not accept it. If the withholding agent receives an incomplete certificate, the withholding agent is required to withhold tax on payments made to the payee until a valid certificate is received. In lieu of a completed exemption certificate, the withholding agent may accept a letter from the payee as a substitute explaining why they are not subject to withholding. The letter must contain all the information required on the certificate in similar language, including the under penalty of perjury statement and the payee's taxpayer identification number (TIN).

The certification does not need to be renewed annually. The certification on Form 590 remains valid until the payee's status changes. The withholding agent must retain a copy of the certification or substitute for at least five years after the last payment to which the certification applies. The agent must provide it to the FTB upon request.

If an entertainer (or the entertainer's business entity) is paid for a performance, the entertainer's information must be provided. **Do not** submit the entertainer's agent or promoter information.

The grantor of a grantor trust shall be treated as the payee for withholding purposes. Therefore, if the payee is a grantor trust and one or more of the grantors is a nonresident, withholding is required. If all of the grantors on the trust are residents, no withholding is required. Resident grantors can check the box on Form 590 labeled "Individuals — Certification of Residency."

D Definitions

For California nonwage withholding purposes:

- Nonresident includes all of the following:
 - Individuals who are not residents of California.
 - Corporations not qualified through the California Secretary of State (CA SOS) to do business in California or having no permanent place of business in California.
 - Partnerships or limited liability companies (LLCs) with no permanent place of business in California.
 - Any trust without a resident grantor, beneficiary, or trustee, or estates where the decedent was not a California resident.
- Foreign refers to non-U.S.

For more information about determining resident status, get FTB Pub. 1031, Guidelines for Determining Resident Status. Military servicemembers have special rules for residency. For more information see General Information E, Military Spouse Residency Relief Act (MSRRA), and FTB Pub. 1032, Tax Information for Military Personnel.

Permanent Place of Business:

A corporation has a permanent place of business in California if it is organized and existing under the laws of California or it has qualified through the CA SOS to transact intrastate business. A corporation that has not qualified to transact intrastate business (e.g., a corporation engaged exclusively in interstate commerce) will be considered as having a permanent place of business in California only if it maintains a permanent office in California that is permanently staffed by its employees.

E Military Spouse Residency Relief Act (MSRRA)

Generally, for tax purposes you are considered to maintain your existing residence or domicile. The MSRRA provides:

- A spouse shall not be deemed to have lost a residence or domicile in any state solely by reason of being absent to be with the servicemember serving in compliance with military orders.
- A spouse shall not be deemed to have acquired a residence or domicile in any other state solely by reason of being there to be with the servicemember serving in compliance with military orders.

Domicile is defined as the one place:

- Where you maintain a true, fixed, and permanent home.
- To which you intend to return whenever you are absent.

A military servicemember's nonmilitary spouse is considered a nonresident for tax

purposes if the spouse is domiciled outside of California and the spouse is in California solely to be with the servicemember who is serving in compliance with Permanent Change of Station orders. (Note: California may require nonmilitary spouses of military servicemembers to provide proof that they meet the criteria for California personal income tax exemption as set forth in the MSRRA). Income of a military servicemember's nonmilitary spouse for services performed in California is not California source income subject to state tax if the spouse is in California to be with the servicemember serving in compliance with military orders, and the spouse is domiciled outside of California. For additional information or assistance in determining whether the applicant meets the MSRRA requirements, get FTB Pub. 1032.

Specific Instructions

Payee Instructions

Enter the withholding agent's name.

Enter the payee's information, including the TIN and check the appropriate TIN box.

You must provide a valid TIN as requested on this form. The following are acceptable TINs: social security number (SSN); individual taxpayer identification number (ITIN); federal employer identification number (FEIN); California corporation number (CA Corp no.); or CA SOS file number.

Foreign Address – Follow the country's practice for entering the city, county, province, state, country, and postal code, as applicable, in the appropriate boxes. **Do not** abbreviate the country name.

Exemption Reason – Check the box that reflects the reason why the payee is exempt from the California income tax withholding requirement.

Withholding Agent Instructions

Do not send this form to the FTB. The certification on Form 590 remains valid until the payee's status changes. The withholding agent must retain a copy of the certificate or substitute for at least five years after the last payment to which the certificate applies. The agent must provide it to the FTB upon request.

The payee must notify the withholding agent if any of the following situations occur:

- The individual payee becomes a nonresident.
- The corporation ceases to have a permanent place of business in California or ceases to be qualified to do business in California.
- The partnership ceases to have a permanent place of business in California.
- The LLC ceases to have a permanent place of business in California.
- The tax-exempt entity loses its tax-exempt status.

If any of these situations occur, then withholding may be required. For more information, get Form 592, Resident and Nonresident Withholding Statement, Form 592-B, Resident and Nonresident

Withholding Tax Statement, Form 592-PTE, Pass-Through Entity Annual Withholding Return, Form 592-Q, Payment Voucher for Pass-Through Entity Withholding, and Form 592-V, Payment Voucher for Resident or Nonresident Withholding.

Additional Information

Website: For more information, go to ftb.ca.gov and search for **nonwage**.

MyFTB offers secure online tax account information and services. For more information, go to ftb.ca.gov and login or register for MyFTB.

Telephone: 888.792.4900 or 916.845.4900, Withholding Services and Compliance phone service

Fax: 916.845.9512

Mail: WITHHOLDING SERVICES AND COMPLIANCE MS F182
FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0651

For questions unrelated to withholding, or to download, view, and print California tax forms and publications, or to access the California Relay Service, see the Internet and Telephone Assistance section.

Internet and Telephone Assistance

Website: ftb.ca.gov

Telephone: 800.852.5711 from within the United States
916.845.6500 from outside the United States

California

Relay

Service: 711 or 800.735.2929 for persons with hearing or speaking limitations.

Asistencia Por Internet y Teléfono

Sitio web: ftb.ca.gov

Teléfono: 800.852.5711 dentro de los Estados Unidos
916.845.6500 fuera de los Estados Unidos

Servicio de

Retransmisión

de California: 711 o 800.735.2929 para personas con limitaciones auditivas o del habla.



CAMPAIGN CONTRIBUTIONS DISCLOSURE

In accordance with California law, bidders and contracting parties are required to disclose, at the time the application is filed, information relating to any campaign contributions made to South Coast Air Quality Management District (SCAQMD) Board Members or members/alternates of the Mobile Source Air Pollution Reduction Review Committee (MSRC) or MSRC Technical Advisory Committee (TAC), including: the name of the party making the contribution (which includes any parent, subsidiary or otherwise related business entity, as defined below), the amount of the contribution, and the date the contribution was made. 2 C.C.R. §18438.8(b). Where a proposed or proposed amended rule impacts three or fewer facilities, those facilities will be treated in much the same manner as contracting parties and so must also complete this form, disclosing information relating to any campaign contributions made to any SCAQMD Board Members. See Quadri Advice Letter (2002) A-02.096.¹ In the event that a qualifying campaign contribution is made, the Board Member to whom it was made may be disqualified from participating in the actions involving that donor.

California law prohibits a party, or an agent, from making campaign contributions to SCAQMD Governing Board Members or members/alternates of the MSRC or TAC of more than \$250 while their contract or permit is pending before the SCAQMD; and further prohibits a campaign contribution from being made for twelve (12) months following the date of the final decision by the Governing Board or the MSRC or TAC on a donor’s contract or permit. Gov’t Code §84308(d). For purposes of reaching the \$250 limit, the campaign contributions of the bidder or contractor plus contributions by its parents, affiliates, and related companies of the contractor or bidder are added together. 2 C.C.R. §18438.5.

In addition, SCAQMD Board Members or members/alternates of the MSRC or TAC must abstain from voting on a contract or permit if they have received a campaign contribution from a party or participant² to the proceeding, or agent, totaling more than \$250 in the 12-month period prior to the consideration of the item by the Governing Board or the MSRC. Gov’t Code §84308(c).

The list of current SCAQMD Governing Board Members can be found at the SCAQMD website (www.aqmd.gov). The list of current MSRC and TAC members/alternates can be found at the MSRC website (<http://www.cleantransportationfunding.org>).

SECTION I.

Contractor or Participant (Legal Name): _____

| |
|--|
| Δ DBA, Name _____, County Filed in _____ Δ Corporation, ID No. _____ Δ LLC/LLP, ID No. _____ |
|--|

List any parent, subsidiaries, or otherwise affiliated business entities of Contractor or Participant:
(See definition below).

¹ The information provided on this form does not, and is not intended to, constitute legal advice. To the extent that you may have questions regarding any case law, citations, or legal interpretations provided above please seek the guidance of your own independent counsel.

² In accordance with California law, a person or entity with a financial interest in a proceeding or particular governmental decision, who is not a party but who actively supports or opposes a particular decision, qualifies as a “participant” in that proceeding for purposes of California Code of Regulations Section 84308. A participant has both a financial interest in the proceeding and communicates with the agency or an officer of the agency for purposes of influencing the proceeding.

SECTION II.

Has Contractor or Participant and/or any parent, subsidiary, or affiliated company, or agent thereof, or persons who direct or control campaign contributions for these entities, made a campaign contribution(s) totaling \$250 or more in the aggregate to a current member of the South Coast Air Quality Management Governing Board or member/alternate of the MSRC or TAC in the 12 months preceding the date of execution of this disclosure?

Yes No

If YES, complete Section II below and then sign and date the form.

If NO, sign and date below. Include this form with your submittal.

Name(s) of Contributor(s) or Person(s) who Directed or Controlled this Contribution:

| Governing Board Member or MSRC or MSRC-TAC Member/Alternate | Amount of Contribution | Date of Contribution |
|---|------------------------|----------------------|
|---|------------------------|----------------------|

Name(s) of Contributor(s) or Person(s) who Directed or Controlled this Contribution:

| Governing Board Member or MSRC or MSRC-TAC Member/Alternate | Amount of Contribution | Date of Contribution |
|---|------------------------|----------------------|
|---|------------------------|----------------------|

Name(s) of Contributor(s) or Person(s) who Directed or Controlled this Contribution:

| Governing Board Member or MSRC or MSRC-TAC Member/Alternate | Amount of Contribution | Date of Contribution |
|---|------------------------|----------------------|
|---|------------------------|----------------------|

Name(s) of Contributor(s) or Person(s) who Directed or Controlled this Contribution:

| Governing Board Member or MSRC or MSRC-TAC Member/Alternate | Amount of Contribution | Date of Contribution |
|---|------------------------|----------------------|
|---|------------------------|----------------------|

I declare the foregoing disclosures to be true and correct.

By: _____

Title: _____

Date: _____

DEFINITIONS

Parent, Subsidiary, or Otherwise Related Business Entity (2 Cal. Code of Regs., §18703.1(d).)

- (1) Parent subsidiary. A parent subsidiary relationship exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation.
- (2) Otherwise related business entity. Business entities, including corporations, partnerships, joint ventures and any other organizations and enterprises operated for profit, which do not have a parent subsidiary relationship are otherwise related if any one of the following three tests is met:
 - (A) One business entity has a controlling ownership interest in the other business entity.
 - (B) There is shared management and control between the entities. In determining whether there is shared management and control, consideration should be given to the following factors:
 - (i) The same person or substantially the same person owns and manages the two entities;
 - (ii) There are common or commingled funds or assets;
 - (iii) The business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis;
 - (iv) There is otherwise a regular and close working relationship between the entities; or
 - (C) A controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.

Attachment C: Sample Contract



South Coast Air Quality Management District



AB 2766/MSRC WORK PROGRAM GRANT AGREEMENT

1. PARTIES

The parties to this Grant Agreement ("Agreement") are the South Coast Air Quality Management District (referred to here as "SCAQMD") whose address is 21865 Copley Drive, Diamond Bar, California 91765-4178, and *** (referred to here as "RECIPIENT") whose address is ***.

2. RECITALS

- A. SCAQMD is the local agency with primary responsibility for regulating stationary source air pollution within the geographical boundaries of the South Coast Air Quality Management District in the State of California (State).
- B. Under State Health & Safety Code Sections 44225, *et seq.* (AB 2766), SCAQMD's Governing Board has authorized the imposition of the statutorily set motor vehicle fee for the purpose of reducing air pollution from motor vehicles and to implement the California Clean Air Act. By taking such action, the State's Department of Motor Vehicles (DMV) is required to collect such fee and remit it periodically to SCAQMD.
- C. AB 2766 further mandates that thirty (30) percent of such vehicle registration fees be placed by SCAQMD into a separate account for the sole purpose of implementing and monitoring programs to reduce air pollution from motor vehicles.
- D. AB 2766 creates a regional Mobile Source Air Pollution Reduction Review Committee (MSRC) to develop a work program to fund projects from the separate account. Pursuant to approval of the work program by SCAQMD's Governing Board, SCAQMD authorized this Agreement with RECIPIENT for equipment or services described in Attachment 1 - Statement of Work, expressly incorporated herein by this reference and made a part hereof of this Agreement.
- E. RECIPIENT met the requirements for receipt of AB 2766 Discretionary Funds as set forth in RECIPIENT's *** Program **Application/Proposal** dated *** and was awarded a grant under the work program.
- F. RECIPIENT is authorized to do business in the State of California and attests that it is in good tax standing with the California Franchise Tax Board.
- G. All parties to this Agreement have had the opportunity to have this Agreement reviewed by their attorney.

3. DMV FEES

RECIPIENT acknowledges that SCAQMD cannot guarantee that the amount of fees to be collected under AB 2766 will be sufficient to fund this Agreement. RECIPIENT further acknowledges that payment under this Agreement is contingent upon SCAQMD receiving sufficient funds from the DMV, and that SCAQMD assumes no responsibility for the collection and remittance of motor vehicle registration fees.

4. AUDIT AND RECORDS RETENTION

- A. RECIPIENT shall, at least once every two years, or within two years of the termination of the Agreement if the term is less than two years, be subject to an audit by SCAQMD or its authorized representative to determine if the revenues received by RECIPIENT were spent for the reduction of pollution from motor vehicles pursuant to the Clean Air Act of 1988.
- B. RECIPIENT agrees to maintain records related to this Agreement during the Agreement term and continue to retain these records for a period of two years beyond the Agreement term, except that in no case shall RECIPIENT be required

to retain more than the most recent five years' records. SCAQMD shall coordinate such audit through RECIPIENT'S audit staff.

- C. If an amount is found to be inappropriately expended, SCAQMD may withhold funding, or seek reimbursement, from RECIPIENT in the amount equal to the amount that was inappropriately expended. Such withholding shall not be construed as SCAQMD's sole remedy and shall not relieve RECIPIENT of its obligation to perform under the terms of this Agreement.

5. TERM

he term of this Agreement is for *** (***) months from the date of execution by both parties, unless terminated earlier as provided for in the TERMINATION clause of this Agreement or the EARLY TERMINATION clause, [INCLUDE IF APPLICABLE] or the term is extended by amendment of this Agreement in writing. No work shall commence prior to the Agreement start date, except at RECIPIENT's cost and risk, and no charges are authorized until this Agreement is fully executed, subject to the provisions stated in the PRE-AGREEMENT COSTS clause of this Agreement.

6. SUCCESSORS-IN-INTEREST

This Agreement, and the obligations arising under the Agreement, shall be binding on and inure to the benefit of RECIPIENT and their executors, administrators, successors, and assigns.

7. REPORTING

RECIPIENT shall submit reports to SCAQMD as outlined in Attachment 1 - Statement of Work. SCAQMD reserves the right to review, comment, and request changes to any report produced as a result of this Agreement.

8. TERMINATION

- A. In the event any party fails to comply with any term or condition of this Agreement or fails to provide services in the manner agreed upon by the parties, including, but not limited to, the requirements of Attachment 1 - Statement of Work, this failure shall constitute a breach of this Agreement. The non-breaching party shall notify the breaching party that it must cure this breach or provide written notification of its intention to terminate this Agreement. Notification shall be provided in the manner set forth in the NOTICES clause of this Agreement. The non-breaching party reserves all rights under law and equity to enforce this Agreement and recover damages.
- B. SCAQMD reserves the right to terminate this Agreement, in whole or in part, without cause, upon thirty (30) days' written notice. Once such notice has been given, RECIPIENT shall use all reasonable efforts to mitigate its expenses and obligations. RECIPIENT will be paid in accordance with this Agreement for tasks performed and costs incurred that could not be mitigated before the effective date of termination.
- C. RECIPIENT shall be paid in accordance with this Agreement for all Work performed before the effective date of termination under section B of the TERMINATION clause of this Agreement. Before expiration of the thirty (30) days' written notice, RECIPIENT shall promptly deliver to SCAQMD all copies of documents and other information and data prepared or developed by RECIPIENT under this Agreement with the exception of a record copy of such materials, which may be retained by RECIPIENT.

9. EARLY TERMINATION

This Agreement may be terminated early due to the following circumstances: The infrastructure identified in Attachment 1, Statement of Work, becomes inoperable, and is either not technically able to be repaired, or is too costly to repair, and such failure is not caused by RECIPIENT's negligence, misuse, or malfeasance. [INCLUDE IF APPLICABLE]

10. INSURANCE

- A. RECIPIENT shall furnish evidence to SCAQMD of workers' compensation insurance for each of its employees, in accordance with either California or other states' applicable statutory requirements prior to commencement of any work on this Agreement.
- B. RECIPIENT shall furnish evidence to SCAQMD of general liability insurance with a limit of at least \$1,000,000 per occurrence, and \$2,000,000 in a general aggregate prior to commencement of any work on this Agreement. SCAQMD

shall be named as an additional insured on any such liability policy, and thirty (30) days written notice prior to cancellation of any such insurance shall be given by RECIPIENT to SCAQMD.

- C. RECIPIENT shall furnish evidence to SCAQMD of automobile liability insurance with limits of at least \$100,000 per person and \$300,000 per accident for bodily injuries, and \$50,000 in property damage, or \$1,000,000 combined single limit for bodily injury or property damage, prior to commencement of any work on this Agreement. SCAQMD shall be named as an additional insured on any such liability policy, and thirty (30) days written notice prior to cancellation of any such insurance shall be given by RECIPIENT to SCAQMD.
- D. RECIPIENT shall furnish evidence to SCAQMD of Professional Liability Insurance with an aggregate limit of not less than \$5,000,000. **[INCLUDE IF APPLICABLE]**
- E. If RECIPIENT fails to maintain the required insurance coverage set forth above, SCAQMD reserves the right either to purchase such additional insurance and to deduct the cost thereof from any payments owed to RECIPIENT or terminate this Agreement for breach.
- F. For MSRC Contracts Administrator: All insurance certificates shall be mailed to: SCAQMD, 21865 Copley Drive, Diamond Bar, CA 91765-4178, Attention: Cynthia Ravenstein, MSRC Contracts Administrator. **The SCAQMD Agreement Number must be included on the face of the certificate.**
- G. For Risk Management Department: All insurance certificates and other documents evidencing coverage shall be sent to SCAQMD Risk Management, by email (insurancecertificate@aqmd.gov). **The SCAQMD Agreement Number must be included on the face of the certificate.**
- H. RECIPIENT must provide annual updates on the insurance coverage throughout the term of the Agreement to ensure that there is no break in coverage during the period of Agreement performance. Failure to provide evidence of current coverage shall be grounds for termination for breach of Agreement.

[USE ABOVE CLAUSE OR SELF INSURANCE CLAUSE BELOW]-

Self-Insurance Clause:

INSURANCE

RECIPIENT represents that it is permissibly self-insured and will maintain such self-insurance in accordance with applicable provisions of California law throughout the term of this Agreement. RECIPIENT shall provide evidence of sufficient coverage during the term of this Agreement and any extensions thereof that meet or exceed the minimum requirements set forth by the SCAQMD below. All insurance certificates and other documents evidencing coverage must be sent to SCAQMD Risk Management, by email (insurancecertificate@aqmd.gov) or by fax (909-396-3979). The certificate of self-insurance shall also be mailed to: SCAQMD, 21865 Copley Drive, Diamond Bar, CA 91765-4178, Attention: Cynthia Ravenstein, MSRC Contracts Administrator. **The SCAQMD Agreement Number must be included on the face of the certificate.** If RECIPIENT fails to maintain the required insurance coverage, SCAQMD reserves the right to terminate the Agreement or purchase such additional insurance and bill RECIPIENT or deduct the cost thereof from any payments owed to RECIPIENT. Minimum insurance coverages are as follows:

- A. Worker's compensation insurance in accordance with either California or other state's applicable statutory requirements.
- B. General Liability insurance with a limit of at least \$1,000,000 per occurrence, and \$2,000,000 in general aggregate.
- C. Automobile Liability insurance with limits of at least \$100,000 per person and \$300,000 per accident for bodily injuries and \$50,000 in property damage, or \$1,000,000 combined single limit for bodily injury or property damage.

11. INDEMNIFICATION

RECIPIENT agrees to hold harmless, defend and indemnify SCAQMD, its officers, employees, agents, representatives,

and successors-in-interest against any and all loss, damage, costs, lawsuits, claims, demands, causes of action, judgments, attorney's fees, or any other expenses arising from or related to any third party claim against SCAQMD, its officers, employees, agents, representatives, or successors in interest that arise or result in whole or in part, from any actual or alleged act or omission of RECIPIENT, its officers, its employees, contractors, agents or representatives in the performance of this Agreement. This Indemnification Clause shall survive the expiration or termination (for any reason) of the Agreement and shall remain in full force and effect.

12. DISCLAIMER OF WARRANTY

The purchase or lease of funded vehicles/equipment is the RECIPIENT's decision. The SCAQMD does not make any express or implied warranty of merchantability, fitness for a particular purpose or otherwise, quality or usefulness of the technology or product. Without limiting the foregoing, the SCAQMD will not be financially responsible, or otherwise liable, for the installation or performance of the vehicle/equipment. [INCLUDE IF APPLICABLE]

13. VIOLATION OF LABOR LAWS

RECIPIENT shall promptly notify SCAQMD in writing if RECIPIENT has been found by a court or federal or state agency to have violated labor laws. RECIPIENT shall complete a yearly certification in which RECIPIENT shall either state it has not been found by a court or federal or state agency to have violated labor laws or, if such violations have been found, RECIPIENT shall give SCAQMD details about those violations in the certification. If RECIPIENT has previously provided that information to the SCAQMD, it shall reattach that previous notification to the certification and provide any additional details about those violations that have not previously been provided. RECIPIENT's yearly certification shall be due at the same time as the annual progress report(s) set forth in Attachment 1 - Statement of Work. SCAQMD reserves the right to terminate this Agreement upon such a finding, and RECIPIENT shall, at SCAQMD's request, return any and all Agreement funds, as determined by SCAQMD. RECIPIENT shall ensure that the provisions of this clause are included in all subcontracts. [INCLUDE IF APPLICABLE]

14. PAYMENT

- A. SCAQMD shall reimburse RECIPIENT up to a total amount of *** Dollars (\$***) in accordance with Attachment 2 - Payment/Cost Schedule expressly incorporated herein by this reference and made a part hereof of the Agreement.
- B. A withhold amount or percentage (if any) shall be identified in the Payment/Cost Schedule, and such amount shall be withheld from each invoice. Upon satisfactory completion of project and final acceptance of work and the final report, RECIPIENT's invoice for the withheld amount shall be released. Proof of project completion shall include a Final Report detailing the project goals and accomplishments, data collected during project performance, if any, documentation of significant results, and emissions reduction input data needed for calculation of emissions reductions.
- C. Any funds not expended upon early Agreement termination or Agreement completion shall revert to the AB 2766 Discretionary Fund. Payment of charges shall be made by SCAQMD to RECIPIENT within thirty (30) days after approval by SCAQMD of an itemized invoice prepared and furnished by RECIPIENT.
- D. An invoice submitted to SCAQMD for payment must be prepared in duplicate, on company letterhead, and list SCAQMD's Agreement number, period covered by invoice, and RECIPIENT's social security number or Employer Identification Number and submitted to:

South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765-4178
Attn: Cynthia Ravenstein, MSRC Contracts Administrator

1. Charges for equipment, material, and supply costs, travel expenses, contractor, and other charges, as applicable, must be itemized by RECIPIENT. Reimbursement for equipment, material, supplies, contractor, and other charges, as applicable, shall be made at actual cost. Supporting documentation must be provided for all individual charges (with the exception of direct labor charges provided by RECIPIENT).
2. SCAQMD shall pay RECIPIENT for travel-related expenses only if such travel is expressly set forth in Attachment

- 2 - **Payment/Cost** Schedule of this Agreement or pre-authorized by SCAQMD in writing.
3. RECIPIENT's failure to provide receipts shall be grounds for SCAQMD's non-reimbursement of such charges. SCAQMD may reduce payments on invoices by those charges for which receipts were not provided.
4. RECIPIENT must submit final invoice no later than ninety (90) days after the termination date of this Agreement or invoice may not be paid.

15. COMPLIANCE WITH APPLICABLE LAWS, LICENSES, PERMITS

RECIPIENT agrees to comply with all federal, state, and local laws, ordinances, codes and regulations and orders of public authorities in the performance of this Agreement, including complying with all licensing and permitting requirements and obtaining all clearances from appropriate agencies applicable to the project. RECIPIENT must also ensure that the vehicles and/or equipment to be purchased, leased or installed in the performance of this Agreement are in compliance with all applicable federal, state, and local air quality rules and regulations, and that it will maintain compliance for the full Agreement term. RECIPIENT shall ensure that the provisions of this clause are included in all contracts and subcontracts.

16. MOBILE SOURCE EMISSION REDUCTION CREDITS (MSERCs)

- A. The MSRC has adopted a policy that no MSERCs resulting from AB 2766 Discretionary Funds may be generated and/or sold.
- B. RECIPIENT has the opportunity to generate MSERCs as a by-product of the project if a portion of the air quality benefits attributable to the project resulted from funding sources other than AB2766. These MSERCs, which are issued by SCAQMD, are based upon the quantified vehicle miles traveled (VMT) by project vehicles or other activity data as appropriate. Therefore, a portion of prospective MSERCs, generated as a result of AB 2766 Funds, must be retired. The portion of prospective credits funded by the AB 2766 program, and which are subject to retirement, shall be referred to as "AB 2766-MSERCs."
- C. The determination of AB 2766-MSERC's is to be prorated based upon the AB 2766 program's contribution to the cost associated with the air quality benefits. In the case where AB 2766 Discretionary Funds are used to pay for the full differential cost of a new alternative fuel vehicle or for the retrofitting or repowering of an existing vehicle, all MSERCs attributable to AB 2766 Discretionary Funds must be retired. The determination of AB 2766-MSERCs for infrastructure and other ancillary items is to be prorated based upon the AB 2766 program's contribution to the associated air quality benefits. Determination of the project's overall cost will be on a case-by-case basis at the time an MSERC application is submitted. SCAQMD staff, at the time an MSERC application is submitted, will calculate total MSERCs and retire the AB 2766-MSERCs. RECIPIENT would then receive the balance of the MSERCs not associated with AB 2766 funding.

17. NOTICES

All notices that are required under this Agreement shall be provided in the manner set forth herein, unless specified otherwise. Notice to a party shall be delivered to the attention of the person listed below, or to such other person or persons as may hereafter be designated by that party in writing. Notice shall be in writing sent by email, U.S. Mail, express, certified, return receipt requested, or a nationally recognized overnight courier service. In the case of email communications, valid notice shall be deemed to have been delivered upon sending, provided the sender obtained an electronic confirmation of delivery. Email communications shall be deemed to have been received on the date of such transmission, provided such date was a business day (Tuesday-Friday) and delivered prior to 5:30pm Pacific Standard Time. Otherwise, receipt of email communications shall be deemed to have occurred on the following business day. In the case of U.S. Mail notice, notice shall be deemed to be received when delivered or five (5) business days after deposit in the U.S. Mail. In the case of a nationally recognized overnight courier service, notice shall be deemed received when delivered (written receipt of delivery).

SCAQMD:
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765-4178
Attn: Cynthia Ravenstein, MSRC Contracts Administrator, email: cravenstein@aqmd.gov

RECIPIENT:

Attn: ***, email: ***

18. INDEPENDENT CONTRACTOR

RECIPIENT, its officers, employees, agents, or representatives shall act in an independent capacity, and shall in no sense be considered employees or agents of SCAQMD, nor shall RECIPIENT, its officers, employees, agents, or representatives be entitled to or eligible to participate in any benefits, privileges, or plans, given or extended by SCAQMD to its employees. SCAQMD will not supervise, direct, or have control over, or be responsible for RECIPIENT's means, methods, techniques, work sequences or procedures, or for the safety precautions and programs incident thereto, or for any failure by them to comply with any local, state, or federal laws, or rules or regulations, including state minimum wage laws and OSHA requirements.

19. OWNERSHIP

Title and full ownership rights to any equipment purchased under this Agreement shall at all times remain with RECIPIENT.

USE ABOVE CLAUSE, OR USE CLAUSE BELOW FOR PROFESSIONAL SERVICES

OWNERSHIP

Title and full ownership rights to any products purchased or developed under this Agreement shall at all time remain with RECIPIENT. RECIPIENT shall also retain title and full ownership rights to any documents or reports developed under this Agreement. All of the above shall be subject to the following limitations:

- A. PATENT RIGHTS - RECIPIENT shall have patent rights, as well as title and full ownership rights, for invention(s) developed under this Agreement, subject to SCAQMD retaining a no-cost, nonexclusive, nontransferable, irrevocable license to use or test such invention(s) for SCAQMD purposes. RECIPIENT must obtain agreements to effectuate this clause with all persons or entities obtaining an ownership interest in the patented subject invention(s). Previously documented (whether patented or unpatented under the patent laws of the United States, 35 U.S.C. Sections 1 *et seq.*, or any foreign country) inventions are exempt from this provision. RECIPIENT shall submit a written report to SCAQMD's Agent disclosing each subject invention and specifying patents applied for, patents issued, and patent application(s) abandoned and/or cosponsored participants on subject invention(s).
- B. RIGHTS OF TECHNICAL DATA - SCAQMD shall have unlimited right to use technical data resulting from performance of RECIPIENT under this Agreement. RECIPIENT shall have the right to use data for its own benefit.
- C. COPYRIGHT - RECIPIENT agrees to grant SCAQMD a royalty free, nonexclusive, irrevocable, nontransferable license to produce, translate, publish, use, and dispose of all copyrightable material first produced or composed in the performance of this Agreement.
- D. SOFTWARE RIGHTS - RECIPIENT agrees to grant SCAQMD a worldwide, royalty free, nonexclusive, irrevocable, nontransferable license in perpetuity to use any software developed by RECIPIENT in performing its obligations under this Agreement. RECIPIENT further agrees to obtain the rights required from any third party for SCAQMD to have a worldwide, royalty free, nonexclusive, irrevocable license in perpetuity to use any other software essential to performance of RECIPIENT'S obligations under this Agreement or necessary to the operation of the software developed by RECIPIENT. RECIPIENT shall provide SCAQMD with documentation confirming RECIPIENT'S right to assign the use of such software. RECIPIENT shall also provide SCAQMD with all documentation and manuals required to operate the software developed by it or third parties.
- E. RECIPIENT'S INSOLVENCY OR BANKRUPTCY, or PROJECT'S DISCONTINUATION - RECIPIENT agrees that in the event that RECIPIENT becomes insolvent or files for bankruptcy during the term of the Agreement or does not complete the intent of the Agreement, title to goods, services software, and equipment purchased for the performance of this Agreement with AB 2766 Discretionary Funds shall revert to the SCAQMD.

20. PUBLIC RECORD

Information, data, documents, or reports developed by CONTRACTOR for SCAQMD, pursuant to this Contract, shall be part of SCAQMD public record unless otherwise indicated.

21. SECURITY INTEREST

RECIPIENT hereby grants SCAQMD a security interest in any and all equipment purchased, in whole or in part, with funding provided by SCAQMD pursuant to this Agreement. RECIPIENT acknowledges and agrees that SCAQMD shall have all lien rights as a secured creditor on any and all equipment purchased in whole or in part by the RECIPIENT, under this Agreement or any amendments thereto. The SCAQMD shall have lien rights in effect until the RECIPIENT satisfies all terms under the Agreement, including but not limited to, the use and reporting requirements. **Accordingly, RECIPIENT further agrees that SCAQMD is authorized to file a UCC filing statement or similar security instrument to secure its interests in the equipment that is the subject of the Agreement.** In the event RECIPIENT files for bankruptcy protection, RECIPIENT shall notify SCAQMD within 14 calendar days of such filing. **[INCLUDE IF APPLICABLE]**

22. NON-DISCRIMINATION

In the performance of this Agreement, RECIPIENT shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment on the basis of race, religious creed, color, national origin, ancestry, sex, sexual orientation, marital status, age, mental status, medical condition, physical or mental disability, or allow unlawful denial of family and medical care leave, denial of pregnancy disability leave, or reasonable accommodations. RECIPIENT shall comply with the provisions of the California Fair Employment & Housing Act (Government Code Sections 12900 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, Executive Order No. 11246 (30 Federal Register 12319), and all administrative rules and regulations issued pursuant to said Acts and Order.

23. ASSIGNMENT AND TRANSFER OF EQUIPMENT

- A. The rights and responsibilities granted hereby may not be assigned, sold, licensed, or otherwise transferred by RECIPIENT without the prior written consent of SCAQMD, and any attempt by RECIPIENT to do so shall be void upon inception.
- B. RECIPIENT agrees to obtain SCAQMD's written consent to any assignment, sale, license or transfer of Equipment, if any, prior to completing the transaction. RECIPIENT shall inform the proposed assignee, buyer, licensee or transferee (collectively referred to here as "Buyer") of the terms of this Agreement. RECIPIENT is responsible for establishing contact between SCAQMD and the Buyer and shall assist SCAQMD in facilitating the transfer of this Agreement's terms and conditions to the Buyer. **RECIPIENT will not be relieved of the legal obligation to fulfill the terms and conditions of this Agreement until and unless the Buyer has assumed responsibility of this Agreement's terms and conditions through an executed Agreement with SCAQMD.**

24. NON-EFFECT OF WAIVER

The failure of RECIPIENT or SCAQMD to insist upon the performance of any or all of the terms, covenants, or conditions of this Agreement, or failure to exercise any rights or remedies hereunder, shall not be construed as a waiver or relinquishment of the future performance of any such terms, covenants, or conditions, or of the future exercise of such rights or remedies, unless otherwise provided for herein.

25. PROPOSAL INCORPORATION

RECIPIENT's Technical Proposal dated *** submitted in response to Request for Proposal (RFP) #***, is expressly incorporated herein by this reference and made a part hereof of this Agreement. In the event of any conflict between the terms and conditions of this Agreement and RECIPIENT's Technical Proposal, this Agreement shall govern and control. **[INCLUDE IF APPLICABLE]**

KEY PERSONNEL [INCLUDE IF APPLICABLE]

insert person's name is deemed critical to the successful performance of this Contract. Any changes in key personnel by

CONTRACTOR must be approved by SCAQMD. All substitute personnel must possess qualifications/experience equal to the original named key personnel and must be approved by SCAQMD. SCAQMD reserves the right to interview proposed substitute key personnel.

26. TAX IMPLICATIONS FROM RECEIPT OF MSRC FUNDS

RECIPIENT is advised to consult a tax attorney regarding potential tax implications from receipt of MSRC funds.

27. ATTORNEYS' FEES

In the event any action is filed in connection with the enforcement or interpretation of this Agreement, each party in said action shall pay its own attorneys' fees and costs.

28. FORCE MAJEURE

A party shall not be liable 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, civil or military authority, acts of public enemy, war, strikes, labor disputes, shortages of suitable parts, materials, labor or transportation, or any similar cause beyond the party's reasonable control.

29. SEVERABILITY

In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be unenforceable in any respect by a court of competent jurisdiction, such holding shall not affect any other provisions of this Agreement, and the Agreement shall then be construed as if such unenforceable provisions are not a part hereof.

30. HEADINGS

Headings on the clauses of this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Agreement.

31. SIGNATURES

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute together one and the same instrument. Further, the parties agree that this Agreement or any counterpart may be executed and delivered by DocuSign, or by transmitting a manual signature by fax or .pdf, which shall have the same force and effect as copies executed and delivered with original manual signatures.

32. GOVERNING LAW

This Agreement shall be construed and interpreted, and the legal relations created thereby shall be determined in accordance with the laws of the State of California. Venue for resolution of any disputes under this Agreement shall be Los Angeles County, California.

33. PRE-AGREEMENT COSTS

Any costs incurred by RECIPIENT prior to RECIPIENT receipt of a fully executed Agreement shall be incurred solely at the risk of the RECIPIENT. In the event that this Agreement is not executed, neither the MSRC nor the SCAQMD shall be liable for any amounts expended in anticipation of a fully executed Agreement. If this Agreement is fully executed, pre-Agreement cost expenditures authorized by the Agreement will be reimbursed in accordance with the **Payment/Cost** Schedule and payment provision of the Agreement.

34. CHANGE TERMS

Changes to any part of this Agreement must be requested in writing by RECIPIENT and approved by MSRC in accordance with MSRC policies and procedures. RECIPIENT must make requests a minimum of 90 days prior to desired effective date of change. All modifications to this Agreement shall be in writing and signed by the authorized representatives of the parties

35. **PUBLIC WORKS PROJECTS [INCLUDE IF APPLICABLE]**

RECIPIENT agrees to comply with all of the applicable provisions of the California Labor Code pertaining to public works projects (Labor Code Sections 1720 – 1861). RECIPIENT shall be responsible for determining the applicability of the provisions of California Labor Code and complying with the same, including, without limitation, registering the public works project with the Department of Industrial Relations, obtaining from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work, making the same available to any interested party upon request, paying the applicable prevailing rates, posting copies thereof at the job site and flowing all applicable requirements to its contractors. Proof of compliance must be provided to SCAQMD upon request. RECIPIENT shall indemnify, defend and hold harmless the SCAQMD against any and all claims, demands, damages, defense costs or liabilities based on failure to adhere to the above referenced statutes.

36. ENTIRE AGREEMENT

This Agreement represents the entire agreement between RECIPIENT and SCAQMD. There are no understandings, representations, or warranties of any kind except as expressly set forth herein. No waiver, alteration, or modification of any of the provisions herein shall be binding on any party unless in writing and signed by the authorized representative of the party against whom enforcement of such waiver, alteration, or modification is sought. No waiver by either party of any breach of, or of compliance with, any condition or provision of this Agreement by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time.

37. AUTHORITY

The signatory hereto represents and warrants that he or she is authorized and empowered and has the legal capacity to execute this Agreement and to legally bind RECIPIENT both in an operational and financial capacity and that the requirements and obligations under this Agreement are legally enforceable and binding on RECIPIENT.

(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties to this Agreement have caused this Agreement to be duly executed on their behalf by their authorized representatives.

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

By: _____
Vanessa Delgado, Chair, Governing Board

By: _____
Name: _____
Title: _____

Date: _____

Date: _____

ATTEST:
Faye Thomas, Clerk of the Board

By: _____

APPROVED AS TO FORM:
Bayron T. Gilchrist, General Counsel

By: _____

//MSRC Master Boilerplate
Revised October 9, 2024