



# **“NEAR ZERO” HEAVY-DUTY NATURAL GAS ENGINE INCENTIVE PROGRAM**

**For Transit Buses & Refuse Collection Trucks Operating  
in the South Coast Air Quality Management District**

**2014-2016 MSRC Work Program**

**Program Announcement PA2016-11**

**June 3, 2016**

## SECTION 1 - INTRODUCTION

The Mobile Source Air Pollution Reduction Review Committee (MSRC) is pleased to announce the availability of funding incentives to buy down the purchase cost of the Cummins Westport ISL G Near Zero (ISL G NZ) natural gas engine, certified by the California Air Resources Board (CARB) below the Optional NOx emissions standard of 0.02 grams per brake-horsepower hour (g/bhp-hr). This newly commercialized heavy-duty natural gas engine offers “near-zero” emission levels for ozone precursor and particulate matter criteria air pollutants – *90% lower than the current EPA heavy-duty engine standards* - reductions that are of critical air quality importance to the South Coast Air Quality Management District (SCAQMD) region.

It is anticipated that this 8.9 liter heavy-duty engine will have future applicability to many heavy-duty vehicle applications. However, this MSRC **Clean Transportation Funding™** opportunity specifically targets, and is limited to:

- ✓ **Urban Transit Buses** Operated by Public Transit Agencies within the SCAQMD. This Funding Opportunity Includes Both New Bus Purchases and Bus Engine Re-Powers (i.e., Engine Replacements);
- ✓ **Refuse Collection Trucks**, including Public Agency or Business Enterprise-Owned Vehicles Domiciled and Operated in the SCAQMD. This Funding Opportunity Targets the Re-Power of Existing Natural Gas Refuse Collection Vehicles.

These heavy-duty vehicle classes have been targeted because they: 1) are compatible with the physical and performance characteristics of the Cummins Westport ISL G NZ engine; and 2) accrue high mileage and/or hours of operation within SCAQMD communities.

The following Sections describe the eligibility requirements to participate in the MSRC “Near Zero” Heavy-Duty Natural Gas Engine Incentive Program, limits on the amount of **Clean Transportation Funding™** available to Program participants, and guidelines for application preparation.

To reduce the need to photocopy, package, and physically submit paper applications, the near Zero Engine Incentive Program **requires that applications be submitted electronically in PDF format using the MSRC Website**. We believe this benefits the applicant, the MSRC staff, and the environment. A tutorial is available to walk applicants step by step through the electronic application submittal process. This tutorial is available on the MSRC Website at [www.cleantransportationfunding.org](http://www.cleantransportationfunding.org). Look for the Proposal Upload Tutorial on the right-hand column of the Home Page.

Additionally, MSRC staff members are available to answer questions and provide technical and programmatic guidance as appropriate. Please refer to Section 8 of this document for a list of MSRC Staff contacts.

Please note that the source of MSRC **Clean Transportation Funding™** for projects submitted in response to this solicitation 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 SCAQMD can guarantee the collection or remittance of registration fees by the DMV.

## SECTION 2 – AVAILABLE FUNDING

The amount of MSRC **Clean Transportation Funding™** allocated for the Near Zero Engine Incentive Program is \$10.0M. Of this total funding allocation, \$7.5M is targeted for Transit Bus incentives; \$2.5M for Refuse Collection Truck incentives.

Note that these are targeted funding amounts – the MSRC reserves the right to increase the amount of total funding available and to reallocate funding between the Transit Bus and Refuse Truck categories. Similarly, should the MSRC receive proposals with total requests less than the amount allocated, or if proposals are deemed non-meritorious, the MSRC reserves the right to reduce the total funding available and reallocate funds to other Work Program categories. The MSRC also reserves the right to not fund any of the applications received, irrespective of the merits of the applications submitted.

For the purpose of this Near Zero Engine Incentive Program, all qualified project applications received electronically on the first day of the Application Acceptance Period, July 5, 2016, will be deemed received at the same time. In the event the Near Zero Engine Incentive Program is oversubscribed following receipt of first-day applications, MSRC funds will be distributed on a pro rata share basis to qualified project applications. Please note that the Geographic Funding Minimums discussed in Section 5, below, will take precedence in the event funding must be pro-rated. Qualifying applications received after July 5, 2016 will be funded in the order of receipt.

## SECTION 3 – ELIGIBILITY REQUIREMENTS

For the purpose of this Program Announcement, the following eligibility requirements apply:

### 1. Eligible Applicants and Contracting Parties

- a. Transit Bus Incentives - Public Transit Agencies headquartered and whose transit operations are primarily within the SCAQMD jurisdiction are eligible to participate in this incentive program. This includes, but may not be limited to, County Transportation Commissions, municipal transit agencies, and Joint Powers Authority (JPA) Public Transit Agencies. The eligible Public Transit Agency must be the Contracting entity and Contract signatory.

Business enterprises that provide transportation services are not considered a Public Transit Agency under this Program and are not eligible to submit an application. Business enterprises that provide contract transportation services of behalf of an eligible Public Transit Agency are not considered a Public Transit Agency. Participation by business enterprises is allowable only in cases where a qualifying Public Transit Agency submits an application on behalf of their contract service provider and where the Public Transit Agency acts as Contract signatory.

- b. Refuse Collection Truck Incentives – Eligible applicants include public agency, municipal, and business enterprise owners and/or operators of eligible refuse collection vehicles. Participating refuse collection trucks must be domiciled and operate within the jurisdiction of the SCAQMD.

2. **Eligible Engine** – This program provides a buy-down incentive towards the purchase and installation of the Cummins Westport ISL G NZ 8.9 liter natural gas engine. The model year 2016 CARB Executive Orders for qualifying engines are as follows:

- Urban Bus: CARB EO # A-021-0629
- Heavy-Duty Refuse Trucks: CARB EO # A-021-0630 or A-021-0646 as applicable

Only the Cummins Westport 8.9 liter ISL G engine models certified to the CARB Optional NOx standard of 0.02 g/bhp-hr qualify under this incentive program. Cummins Westport ISL G natural gas engines certified to the current EPA 2010 NOx standard of 0.2 g/bhp-hr do not qualify for MSRC incentives.

3. **Qualifying Heavy-Duty Transit Buses and Refuse Collection Trucks** – Qualifying vehicles include transit buses and heavy-duty refuse collection trucks. The following vehicle eligibility requirements apply:

- a. **Transit Buses:** Eligible transit buses must meet the following specifications:
  - Owned or operated by a Public Transit Agency;
  - Powered by a heavy-duty engine, or of a type normally powered by a heavy-duty diesel engine;
  - Intended primarily for intra-city operation;
  - Length is 30 feet or longer;
  - Qualifying transit buses must meet all Americans with Disabilities Act, US Department of Transportation, California Department of Motor Vehicles, and other applicable regulatory agency requirements.
- b. **Refuse Collection Vehicles:** Eligible refuse collection trucks must have the following characteristics:
  - Owned or operated by a public agency, municipality, or business enterprise;
  - Vehicle is currently configured to operate on dedicated natural gas;
  - Gross Vehicle Weight Rating 26,001 pounds or greater;

4. **Earliest Date for an MSRC-Funded Project to Start (Project Start Date)** – The release date of this Program Announcement, June 3, 2016, is the earliest date an MSRC Near Zero Engine Incentive Project can start. For the purpose of this Program Announcement, the Project Start Date corresponds with the purchase order date for the new transit bus or, in the case of engine re-power, the purchase order date for the new replacement engine. Any expenditure made in anticipation of an award of MSRC Near Zero Engine Incentive funding and prior to execution of a Contract is solely at the applicant’s risk. If no Near Zero Engine Incentive Program Contract is executed, neither the MSRC nor SCAQMD is liable for payment of any funds expended in anticipation of a contract. Please note that in the event a contract is executed, reimbursement for any costs incurred by the proposer in anticipation of the contract is at the discretion of the MSRC and SCAQMD.

5. **Minimum Operations Period** – All vehicles that receive an MSRC Near Zero Engine Incentive under this Program must remain operational within the geographical jurisdiction of the SCAQMD for a period of no less than five (5) years from the date an MSRC co-funded engine enters service.

## SECTION 4 – INCENTIVE LEVELS

The following incentive levels have been set by the MSRC for this Program:

**Urban Transit Buses:** The MSRC will award **\$15,000 per qualifying urban transit bus** in accordance with the limits set forth in Section 5, below. This incentive is available for new bus purchases or for the re-power (engine replacement) of an existing qualifying natural gas transit bus. A total funding allocation of \$7.5M has been established for the Program category.

**Refuse Collection Trucks:** The MSRC will award **\$25,000 per qualifying refuse collection truck** in accordance with the limits set forth in Section 5, below. This incentive is available for the re-power of an existing qualifying natural gas refuse truck only. A total funding allocation of \$2.5M has been established for this Program category.

## SECTION 5 - PARTICIPATION GUIDELINES, CONDITIONS & RESTRICTIONS

The following guidelines, requirements, and conditions apply to all applicants:

1. **Maximum MSRC Funding Limits**– To ensure broad-based participation, the MSRC has established the following maximum funding parameters:
  - a. **Transit Bus Incentives:** The maximum total funding award to any Public Transit Agency under this solicitation shall not exceed 25% of the available funding. The total available funding currently allocated by the MSRC for this Program category is \$7.5M. Thus, the maximum total funding award for any single Public Transit Agency is currently set at \$1.875M. This maximum funding restriction can be waived by the MSRC in the event the MSRC does not receive meritorious applications from other applicants that meet or exceed 75% of the available funds, or if the MSRC allocates additional funds to the Program. The MSRC reserves the right to determine which projects, if any, are deemed meritorious and warrant a **Clean Transportation Funding™** award.
  - b. **Refuse Collection Vehicle Incentives:** The maximum total funding award to any agency, municipality, or business enterprise under this solicitation shall not exceed 25% of the available funding. The total available funding currently allocated by the MSRC for this Program category is \$2.5M. Thus, the maximum total funding award for any single entity is currently set at \$625,000. This maximum funding restriction can be waived by the MSRC in the event the MSRC does not receive meritorious applications from other applicants that meet or exceed 75% of the available funds, or if the MSRC allocates additional funds to the Program. The MSRC reserves the right to determine which projects, if any, are deemed meritorious and warrant a **Clean Transportation Funding™** award.
2. **Geographical Funding Minimum** - The MSRC has established a Geographical Funding Minimum for each county within the SCAQMD. The geographical funding minimum amount has been set at \$1.27M per county. This is apportioned as follows: a \$945,000 per county allocation for Transit Buses, and a \$325,000 per county allocation for Refuse Trucks. This funding set-aside guarantees a minimum level of funding within each county to participate in the Near Zero Engine Incentive Program. For the purpose of this Program Announcement, geographic location is based upon the location where the vehicle(s) equipped with the incentivized engine(s) are domiciled. At the end of the application submittal period, January 6, 2017, if any

county has funds remaining in its geographical minimum, these funds will be made available to qualifying applications from any other county in order of receipt.

3. **Eligible Uses of MSRC Funds** – MSRC funds may only be used to offset direct capital costs associated with the purchase and installation of the qualifying engine.
4. **Engine Scrapping Requirement for Re-Powers** – For projects re-powering existing transit buses and/or refuse collection vehicles, the existing vehicle engine must be scrapped following the re-power.
5. **Funding Award Outreach and Promotion** – All applicants that receive an MSRC **Clean Transportation Funding™** award must publicly acknowledge the funding award and conduct project outreach and promotion. This is a mandatory component of any MSRC-funded project. Types of acceptable outreach and promotion include, but are not limited to:
  - a. Press release;
  - b. Materials developed for incorporation into a website, electronic media, etc.;
  - c. Program kickoff events, ribbon cuttings, or news conferences, etc.
6. **MSRC Funds Remitted on a Reimbursement Basis** - MSRC funds will be distributed on a reimbursement basis only upon completion of approved project milestones and submission of all required reports and invoices.
7. **No “Double Dipping”** - Applicants accepting a Near Zero Engine funding incentive from the MSRC are not eligible to receive additional Near Zero Engine incentives for that engine from any other State or Federal agency except under the following conditions:
  - Public Transit Agencies can combine MSRC Near Zero Engine funding with other traditional transit bus funding sources, including but not limited to Federal Transit Administration (FTA), Congestion Mitigation/Air Quality (CMAQ), Local Transportation Funds (LTF), etc.
    - For Public Transit Agencies that are direct recipients of FTA funding for transit bus purchases or re-powers, additional funding potentially available through the Hybrid Truck & Bus Voucher Incentive Program (HVIP) and/or Natural Gas Vehicle Incentive Project (NGVIP) is not eligible to be combined with MSRC funding;
    - Public Transit Agencies that do not receive direct funding from the FTA for transit bus purchases are allowed to combine MSRC funding with funds potentially available through the HVIP and/or NGVIP;
  - Refuse Collection Truck owners are allowed to combine MSRC funding with funds potentially available through the HVIP and/or NGVIP;
  - MSRC Near Zero Engine funding can be combined with vehicle tax credit incentives if available;
  - In no case can MSRC Near Zero Engine incentives, when combined with other potentially available natural gas vehicle or engine incentives, exceed the incremental cost of the natural gas vehicle as compared to a comparable conventional diesel fuel vehicle.
8. **Additional Conditions on MSRC Funding**
  - Project Proposers are expected to provide a vehicle/engine procurement schedule as an element of their Proposal. In the event an application is awarded MSRC funds resulting in a contract, and subsequently requires additional time, the MSRC reserves the right to administratively authorize a one-time extension

to the period of performance, not to exceed an additional one (1) year. No additional project extensions will be allowed without the prior express consent of the MSRC.

- Use of Renewable Natural Gas – while not a participation requirement, the MSRC supports the use of renewable natural gas in vehicles benefiting from this engine incentive program. Applicants are asked to identify if the vehicles under this Program opportunity will utilize renewable natural gas and/or the percentage of renewable natural gas expected to be utilized. This does not have any impact on whether or not a vehicle receives an MSRC incentive.
- Certifications – All Proposers must complete and submit the included Attachment D forms as an element of their Proposal (unless specifically exempted below):
  - Internal Revenue Service Form W-9 – Request for Taxpayer Identification Number and Certification, and Franchise Tax Board Form 590 – Withholding Exemption Certificate. If you are selected for an award, you cannot be established as a vendor without this information.
  - Campaign Contributions Disclosure. This information must be provided at the time of application in accordance with California law. You may be asked for an update when awards are considered.
  - Business Status Certifications. The SCAQMD needs this information for their vendor database. It will not be considered in the determination of your MSRC funding award. Governmental entities do not need to complete this form.
- Finally, in accordance with state law, all projects awarded MSRC **Clean Transportation Funding™** are subject to audit. The provisions of the audit are discussed in the Sample Contract, included as an attachment to this Program Announcement. It is highly recommended that awardees employ government accepted accounting practices when administering their MSRC funded project.

## SECTION 6 – PROGRAM ANNOUNCEMENT TIMETABLE

The MSRC understands that procuring or re-powering heavy-duty vehicles is subject to the procurement practices and internal schedules of participating agencies and businesses. To that end, the MSRC has established a 6-month window to prepare and submit applications for funding consideration, as shown in Table 6-1, below.

As shown in Table 6-1, the Program Announcement will be released on June 3, 2016. The earliest date to submit a Project Application – *which must be submitted electronically* – is July 5, 2016. This is to ensure that potential project applicants have sufficient notice between the Program Announcement release and the start of the Application acceptance period.

Table 6-1 - Key Near Zero Engine Incentive Program Dates

Program Event	Date
Program Announcement Release	June 3, 2016
Earliest Date to Submit Electronic Application	July 5, 2016
Application Submittal Period	July 5, 2016 – January 6, 2017
Latest Date/Time for Electronic Application Submittal	January 6, 2017 @ 11:59 p.m.

## SECTION 7 - APPLICATION PREPARATION & SUBMITTAL INSTRUCTIONS

An application for Near Zero Engine Incentives must be completed and submitted for funding consideration under this Program. Applications must be prepared and submitted in accordance with the instructions outlined below.

1. **Application Preparation** – The following information must be included in all Applications seeking MSRC Clean Transportation Funding™ under the Near Zero Engine Incentive Programs Program:
  - a) **Attachments A-D** - Proposals must include the following completed Attachments, including all required supporting documentation as requested. Proposal Templates and Instructions are included in Section 10 of this Program Announcement:
    - Attachment A: Applicant Information & Funding Request
    - Attachment B: Vehicle Description
    - Attachment C: Project Procurement Schedule
    - Attachment D: Certifications
2. **Electronic Application Submittal Process** – To reduce the need to photocopy, package, and physically submit paper applications, the Near Zero Engine Incentive Program requires that applications be submitted electronically in PDF format using the MSRC Website. A tutorial is available to walk applicants step by step through the electronic application submittal process.

The application that will be submitted as a **PDF document** is comprised of four (4) primary sections – these correspond to the application Attachments A-D as described in the preceding section. Thus, a complete application will be comprised of the following elements:

1. Attachment A: Applicant Information & Funding Request
2. Attachment B: Vehicle Description
3. Attachment C: Project Procurement Schedule
4. Attachment D: Certifications
  - a. W-9 Form and Form 590



- b. Business Status Certifications Form
- c. Campaign Contribution Disclosure Form

These four sections, including Attachment D 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. The application submittal tutorial is available at [www.cleantransportationfunding.org/proposal\\_process/upload\\_proposal](http://www.cleantransportationfunding.org/proposal_process/upload_proposal).

***Please note that the latest date and time to submit an application is January 6, 2017 at 11:59 pm!***

- 3. **Addenda** – The Mobile Source Air Pollution Reduction Review Committee may modify the Program Announcement and/or issue supplementary information or guidelines relating to the Program Announcement during the Proposal preparation and acceptance period of June 3, 2016 to January 6, 2017. Amendments will be posted on the MSRC website at [www.cleantransportationfunding.org](http://www.cleantransportationfunding.org).
- 4. **Application Modifications** - Once submitted, Proposals cannot be altered without the prior written consent of the Mobile Source Air Pollution Reduction Review Committee.
- 5. **Certificates of Insurance** - A certificate(s) of insurance naming SCAQMD as an additional insured will be required as a condition of the contract. Entities that are self-insured will be required to provide proof of self-insurance.

#### **SECTION 8 - IF YOU NEED HELP...**

This Program Announcement can be obtained by accessing the MSRC website at [www.cleantransportationfunding.org](http://www.cleantransportationfunding.org) or the SCAQMD website at <http://www.aqmd.gov/grants-bids>. MSRC staff members are available to answer questions during the application acceptance period. In order to help expedite assistance, please direct your inquiries to the applicable staff person, as follows:

- For **General or Technical Assistance**, please contact:  
Ray Gorski  
MSRC Technical Advisor  
Phone: 909-396-2479  
E-mail: [Ray@CleanTransportationFunding.org](mailto:Ray@CleanTransportationFunding.org)
- For **Administrative Assistance**, please contact:  
Cynthia Ravenstein  
MSRC Contracts Administrator  
Phone: 909-396-3269  
E-mail: [Cynthia@CleanTransportationFunding.org](mailto:Cynthia@CleanTransportationFunding.org)

- For **Contractual Assistance**, please contact:  
Dean Hughbanks  
SCAQMD Procurement Manager  
Phone: 909-396-2808  
E-mail: [dhughbanks@aqmd.gov](mailto:dhughbanks@aqmd.gov)

## **SECTION 9- APPLICATION EVALUATION AND APPROVAL PROCESS**

Applications will be screened upon receipt by MSRC staff members to determine compliance with all mandatory requirements. Applications deemed compliant will be forwarded to an Evaluation Subcommittee comprised of members of the MSRC Technical Advisory Committee (MSRC-TAC). Compliant applications will be evaluated and funded in order of receipt using criteria established by the MSRC and specified in Sections 3 – 5 of this Program Announcement. Please note that it is possible that all funding allocated to this Program could be fully expended prior to the close of the application submittal period, January 6, 2017.

## SECTION 10 - PROPOSAL ATTACHMENTS – PA2016-11

### ATTACHMENT A: APPLICATION INFORMATION & FUNDING REQUEST

A. Please provide the following applicant information in the space provided (This is information about the entity submitting the application):

Agency/Business	
Division of:	
Subsidiary of:	
Website Address	
Type of Business <i>Check One:</i>	<input type="checkbox"/> Public Transit Agency <input type="checkbox"/> DBA, Name _____, County Filed in _____ <input type="checkbox"/> Corporation, ID No. _____ <input type="checkbox"/> LLC/LLP, ID No. _____ <input type="checkbox"/> Other _____

Address			
City			
State		Zip	
Phone	(     )     -     Ext	Fax	(     )     -
Contact Name		Title	
E-mail Address			
Payment Name if Different			

B. Transit Bus **Clean Transportation Funding™** Request Summary:

- Number of New Purchase Transit Bus Incentives Requested: \_\_\_\_\_
- Number of Transit Bus Re-Power Incentives Requested: \_\_\_\_\_
- Total Number of Transit Bus Incentives Requested: \_\_\_\_\_
- Total Transit Bus **Clean Transportation Funding™** Requested: \$\_\_\_\_\_

C. Refuse Collection Truck **Clean Transportation Funding™** Request Summary:

- Number of Refuse Truck Re-Power Incentives Requested: \_\_\_\_\_
- Total Refuse Truck **Clean Transportation Funding™** Requested: \$\_\_\_\_\_

## ATTACHMENT B: VEHICLE DESCRIPTION

A. **TRANSIT BUS DESCRIPTION** – for each Transit Bus Incentive applied for, please provide the following information:

**New Purchase Transit Buses:** If a multiple number of the same vehicle is being purchased, state the number of that type of transit bus to be purchased (double-click to open spreadsheet):

Number of This Bus Type	Bus Manufacturer	Bus Model	Bus Length	Estimated Annual Miles Per Bus

**Transit Buses Engine Re-Powers:** For each Transit Bus proposed for engine re-power, please provide the following information. Please expand the spreadsheet as needed to accommodate the number of transit bus engine re-powers for which MSRC funding is sought:

Bus Manufacturer	Bus Model	Bus Length	Existing Engine Make/Model	Existing Engine Model Year	Bus VIN	Estimated Annual Miles

- Will Renewable Natural Gas (RNG) be used? ☐ YES ☐ NO
- If “YES”, what is the estimated percentage of natural gas that will be RNG? \_\_\_\_\_%

B. **REFUSE COLLECTION TRUCK DESCRIPTION** – For each Refuse Truck proposed for engine re-power, please provide the following information. Please expand the spreadsheet as needed to accommodate the number of refuse truck engine re-powers for which MSRC funding is sought (double-click to open spreadsheet):

Refuse Truck Manufacturer	Truck Model	Existing Engine Make/Model	Existing Engine Model Year	Refuse Truck VIN	Estimated Annual Miles, Fuel Consumed, or Engine Hours of Operation (specify)

- Will Renewable Natural Gas (RNG) be used? ☐ YES ☐ NO
- If “YES”, what is the estimated percentage of natural gas that will be RNG? \_\_\_\_\_%

**ATTACHMENT C: PROJECT PROCUREMENT SCHEDULE**

FOR THE VEHICLES INCLUDED IN ATTACHEMENT B, PLEASE PROVIDE ESTIMATED DATES, AS FOLLOWS:

- FOR NEW TRANSIT BUS PURCHASES, PLEASE PROVIDE THE ANTICIPATED BUS ORDER DATES (MONTH/YEAR) AND ANTICIPATED NEW BUS DELIVERY DATES (MONTH/YEAR)
- FOR TRANSIT BUS RE-POWERS, PLEASE PROVIDE THE ANTICIPATED DATES FOR RE-POWER COMPLETION (MONTH/YEAR)
- FOR REFUSE COLLECTION TRUCK RE-POWERS, PLEASE PROVIDE THE ANTICIPATED DATES FOR RE-POWER COMPLETION (MONTH/YEAR)

ATTACHMENT D: CERTIFICATIONS

<div style="text-align: center;"><b>W-9</b></div> <div style="font-size: small;">Form (Rev. December 2014) Department of the Treasury Internal Revenue Service</div>	<b>Request for Taxpayer Identification Number and Certification</b>	<b>Give Form to the requester. Do not send to the IRS.</b>
Print or type See Specific Instructions on page 2.	<b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	<b>2</b> Business name/disregarded entity name, if different from above	
	<b>3</b> Check appropriate box for federal tax classification; check only <b>one</b> of the following seven boxes: <div style="display: flex; justify-content: space-between; font-size: x-small;"><div><input type="checkbox"/> Individual/sole proprietor or single-member LLC</div><div><input type="checkbox"/> C Corporation</div><div><input type="checkbox"/> S Corporation</div><div><input type="checkbox"/> Partnership</div><div><input type="checkbox"/> Trust/estate</div></div> <div style="font-size: x-small;"><input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <b>Note.</b> For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____</div>	<b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	<b>5</b> Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	<b>6</b> City, state, and ZIP code	
<b>7</b> List account number(s) here (optional)		

**Part I 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 Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

<b>Social security number</b>
[ ][ ]-[ ][ ]-[ ][ ][ ][ ][ ][ ]
or
<b>Employer identification number</b>
[ ][ ]-[ ][ ][ ][ ][ ][ ][ ][ ]

**Part II Certification**

Under penalties of perjury, I certify that:

1. 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
2. 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
3. I am a U.S. citizen or other U.S. person (defined below); and
4. 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 on page 3.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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**General Instructions**

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

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

**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?* on page 2.

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?* on page 2 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 Publication 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 28% 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 Part II instructions on page 3 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* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* above.

## 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* on page 3 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, list first, and then circle, the name of the person or entity whose number you entered in Part I of 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 in line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box in line 3.

**Limited Liability Company (LLC).** If the name on line 1 is an LLC treated as a partnership for U.S. federal tax purposes, check the “Limited Liability Company” box and enter “P” in the space provided. If the LLC has filed Form 8832 or 2553 to be taxed as a corporation, check the “Limited Liability Company” box and in the space provided enter “C” for C corporation or “S” for S corporation. If it is a single-member LLC that is a disregarded entity, do not check the “Limited Liability Company” box; instead check the first box in line 3 “Individual/sole proprietor or single-member LLC.”

## Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space in 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 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> 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.

## 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. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on this page), 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 the chart on page 4 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](http://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](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [IRS.gov](http://IRS.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

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 items 1, 4, or 5 below indicate 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), 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)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee <sup>1</sup> The actual owner <sup>1</sup>
5. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor <sup>3</sup>
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. 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
14. 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

<sup>1</sup> 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.

<sup>2</sup> Circle the minor’s name and furnish the minor’s SSN.

<sup>3</sup> 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.

<sup>4</sup> 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* on page 2.

**\*Note.** 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 Publication 4535, *Identity Theft Prevention and Victim Assistance*.

Victims of identity theft who are experiencing economic harm or a system 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](mailto: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](mailto:spam@uce.gov) or contact them at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 1-877-IDTHEFT (1-877-438-4338).

Visit [IRS.gov](http://IRS.gov) 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.



YEAR

CALIFORNIA FORM

## 2015 Withholding Exemption Certificate

590

The payee completes this form and submits it to the withholding agent.

**Withholding Agent** (Type or print)

Name

**Payee**

Name

☐ SSN or ITIN ☐ FEIN ☐ CA Corp no. ☐ CA SOS file no.

Address (apt./ste., room, PO Box, or PMB no.)

City (If you have a foreign address, see instructions.)

State

ZIP Code

### Exemption Reason

Check only one reason box below that applies to the payee.

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.

Under penalties of perjury, I hereby certify that the information provided in this document is, to the best of my knowledge, true and correct. If conditions change, I will promptly notify the withholding agent.

Payee's name and title (type or print) \_\_\_\_\_ Telephone (\_\_\_\_) \_\_\_\_\_

Payee's signature ► \_\_\_\_\_ Date \_\_\_\_\_

# 2015 Instructions for Form 590

## Withholding Exemption Certificate

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

### General Information

**Registered Domestic Partners (RDP)** – For purposes of California income tax, references to a spouse, husband, or wife also refer to a Registered Domestic Partner (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 information on California backup withholding, go to [ftb.ca.gov](http://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](http://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-C, Real Estate Withholding Certificate, to claim an exemption from real estate withholding.

**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

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.

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 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 certificate on the preprinted form, the withholding agent may accept as a substitute certificate a letter from the payee explaining why the payee is 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. The withholding agent must retain a copy of the certificate or substitute for at least four years after the last payment to which the certificate applies, and provide it upon request to the FTB.

For example, 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 non-wage 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, get 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 if it is a foreign corporation qualified to transact intrastate business by the CA SOS. 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. If a military servicemember and nonmilitary spouse have the same state of 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 servicemember and spouse have the same domicile 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.

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 servicemember and spouse have the same domicile in a state other than 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 taxpayer identification number (TIN) and check the appropriate TIN box.

You must provide an acceptable 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.

**Private Mail Box (PMB)** – Include the PMB in the address field. Write “PMB” first, then the box number. Example: 111 Main Street PMB 123.

**Foreign Address** – Enter the information in the following order: City, Country, Province/Region, and Postal Code. Follow the country's practice for entering the postal code. **Do not** abbreviate the country's name.

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

### Withholding Agent Instructions

Keep Form 590 for your records. **Do not** send this form to the FTB unless it has been specifically requested.

For more information, contact Withholding Services and Compliance, see Additional Information.

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, and Form 592-V, Payment Voucher for Resident and Nonresident Withholding.

## Additional Information

For additional information or to speak to a representative regarding this form, call the Withholding Services and Compliance telephone service at:

Telephone: **888.792.4900**  
916.845.4900

Fax: 916.845.9512

OR write to:

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

You can download, view, and print California tax forms and publications at [ftb.ca.gov](http://ftb.ca.gov).

OR to get forms by mail write to:

TAX FORMS REQUEST UNIT  
FRANCHISE TAX BOARD  
PO BOX 307  
RANCHO CORDOVA CA 95741-0307

For all other questions unrelated to withholding or to access the TTY/TDD numbers, see the information below.

### Internet and Telephone Assistance

Website: [ftb.ca.gov](http://ftb.ca.gov)  
Telephone: 800.852.5711 from within the  
United States  
916.845.6500 from outside the  
United States

TTY/TDD: 800.822.6268 for persons with  
hearing or speech impairments

### Asistencia Por Internet y Teléfono

Sitio web: [ftb.ca.gov](http://ftb.ca.gov)  
Teléfono: 800.852.5711 dentro de los  
Estados Unidos  
916.845.6500 fuera de los Estados  
Unidos

TTY/TDD: 800.822.6268 para personas con  
discapacidades auditivas  
o del habla

## 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 SCAQMD, (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 SCAQMD 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.

_____ <b>A. NAME</b>	_____ <b>TITLE</b>
_____ <b>B. TELEPHONE NUMBER</b>	_____ <b>DATE</b>

## **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 SCAQMD at the time of bid application.
- performs 90 percent of the work within SCAQMD’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 SCAQMD will receive at least as favorable pricing, warranties, conditions, benefits and terms as other customers or clients making similar purchases or receiving similar services.





## 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 MSRC, 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).

California law prohibits a party, or an agent, from making campaign contributions to SCAQMD Governing Board Members or members/alternates of the Mobile Source Air Pollution Reduction Review Committee (MSRC) of more than \$250 while their contract or permit is pending before SCAQMD; and further prohibits a campaign contribution from being made for three (3) months following the date of the final decision by the Governing Board or the MSRC 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 must abstain from voting on a contract or permit if they have received a campaign contribution from a party or participant 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 SCAQMD website ([www.aqmd.gov](http://www.aqmd.gov)). The list of current MSRC members/alternates can be found at the MSRC website (<http://www.cleantransportationfunding.org>).

### **SECTION I.**

**Contractor (Legal Name):** \_\_\_\_\_

DBA, Name \_\_\_\_\_, County Filed in \_\_\_\_\_

Corporation, ID No. \_\_\_\_\_

LLC/LLP, ID No. \_\_\_\_\_

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

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### **SECTION II.**

Has Contractor and/or any parent, subsidiary, or affiliated company, or agent thereof, 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 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.**

**Campaign Contributions Disclosure, *continued*:**

Name of Contributor \_\_\_\_\_

Governing Board Member or MSRC Member/Alternate	Amount of Contribution	Date of Contribution
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Name of Contributor \_\_\_\_\_

Governing Board Member or MSRC Member/Alternate	Amount of Contribution	Date of Contribution
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Name of Contributor \_\_\_\_\_

Governing Board Member or MSRC Member/Alternate	Amount of Contribution	Date of Contribution
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Name of Contributor \_\_\_\_\_

Governing Board Member or MSRC Member/Alternate	Amount of Contribution	Date of Contribution
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**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.

**AB 2766/MSRC WORK PROGRAM CONTRACT**

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1. **PARTIES** - The parties to this Contract are the South Coast Air Quality Management District (hereinafter referred to as "SCAQMD") whose address is 21865 Copley Drive, Diamond Bar, California 91765-4178, and the \*\*\* (hereinafter referred to as "CONTRACTOR") 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). SCAQMD is authorized under State Health & Safety Code Section 44225 (AB 2766) to levy a fee on motor vehicles for the purpose of reducing air pollution from such vehicles and to implement the California Clean Air Act.
  - B. Under AB 2766, SCAQMD's Governing Board has authorized the imposition of the statutorily set motor vehicle fee. 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 Contract with CONTRACTOR for equipment or services described in Attachment 1 - Statement of Work, expressly incorporated herein by this reference and made a part hereof of this Contract.
  - E. CONTRACTOR has met the requirements for receipt of AB 2766 Discretionary Funds as set forth in CONTRACTOR's \*\*\* Program Application/Proposal dated \*\*\*.
  - F. CONTRACTOR 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 Contract have had the opportunity to have this Contract reviewed by their attorney.
3. **DMV FEES** - CONTRACTOR acknowledges that SCAQMD cannot guarantee that the amount of fees to be collected under AB 2766 will be sufficient to fund this Contract. CONTRACTOR further acknowledges that payment under this Contract 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. CONTRACTOR shall, at least once every two years, or within two years of the termination of the Contract 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 CONTRACTOR were spent for the reduction of pollution from motor vehicles pursuant to the Clean Air Act of 1988.
  - B. CONTRACTOR agrees to maintain records related to this Contract during the Contract term and continue to retain these records for a period of two years beyond the Contract term, except that in no case shall CONTRACTOR be required to retain more than the most recent five years' records. SCAQMD shall coordinate such audit through CONTRACTOR'S audit staff.

- C. If an amount is found to be inappropriately expended, SCAQMD may withhold funding, or seek reimbursement, from CONTRACTOR 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 CONTRACTOR of its obligation to perform under the terms of this Contract.
5. TERM - The term of this Contract is for \*\*\* (\*\*) months from the date of execution by both parties, unless terminated earlier as provided for in the TERMINATION clause of this Contract, the EARLY TERMINATION clause, [OPTIONAL] or the term is extended by amendment of this Contract in writing. No work shall commence prior to the Contract start date, except at CONTRACTOR's cost and risk, and no charges are authorized until this Contract is fully executed, subject to the provisions stated in the PRE-CONTRACT COSTS clause of this Contract.
  6. SUCCESSORS-IN-INTEREST - This Contract, and the obligations arising under the Contract, shall be binding on and inure to the benefit of CONTRACTOR and their executors, administrators, successors, and assigns.
  7. REPORTING - CONTRACTOR 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 Contract.
  8. TERMINATION
    - A. In the event any party fails to comply with any term or condition of this Contract, 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 Contract. 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 contract. Notification shall be provided in the manner set forth in the NOTICES clause of this Contract. The non-breaching party reserves all rights under law and equity to enforce this Contract and recover damages.
    - B. SCAQMD reserves the right to terminate this Contract, in whole or in part, without cause, upon thirty (30) days' written notice. Once such notice has been given, CONTRACTOR shall, except as and to the extent or directed otherwise by SCAQMD, discontinue any Work being performed under this Contract and cancel any of CONTRACTOR's orders for materials, facilities, and supplies in connection with such Work, and shall use its best efforts to procure termination of existing subcontracts upon terms satisfactory to SCAQMD. Thereafter, CONTRACTOR shall perform only such services as may be necessary to preserve and protect any Work already in progress and to dispose of any property as requested by SCAQMD.
    - B. Either party may terminate this Contract upon thirty (30) days written notice to the other party.
    - C. CONTRACTOR shall be paid in accordance with this Contract for all Work performed before the effective date of termination under section B of the TERMINATION clause of this Contract. Before expiration of the thirty (30) days' written notice, CONTRACTOR shall promptly deliver to SCAQMD all copies of documents and other information and data prepared or developed by CONTRACTOR under this Contract with the exception of a record copy of such materials, which may be retained by CONTRACTOR.
  9. EARLY TERMINATION - This Contract 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 CONTRACTOR's negligence, misuse, or malfeasance. [OPTIONAL]
  10. STOP WORK - SCAQMD may, at any time, by written notice to CONTRACTOR, require CONTRACTOR to stop all or any part of the Statement of Work tasks in this Contract. A stop work order may be issued for

reasons including, but not limited to, the project exceeding the budget, out of scope work, delay in project schedule, or misrepresentations. Upon receipt of the stop work order, CONTRACTOR shall immediately take all necessary steps to comply with the order. CONTRACTOR shall resume the work only upon receipt of written instructions from SCAQMD cancelling the stop work order. CONTRACTOR agrees and understands that CONTRACTOR will not be paid for performing work while the stop work order is in effect, unless SCAQMD agrees to do so in its written cancellation of the stop work order.

#### 11. INSURANCE

- A. CONTRACTOR 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 Contract.
- B. CONTRACTOR 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 Contract. 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 CONTRACTOR to SCAQMD.
- C. CONTRACTOR 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 Contract. 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 CONTRACTOR to SCAQMD.
- D. CONTRACTOR shall furnish evidence to SCAQMD of Professional Liability Insurance with an aggregate limit of not less than \$5,000,000. [OPTIONAL]
- E. If CONTRACTOR 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 CONTRACTOR or terminate this Contract for breach.
- F. All insurance certificates shall be mailed to: SCAQMD, 21865 Copley Drive, Diamond Bar, CA 91765-4178, Attention: Cynthia Ravenstein, MSRC Contracts Administrator. **The SCAQMD Contract Number must be included on the face of the certificate.**
- G. CONTRACTOR must provide updates on the insurance coverage throughout the term of the Contract to ensure that there is no break in coverage during the period of contract performance. Failure to provide evidence of current coverage shall be grounds for termination for breach of Contract.

**[USE ABOVE CLAUSE OR SELF INSURANCE CLAUSE BELOW]**

#### **Self Insurance Clause:**

INSURANCE - CONTRACTOR 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 Contract. CONTRACTOR shall provide evidence of sufficient coverage during the term of this Contract and any extensions thereof that meet or exceed the minimum requirements set forth by the SCAQMD below. The certificate of self-insurance shall be mailed to: SCAQMD, 21865 Copley Drive, Diamond Bar, CA 91765-4178, Attention: Cynthia Ravenstein, MSRC Contracts Administrator. **The SCAQMD Contract Number must be included on the face of the certificate.** If CONTRACTOR fails to maintain the required insurance coverage, SCAQMD reserves the right to terminate the Contract or purchase such additional

insurance and bill CONTRACTOR or deduct the cost thereof from any payments owed to CONTRACTOR. 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.

12. INDEMNIFICATION - CONTRACTOR 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 CONTRACTOR, its employees, subcontractors, agents or representatives in the performance of this Contract. This Indemnification Clause shall survive the expiration or termination (for any reason) of the Contract and shall remain in full force and effect.

13. DISCLAIMER OF WARRANTY - The purchase or lease of funded vehicles/equipment is the CONTRACTOR'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. [OPTIONAL]

#### 14. PAYMENT

- A. SCAQMD shall reimburse CONTRACTOR 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 Contract.
- 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, CONTRACTOR'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 Contract termination or Contract completion shall revert to the AB 2766 Discretionary Fund. Payment of charges shall be made by SCAQMD to CONTRACTOR within thirty (30) days after approval by SCAQMD of an itemized invoice prepared and furnished by CONTRACTOR.
- D. An invoice submitted to SCAQMD for payment must be prepared in duplicate, on company letterhead, and list SCAQMD's contract number, period covered by invoice, and CONTRACTOR'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, subcontractors, and other charges, as applicable, must be itemized by CONTRACTOR. Reimbursement for equipment, material, supplies, subcontractors, 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 CONTRACTOR).
  2. SCAQMD shall pay CONTRACTOR for travel-related expenses only if such travel is expressly set forth in Attachment 2 – **Payment**/Cost Schedule of this Contract or pre-authorized by SCAQMD in writing.
  3. CONTRACTOR's failure to provide receipts shall be grounds for SCAQMD's non-reimbursement of such charges. CONTRACTOR may reduce payments on invoices by those charges for which receipts were not provided.
  4. CONTRACTOR must submit final invoice no later than ninety (90) days after the termination date of this Contract or invoice may not be paid.
15. COMPLIANCE WITH APPLICABLE LAWS - CONTRACTOR agrees to comply with all federal, state, and local laws, ordinances, codes and regulations and orders of public authorities in the performance of this Contract. CONTRACTOR must also ensure that the vehicles and/or equipment to be purchased, leased or installed is in compliance with all applicable federal, state, and local air quality rules and regulations, and that it will maintain compliance for the full Contract term. CONTRACTOR shall ensure that the provisions of this clause are included in all 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. CONTRACTOR 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. CONTRACTOR would then receive the balance of the MSERCs not associated with AB 2766 funding.
17. NOTICES - All notices that are required under this Contract 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](mailto:cravenstein@aqmd.gov)

## CONTRACTOR:

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Attn: \*\*\*, email: \*\*\*

18. INDEPENDENT CONTRACTOR - CONTRACTOR is an independent contractor. CONTRACTOR, its officers, employees, agents, representatives, or subcontractors shall in no sense be considered employees or agents of SCAQMD, nor shall CONTRACTOR, its officers, employees, agents, representatives, or subcontractors 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, CONTRACTOR's or subcontractor'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. SUBCONTRACTOR APPROVAL - If CONTRACTOR intends to subcontract all or a portion of the work under this Contract, then CONTRACTOR must first obtain written approval from SCAQMD's Executive Officer or designee prior to subcontracting any work. Any material changes to the subcontract(s) that affect the scope of work, deliverable schedule, and/or payment/cost schedule shall also require the prior written approval of the SCAQMD Executive Officer or designee. No subcontract charges will be reimbursed unless the required approvals have been obtained from SCAQMD.
20. OWNERSHIP - Title and full ownership rights to any equipment purchased under this Contract shall at all times remain with CONTRACTOR.

**[USE ABOVE CLAUSE, OR USE CLAUSE BELOW FOR PROFESSIONAL SERVICES]**

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



- A. **PATENT RIGHTS** - CONTRACTOR shall have patent rights, as well as title and full ownership rights, for invention(s) developed under this Contract, subject to SCAQMD retaining a no-cost, nonexclusive, nontransferable, irrevocable license to use or test such invention(s) for SCAQMD purposes. CONTRACTOR 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. 1 et seq., or any foreign country) inventions are exempt from this provision. CONTRACTOR 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 CONTRACTOR under this Contract. CONTRACTOR shall have the right to use data for its own benefit.
  - C. **COPYRIGHT** - CONTRACTOR 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 Contract.
  - D. **SOFTWARE RIGHTS** - CONTRACTOR agrees to grant SCAQMD a worldwide, royalty free, nonexclusive, irrevocable, nontransferable license in perpetuity to use any software developed by CONTRACTOR in performing its obligations under this Contract. CONTRACTOR 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 CONTRACTOR'S obligations under this Contract or necessary to the operation of the software developed by CONTRACTOR. CONTRACTOR shall provide SCAQMD with documentation confirming CONTRACTOR'S right to assign the use of such software. CONTRACTOR shall also provide SCAQMD with all documentation and manuals required to operate the software developed by it or third parties.
  - E. **CONTRACTOR'S INSOLVENCY OR BANKRUPTCY, or PROJECT'S DISCONTINUATION** - CONTRACTOR agrees that in the event that CONTRACTOR becomes insolvent or files for bankruptcy during the term of the Contract or does not complete the intent of the Contract, title to goods, services software, and equipment purchased for the performance of this Contract with AB 2766 Discretionary Funds shall revert to the SCAQMD.
21. **SECURITY INTEREST** - CONTRACTOR 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 Contract. CONTRACTOR 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 CONTRACTOR, under this Contract or any amendments thereto. The SCAQMD shall have lien rights in effect until the CONTRACTOR satisfies all terms under the Contract, including but not limited to, the use and reporting requirements. **Accordingly, CONTRACTOR 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 Contract.** In the event CONTRACTOR files for bankruptcy protection, CONTRACTOR shall notify SCAQMD within 10 business days of such filing. **[OPTIONAL]**
22. **NON-DISCRIMINATION** - In the performance of this Contract, CONTRACTOR shall not discriminate in recruiting, hiring, promotion, demotion, or termination practices on the basis of race, religious creed, color, national origin, ancestry, sex, age, or physical handicap and shall comply with the provisions of the California Fair Employment & Housing Act (Government Code Section 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. CONTRACTOR shall likewise

require each subcontractor to comply with this clause and shall include in each such subcontract language similar to this clause.

## 23. CITIZENSHIP AND ALIEN STATUS

- A. CONTRACTOR warrants that it fully complies with all laws regarding the employment of aliens and others, and that its employees performing services hereunder meet the citizenship or alien status requirements contained in federal and state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986 (P.L. 99-603). CONTRACTOR shall obtain from all covered employees performing services hereunder all verification and other documentation of employees' eligibility status required by federal statutes and regulations as they currently exist and as they may be hereafter amended. CONTRACTOR shall have a continuing obligation to verify and document the continuing employment authorization and authorized alien status of employees performing services under this Contract to insure continued compliance with all federal statutes and regulations. Notwithstanding the above, CONTRACTOR, in the performance of this Contract, shall not discriminate against any person in violation of 8 USC Section 1324b.
- B. CONTRACTOR shall retain such documentation for all covered employees for the period described by law. CONTRACTOR shall indemnify, defend, and hold harmless SCAQMD, its officers and employees from employer sanctions and other liability which may be assessed against CONTRACTOR or SCAQMD, or both in connection with any alleged violation of federal statutes or regulations pertaining to the eligibility for employment of persons performing services under this Contract.

## 24. ASSIGNMENT AND TRANSFER OF EQUIPMENT

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

25. NON-EFFECT OF WAIVER - The failure of CONTRACTOR or SCAQMD to insist upon the performance of any or all of the terms, covenants, or conditions of this Contract, 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.

26. PROPOSAL INCORPORATION – CONTRACTOR'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 Contract. In the event of any conflict between the terms and conditions of this Contract and CONTRACTOR's Technical Proposal, this Contract shall govern and control. [OPTIONAL]

27. KEY PERSONNEL - [OPTIONAL]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.  
[\[OPTIONAL\]](#)

28. TAX IMPLICATIONS FROM RECEIPT OF MSRC FUNDS - CONTRACTOR is advised to consult a tax attorney regarding potential tax implications from receipt of MSRC funds.
29. ATTORNEYS' FEES - In the event any action is filed in connection with the enforcement or interpretation of this Contract, each party in said action shall pay its own attorneys' fees and costs.
30. FORCE MAJEURE - Neither SCAQMD nor CONTRACTOR shall be liable or deemed to be in default for any delay or failure in performance under this Contract 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 reasonable control of SCAQMD or CONTRACTOR.
31. SEVERABILITY - In the event that any one or more of the provisions contained in this Contract 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 Contract, and the Contract shall then be construed as if such unenforceable provisions are not a part hereof.
32. HEADINGS - Headings on the clauses of this Contract 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 Contract.
33. DUPLICATE EXECUTION - This Contract is executed in duplicate. Each signed copy shall have the force and effect of an original.
34. GOVERNING LAW - This Contract 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 Contract shall be Los Angeles County, California.
35. PRE-CONTRACT COSTS - Any costs incurred by CONTRACTOR prior to CONTRACTOR receipt of a fully executed Contract shall be incurred solely at the risk of the CONTRACTOR. In the event that a formal Contract is not executed, neither the MSRC nor the SCAQMD shall be liable for any amounts expended in anticipation of a formal Contract. If a formal Contract does result, pre-contract cost expenditures authorized by the Contract will be reimbursed in accordance with the [Payment/Cost](#) Schedule and payment provision of the Contract.
36. CHANGE TERMS - Changes to any part of this Contract must be requested in writing by CONTRACTOR and approved by MSRC in accordance with MSRC policies and procedures. CONTRACTOR must make requests a minimum of 90 days prior to desired effective date of change. All modifications to this Contract shall be in writing and signed by the authorized representatives of the parties. Fueling station location changes shall not be approved under any circumstances.
37. PREVAILING WAGES - CONTRACTOR is alerted to the prevailing wage requirements of California Labor Code section 1770 et seq., and the compliance monitoring and enforcement of such requirements by the Department of Industrial Relations ("DIR"). CONTRACTOR and all of CONTRACTOR's subcontractors must comply with the California Public Works Contractor Registration Program and, where applicable, must be registered with the DIR to participate in public works projects. CONTRACTOR shall be responsible for

determining the applicability of the provisions of California Labor Code and complying with the same, including, without limitation, 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 any applicable prevailing rates, posting copies thereof at the job site and flowing all applicable prevailing wage rate requirements to its subcontractors. Proof of compliance with these requirements must be provided to SCAQMD upon request. CONTRACTOR shall indemnify, defend and hold harmless the South Coast Air Quality Management District against any and all claims, demands, damages, defense costs or liabilities based on failure to adhere to the above referenced statutes. [OPTIONAL]

38. ENTIRE CONTRACT - This Contract represents the entire agreement between CONTRACTOR 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.
39. AUTHORITY - The signator hereto represents and warrants that he or she is authorized and empowered and has the legal capacity to execute this Contract and to legally bind CONTRACTOR both in an operational and financial capacity and that the requirements and obligations under this Contract are legally enforceable and binding on CONTRACTOR.

(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK)

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

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

\*\*\*

By: \_\_\_\_\_  
Dr. William A. Burke, Chairman, Governing Board

By: \_\_\_\_\_  
Name:  
Title:

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:  
Saundra McDaniel, Clerk of the Board

By: \_\_\_\_\_

APPROVED AS TO FORM:  
Kurt R. Wiese, General Counsel

By: \_\_\_\_\_

//MSRC Master Boilerplate  
Revised January 27, 2016