

SAMPLE CONTRACT



South Coast Air Quality Management District

Contract No. *****
Standard

This Contract consists of 13 pages.

1. PARTIES

The parties to this contract ("Contract") are the South Coast Air Quality Management District (referred to here as "SCAQMD") whose address is 21865 Copley Drive, Diamond Bar, California 91765-4178, and ***** (referred to here as "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. SCAQMD desires to contract with CONTRACTOR for, and CONTRACTOR desires to provide, the services described in Attachment 1 - Statement of Work, attached here and made a part here by this reference. CONTRACTOR warrants that it is well-qualified and has the experience to provide such services on the terms set forth here.
- B. 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.
- C. All parties to this Contract have had the opportunity to have this Contract reviewed by their attorney.
- D. CONTRACTOR acknowledges that this Contract is funded in part by an award to the SCAQMD from *** for which the funding agreement/grant has not been executed. Applicable funding agency-specific requirements/terms and conditions as well as the respective funding amount, shall be incorporated to this Contract after such funding agreement/grant is fully executed by the SCAQMD. Such items shall be incorporated to this Contract through a written Contract Modification signed by the parties. **ONLY USE THIS IF THE CONTRACT AMOUNT WILL BE FOR LESS THAN THE FULL AMOUNT DUE TO NOT RECEIVING ALL THE FUNDING FROM EXTERNAL AGENCIES**

3. PERFORMANCE REQUIREMENTS

- A. CONTRACTOR agrees to obtain and maintain the required licenses, permits, and all other appropriate legal authorizations from all applicable federal, state and local jurisdictions and pay all applicable fees. CONTRACTOR further agrees to immediately notify SCAQMD in writing of any change in its licensing status which has a material impact on the CONTRACTOR's performance under this Contract.
- B. CONTRACTOR shall submit reports to SCAQMD as outlined in Attachment 1 - Statement of Work. Unless otherwise stated herein, all reports shall be submitted in an environmentally friendly format: recycled paper; stapled, not bound; black and white, double-sided print; and no three-ring, spiral, or plastic binders or cardstock covers. SCAQMD reserves the right to review, comment, and request changes to any report produced as a result of this Contract.
- C. CONTRACTOR shall perform all tasks set forth in Attachment 1 - Statement of Work, and CONTRACTOR represents and warrants that it has no business, professional, personal or other interest that would conflict in any manner or degree with the performance of its obligations under this Contract. If any such actual or potential conflict of interest arises during the term of this Contract, CONTRACTOR shall immediately inform SCAQMD in writing, and SCAQMD may, in its sole judgment, terminate this Contract immediately upon written notice to CONTRACTOR.
- D. CONTRACTOR shall be responsible for exercising the degree of skill and care customarily required by accepted professional practices and procedures subject to SCAQMD's final approval which

SCAQMD will not unreasonably withhold. Any costs incurred due to the failure to meet the foregoing standards, or otherwise defective services which require re-performance, as directed by SCAQMD, shall be the responsibility of CONTRACTOR. If CONTRACTOR is deemed by SCAQMD to have failed the foregoing standards of performance, the SCAQMD may request re-performance. CONTRACTOR shall require its subcontractors to abide by the requirements set forth in this Contract.

4. PERFORMANCE BOND [REMOVE IF NOT REQUESTED ON CRAM]

- A. CONTRACTOR shall obtain a performance bond from a surety authorized to issue such bonds within the State of California, and shall be in an amount equal to one hundred (100) percent of the Contract amount to guaranty faithful performance of all work, within the time prescribed, in a manner satisfactory to SCAQMD, and that all materials and workmanship will be free from original or developed defects. The bond must remain in effect for the time period defined in Attachment 1 - Statement of Work. CONTRACTOR shall pay all bond premiums, costs and incidentals. CONTRACTOR shall deliver the performance bond to the applicable SCAQMD point of contact prior to performing any work under the Contract.
- SCAQMD has the right to review the terms and conditions of the performance bond and to request modifications thereto which will ensure that SCAQMD will be compensated in the event CONTRACTOR fails to perform and also provides SCAQMD with the opportunity to review the qualifications of the entity designated by the issuer of the performance bond to perform in CONTRACTOR's absence and, if necessary, the right to reject such entity.
- C. Should any bond become insufficient, the CONTRACTOR shall renew the bond within ten (10) days after receiving notice from SCAQMD. Should any surety at any time be unsatisfactory to SCAQMD, notice to that effect will be given to the CONTRACTOR, and no further payments shall be deemed due or will be made under the Contract until a new surety qualifies and is accepted by SCAQMD. Changes in the Statement of Work or extensions of time, made pursuant to the Contract, shall in no way release the CONTRACTOR or surety from the obligation. Notice of such changes or extensions shall be waived by the surety.

5. PAYMENT BOND (MATERIAL AND LABOR BOND) [Applicable only if contract exceeds \$25,000 and work is being done to property owned by SCAQMD]

- A. Within fourteen days after execution of the Contract by the SCAQMD and prior to performing any work under the Contract, the CONTRACTOR shall file with the SCAQMD, a payment bond (material and labor bond) in an amount equal to one hundred (100) percent of the Contract amount, to satisfy claims of material suppliers and of mechanics and laborers employed by the CONTRACTOR to perform the work.
- B. Should any surety, at any time, be deemed unsatisfactory by the SCAQMD, notice will be given to the CONTRACTOR to that effect. No further payments shall be deemed due, or will be made under the Contract until a new surety shall qualify and be accepted by the SCAQMD.
- C. Changes in the work, or extensions of time, made pursuant to the Contract, shall in no way release the CONTRACTOR or the surety from their obligations under the bond. Notice of such changes or extensions shall be waived by the surety.
- D. The bond shall be maintained by the CONTRACTOR in full force and effect until the performance of the Contract is accepted by SCAQMD and until all claims for materials and labor are paid, and otherwise comply with the Civil Code. CONTRACTOR shall provide SCAQMD with Conditional Lien Releases with each payment request and Unconditional Lien Releases for the final payment for all material suppliers, mechanics and laborers employed on the project.

6. TERM

This Contract will become effective when signed by both parties and shall remain in effect for (***) years thereafter, unless terminated as specified herein or extended by amendment of this Contract in writing. No work shall commence until this Contract is fully executed by all parties. {Remove this last sentence if Pre-Contract Clause is used}

This Contract will become effective when signed by both parties and shall remain in effect until *** (insert date), unless terminated as specified herein or extended by amendment of this Contract in writing. No work shall commence until this Contract is fully executed by all parties. {Remove this last sentence if Pre-Contract Clause is used}

This Contract will become effective when signed by both parties for the period starting *** (insert date) and shall remain in effect until *** (insert date), unless terminated as specified herein or extended by amendment of this Contract in writing. No work shall commence until this Contract is fully executed by all parties. {Remove this last sentence if Pre-Contract Clause is used}

7. 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 Clause 13. 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.
- C. CONTRACTOR shall be paid in accordance with Attachment 2 – Payment/Cost Schedule for work performed before the effective date of termination under Clause 5.B. 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.

8. STOP WORK

SCAQMD may, at any time, by written notice to CONTRACTOR, require CONTRACTOR to stop all or any part of the 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.

9. INSURANCE

CONTRACTOR shall procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, his agents, representatives, employees or subcontractors. Insurance must be placed with insurers authorized to conduct business in the State of California with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the SCAQMD. Coverage shall be at least as broad as listed below.

- A. Workers' Compensation - CONTRACTOR shall furnish evidence to SCAQMD of workers' compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease, prior to commencement of any work on this Contract.
- B. Commercial General Liability - CONTRACTOR shall furnish evidence to SCAQMD of commercial general liability insurance (ISO Form CG 00 01) on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with a limit of at least \$1,000,000 per occurrence, prior to commencement of any work on this Contract. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit. 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. Automobile Liability - CONTRACTOR shall furnish evidence to SCAQMD of automobile liability insurance (ISO Form CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired (Code 8) and non-owned autos (Code 9)), with a limit of at least \$1,000,000 per accident for bodily injury and 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. **[THIS IS THE ONLY INSURANCE REQUIREMENT FOR SOLE PROPRIETOR CONSULTANTS-REMOVE A, B AND D-ALL OTHERS THIS CLAUSE REMAINS!]**
- D. Professional Liability (Errors and Omissions) - CONTRACTOR shall furnish evidence of insurance appropriate to the CONTRACTOR's profession, with limit of no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. **[INCLUDE for professional services if professional liability insurance coverage is normally required in CONTRACTOR's profession (e.g. insurance agents, professional architects and engineers, CPAs, lawyers, doctors, computer or software designers, etc.)]**
- E. If CONTRACTOR maintains broader coverage and/or higher limits than the minimums shown above, SCAQMD shall be entitled to the broader coverage and/or the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance coverage shall be available to SCAQMD.
- F. For any claims related to this Contract, CONTRACTOR's insurance coverage shall be primary coverage. Any insurance maintained by SCAQMD, its officers, officials, or employees shall be excess of CONTRACTOR's insurance and shall not contribute with it.
- G. CONTRACTOR hereby grants to SCAQMD a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the SCAQMD by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary

to effect this waiver of subrogation, but this provision applies regardless of whether or not the SCAQMD has received a waiver of subrogation endorsement from the insurer.

- H. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the SCAQMD. If CONTRACTOR fails to maintain the required insurance, 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.
- I. All insurance certificates and other documents evidencing coverage must be sent to SCAQMD Risk Management, by email (insurancecertificate@aqmd.gov) or by fax (909-396-3979). **The SCAQMD Contract Number must be included on the face of the certificate.**
- J. CONTRACTOR has the right to self-insure all or any portion of its insurance obligations herein.
[ADD for Universities-Otherwise Remove]

10. 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, including for any work for which CONTRACTOR claims payment under Clause ** - Pre-Contract Costs. **(Include this language only if the Pre-Contract Costs Clause is used in this Contract-otherwise REMOVE)**. This Indemnification Clause shall survive the expiration or termination (for any reason) of the Contract and shall remain in full force and effect.

11. RECORDS RETENTION, ON-SITE INSPECTIONS AND AUDIT

- A. CONTRACTOR agrees to the following Records Retention Period: maintain records related to this Contract during the Contract term and continue to retain these records for a period of three years beyond the Contract term.
- B. SCAQMD, or its designee(s), shall have the right to conduct on-site inspections of the project and to audit records related to this Contract during the Records Retention Period. CONTRACTOR agrees to include a similar right for SCAQMD to conduct on-site inspections and audits in any related subcontract.
- C. If an amount is found to be inappropriately expended, CONTRACTOR shall reimburse SCAQMD, or SCAQMD may withhold payment from CONTRACTOR, as applicable, in the amount equal to the amount which was inappropriately expended. Such withholding or reimbursement 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.

12. CO-FUNDING/IN-KIND CONTRIBUTIONS/COST-SHARE **[USE IF REQUIRED]**

- A. CONTRACTOR shall obtain **co-funding/in-kind contributions/cost-share** as follows: *****, *** Dollars (\$***); ***, *** Dollars (\$***); ***, *** Dollars (\$***); ***, *** Dollars (\$***); ***, *** Dollars (\$***); and ***, *** Dollars (\$***)**. If CONTRACTOR fails to obtain **co-funding/in-kind contributions/cost-share** in the amount(s) referenced above, then SCAQMD reserves the right to renegotiate or terminate this Contract.
- B. CONTRACTOR shall provide **co-funding/in-kind contributions/cost-share** in the amount of ***** Dollars (\$***)** for this project. If CONTRACTOR fails to provide this **co-funding/in-kind contributions/cost-share**, then SCAQMD reserves the right to renegotiate or terminate this Contract.

13. PAYMENT

[FIXED PRICE]-use this one or the T&M one below.

- A. SCAQMD shall pay CONTRACTOR up to the fixed price/not-to-exceed amount of *** Dollars (\$***), for work performed under this Contract in accordance with Attachment 2 - Payment Schedule, attached here and included here by reference. Payment shall be made by SCAQMD to CONTRACTOR within thirty (30) days after approval by SCAQMD of an invoice prepared and furnished by CONTRACTOR showing services performed and referencing tasks and deliverables as shown in Attachment 1 - Statement of Work, and the amount of charge claimed. Each invoice 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, Attn: ***.
- B. Upon completion or termination of the Contract, CONTRACTOR shall submit the final invoice (if any) no later than ninety (90) days after such completion or termination date. The invoice shall be clearly marked as "FINAL" and prepared as indicated in 10A. above.
- C. A withhold amount or percentage (if any) shall be identified in the Payment/Cost Schedule, and such amount shall be withheld from payment from each invoice. Upon satisfactory completion of the project and final acceptance of work and the final report, the withheld amount shall be released for payment to CONTRACTOR. **[OPTIONAL]**
- D. SCAQMD reserves the right to disallow charges when the invoiced services are not performed satisfactorily in SCAQMD's sole judgment, and CONTRACTOR has not met other terms of the Contract.

[T & M]-use this one or the Fixed Price one above.

- A. SCAQMD shall pay CONTRACTOR up to a total not-to-exceed amount of *** Dollars (\$***), including any authorized travel-related expenses, for time and materials at rates in accordance with Attachment 2 - Cost Schedule, attached here and included here by this reference. 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 referencing line item expenditures as listed in Attachment 2 and the amount of charge claimed. Each invoice 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, Attn: ***.
- B. Upon completion or termination of the Contract, CONTRACTOR shall submit the final invoice (if any) no later than ninety (90) days after such completion or termination date. The invoice shall be clearly marked as "FINAL" and prepared as indicated in 10A. above.
- C. CONTRACTOR shall adhere to total tasks and/or cost elements (cost category) expenditures as listed in Attachment 2. Reallocation of costs between tasks and/or cost category expenditures is permitted up to One Thousand Dollars (\$1,000) upon prior written approval from SCAQMD. Reallocation of costs in excess of One Thousand Dollars (\$1,000) between tasks and/or cost category expenditures requires an amendment to this Contract. **[REMOVE IF NO COST CATEGORIES ARE INCLUDED ON COST SCHEDULE]**
- D. SCAQMD's payment of invoices shall be subject to the following limitations and requirements:
 - i) 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 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). SCAQMD's reimbursement of travel expenses and requirements for supporting documentation are listed below.

- ii) CONTRACTOR's failure to provide receipts, with the exception of business meal and incidental expenses (M&IE), shall be grounds for SCAQMD's non-reimbursement of such charges. SCAQMD may reduce payments on invoices by those charges for which receipts were not provided.
 - iii) SCAQMD shall not pay interest, fees, handling charges, or cost of money on Contract.
- E. SCAQMD shall reimburse CONTRACTOR for travel-related expenses only if such travel is expressly set forth in Attachment 2 - Cost Schedule of this Contract or pre-authorized by SCAQMD in writing.
- i) SCAQMD's reimbursement of travel-related expenses shall cover lodging, meals, other incidental expenses, and costs of transportation subject to the following limitations:
 - a) Air Transportation - Coach class rate for all flights. If coach is not available, business class rate is permissible.
 - b) Car Rental - A compact car rental. A mid-size car rental is permissible if car rental is shared by three or more individuals.
 - c) Per Diem Rates - CONTRACTOR will be reimbursed for business meal and incidental expenses (M&IE) according to the per diem rates in effect at the time of travel, as promulgated by the GSA, www.gsa.gov/perdiem, for the employee's city of destination. The per diem is 75% of the applicable M&IE rate, if travel is less than 24 hours. If travel is 24 hours or more, then the per diem is 75% of applicable M&IE rate on the day of departure, 100% of the applicable M&IE rate for the full day/days of travel, and 75% of the applicable M&IE on last day of travel, as set forth in Federal Travel Regulation Section 301-11.101(a). The per diem rate includes incidental expenses such as tips for meals, porters, baggage carriers, hotel staff, and cab drivers. CONTRACTOR shall be responsible for any charges exceeding limits specified in this section.
 - d) Lodging - lodging rate as promulgated by the GSA, www.gsa.gov/perdiem. A higher amount of reimbursement is permissible if pre-approved by SCAQMD.
 - ii) Supporting documentation shall be provided for travel-related expenses in accordance with the following requirements:
 - Lodging, Airfare, Car Rentals - Bill(s) for actual expenses incurred.
 - Mileage - Beginning each January 1, the rate shall be adjusted effective February 1, based on the Internal Revenue Service Standard Mileage Rate.
 - Other travel-related expenses - Receipts are required for all individual items.
- F. SCAQMD reserves the right to disallow charges when the invoiced services are not performed satisfactorily in SCAQMD's sole judgment, and CONTRACTOR has not met other terms of the Contract.

14. 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 in the performance of this Contract are 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.

15. INTELLECTUAL PROPERTY RIGHTS

Title and full ownership rights to any documents or reports developed under this Contract and submitted to SCAQMD shall at all times remain with SCAQMD. Such material is agreed to be SCAQMD proprietary information.

- A. Rights of Technical Data - SCAQMD shall have the unlimited right to use technical data, including material designated as a trade secret, resulting from the performance of services by CONTRACTOR under this Contract. CONTRACTOR shall have the right to use technical data for its own benefit.
- B. Copyright - CONTRACTOR agrees to grant SCAQMD a royalty-free, nonexclusive, irrevocable license to produce, translate, publish, use, and dispose of all copyrightable material first produced or composed in the performance of this Contract.

16. 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: ***, email: ***

CONTRACTOR: ***

Attn: ***, email: ***

17. 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. CONTRACTOR shall promptly notify SCAQMD of any material changes to subcontracts that affect the Contract's scope of work, deliverable schedule, and/or payment/cost schedule.

18. CONFIDENTIALITY

It is expressly understood and agreed that SCAQMD may designate in a conspicuous manner the information which CONTRACTOR obtains from SCAQMD as confidential. CONTRACTOR agrees to:

- A. Observe complete confidentiality with respect to such information, including without limitation, agreeing not to disclose or otherwise permit access to such information by any other person or entity in any manner whatsoever, except that such disclosure or access shall be permitted to employees or subcontractors of CONTRACTOR requiring access in fulfillment of the services provided under this Contract.
- B. Ensure that CONTRACTOR's officers, employees, agents, representatives, and independent contractors are informed of the confidential nature of such information and to assure by agreement or otherwise that they are prohibited from copying or revealing, for any purpose whatsoever, the contents of such information or any part thereof, or from taking any action otherwise prohibited under this clause.
- C. Not use such information or any part thereof in the performance of services to others or for the benefit of others in any form whatsoever whether gratuitously or for valuable consideration, except as permitted under this Contract.
- D. Notify SCAQMD promptly and in writing of the circumstances surrounding any possession, use, or knowledge of such information or any part thereof by any person or entity other than those authorized by this clause.
- E. Take at CONTRACTOR expense, but at SCAQMD's option and in any event under SCAQMD's control, any legal action necessary to prevent unauthorized use of such information by any third party or entity which has gained access to such information at least in part due to the fault of CONTRACTOR.
- F. Take any and all other actions necessary or desirable to assure such continued confidentiality and protection of such information.
- G. Prevent access to such information by any person or entity not authorized under this Contract.
- H. Establish specific procedures in order to fulfill the obligations of this clause.
- I. Notwithstanding the above, nothing herein is intended to abrogate or modify the provisions of Government Code Section 7920.000 et.seq. (Public Records Act).

19. PUBLICATION

- A. SCAQMD shall have the right of prior written approval of any document which shall be disseminated to the public by CONTRACTOR in which CONTRACTOR utilized information obtained from SCAQMD in connection with performance under this Contract.
- B. Information, data, documents, or reports developed by CONTRACTOR for SCAQMD, pursuant to this Contract, shall be part of SCAQMD public record unless otherwise indicated. CONTRACTOR may use or publish, at its own expense, such information provided to SCAQMD. The following acknowledgment of support and disclaimer must appear in each publication of materials, whether copyrighted or not, based upon or developed under this Contract.

"This report was prepared as a result of work sponsored, paid for, in whole or in part, by the South Coast Air Quality Management District (SCAQMD). The opinions, findings, conclusions, and recommendations are those of the author and do not necessarily represent the views of SCAQMD. SCAQMD, its officers, employees, contractors, and subcontractors make no warranty, expressed or implied, and assume no legal liability for the information in this report. SCAQMD has not approved or disapproved this report, nor has SCAQMD passed upon the accuracy or adequacy of the information contained herein."

C. CONTRACTOR shall inform its officers, employees, and subcontractors involved in the performance of this Contract of the restrictions contained herein and require compliance with the above.

20. NON-DISCRIMINATION

In the performance of this Contract, CONTRACTOR shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment on the basis of race, religious creed, color, national origin, ancestry, sex, gender, gender identity, gender expression, sexual orientation, marital status, veteran or military status, age, mental status, medical condition, physical or mental disability, or allow unlawful denial of family and medical care leave, denial of pregnancy disability leave, or reasonable accommodations. CONTRACTOR 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, and all administrative rules and regulations issued pursuant to said Acts and Order.

21. SOLICITATION OF EMPLOYEES

CONTRACTOR expressly agrees that CONTRACTOR shall not, during the term of this Contract, nor for a period of six months after termination, solicit for employment, whether as an employee or independent contractor, any person who is or has been employed by SCAQMD during the term of this Contract without the consent of SCAQMD.

22. PROPERTY AND SECURITY

Without limiting CONTRACTOR's obligations with regard to security, CONTRACTOR shall comply with all the rules and regulations established by SCAQMD for access to and activity in and around SCAQMD premises.

23. ASSIGNMENT

The rights granted hereby may not be assigned, sold, licensed, or otherwise transferred by either party without the prior written consent of the other, and any attempt by either party to do so shall be void upon inception.

24. 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.

25. ATTORNEYS' FEES

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

26. FORCE MAJEURE

A party shall not 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 party's reasonable control.

27. 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.

28. 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.

29. SIGNATURES

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

30. 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.

31. MOST FAVORED CUSTOMER

CONTRACTOR certifies that, under this Contract, SCAQMD is receiving, and will receive, at least as favorable pricing, warranties, conditions, benefits and terms as other CONTRACTOR customers or clients making similar purchases or receiving similar services. **[USE IF REQUESTED ON CRAM]**

32. PRE-CONTRACT COSTS

Any costs incurred by CONTRACTOR prior to CONTRACTOR's receipt of a fully executed Contract shall be incurred solely at the risk of the CONTRACTOR. In the event that this Contract is not executed, the SCAQMD shall not be liable for any amounts expended in anticipation of a fully executed Contract. If this Contract is fully executed, pre-contract cost expenditures authorized by the Contract will be reimbursed in accordance with the **Payment/Cost** Schedule and payment provision of the Contract. **[IF REQUESTED ON CRAM]**

33. 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 ensure 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.

34. **REQUIREMENT FOR FILING STATEMENT OF ECONOMIC INTERESTS**

In accordance with the Political Reform Act of 1974 (Government Code Sec. 81000 et seq.) and regulations issued by the Fair Political Practices Commission (FPPC), SCAQMD has determined that the nature of the work to be performed under this Contract requires CONTRACTOR to submit a Form 700, Statement of Economic Interests for Designated Officials and Employees, for each of its employees assigned to work on this Contract. These forms may be obtained from SCAQMD's District Counsels' office.

In addition, the Act requires a contractor to disqualify himself or herself from participating in, making or influencing a decision, which would have a foreseeable material effect on his or her financial interests.

[REMOVE IF NOT REQUESTED ON CRAM]

35. **COMPLIANCE WITH SINGLE AUDIT ACT REQUIREMENTS [OPTIONAL - TO BE INCLUDED IN CONTRACTS WITH FOR-PROFIT CONTRACTORS WHICH HAVE FEDERAL PASS-THROUGH FUNDING]**

During the term of the Contract, and for a period of three (3) years from the date of Contract expiration, and if requested in writing by the SCAQMD, CONTRACTOR shall allow the SCAQMD, its designated representatives and/or the cognizant Federal Audit Agency, access during normal business hours to all records and reports related to the work performed under this Contract. CONTRACTOR assumes sole responsibility for reimbursement to the Federal Agency funding the prime grant or contract, a sum of money equivalent to the amount of any expenditures disallowed should the SCAQMD, its designated representatives and/or the cognizant Federal Audit Agency rule through audit exception or some other appropriate means that expenditures from funds allocated to the CONTRACTOR were not made in compliance with the applicable cost principles, regulations of the funding agency, or the provisions of this Contract.

[OPTIONAL - TO BE INCLUDED IN CONTRACTS WITH NON-PROFIT CONTRACTORS WHICH HAVE FEDERAL PASS-THROUGH FUNDING] - Beginning with CONTRACTOR's current fiscal year and continuing through the term of this Contract, CONTRACTOR shall have a single or program-specific audit conducted in accordance with the requirements of the Office of Management and Budget (OMB) Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations), if CONTRACTOR expended Five Hundred Thousand Dollars (\$500,000) or more in a year in Federal Awards. Such audit shall be conducted by a firm of independent accountants in accordance with Generally Accepted Government Audit Standards (GAGAS). Within thirty (30) days of Contract execution, CONTRACTOR shall forward to SCAQMD the most recent A-133 Audit Report issued by its independent auditors. Subsequent A-133 Audit Reports shall be submitted to the SCAQMD within thirty (30) days of issuance.

CONTRACTOR shall allow the SCAQMD, its designated representatives and/or the cognizant Federal Audit Agency, access during normal business hours to all records and reports related to the work performed under this Contract. CONTRACTOR assumes sole responsibility for reimbursement to the

Federal Agency funding the prime grant or contract, a sum of money equivalent to the amount of any expenditures disallowed should the SCAQMD, its designated representatives and/or the cognizant Federal Audit Agency rule through audit exception or some other appropriate means that expenditures from funds allocated to the CONTRACTOR were not made in compliance with the applicable cost principles, regulations of the funding agency, or the provisions of this Contract.

36. **OPTION TO EXTEND THE TERM OF THE CONTRACT**

SCAQMD reserves the right to extend the contract for a one-year period commencing ***** (enter date) at the (option price or Not-to-Exceed Amount) set forth in Attachment 2. In the event that SCAQMD elects to extend the contract, a written notice of its intent to extend the contract shall be provided to CONTRACTOR no later than thirty (30) days prior to Contract expiration. [REMOVE IF NOT REQUESTED ON CRAM]

37. **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. [If Project Officer wants Proposal Incorporation, they should include the proposal in the contract file when it gets circulated for review - REMOVE IF NOT REQUESTED ON CRAM]

38. **KEY PERSONNEL**

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. [REMOVE IF NOT REQUESTED ON CRAM]

39. **PUBLIC WORKS PROJECTS [USE FOR INFRASTRUCTURE AND MAINTENANCE PROJECTS]**

CONTRACTOR is alerted to the prevailing wage requirements in California Labor Code section 1770 et seq., the working hours requirements in California Labor Code section 1810 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 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 SCAQMD against any and all claims, demands, damages, defense costs or liabilities based on failure to adhere to the above referenced statutes.

40. **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. Such prior approval applies only to subcontractors not already included in Attachment 1, Statement of 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 Executive Officer or designee. No subcontract charges will be reimbursed unless the required approvals have been obtained from SCAQMD.

41. ENTIRE CONTRACT

This Contract represents the entire agreement between the parties hereto related to CONTRACTOR providing services to SCAQMD, and 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 party against whom enforcement of such waiver, alteration, or modification is sought. No waiver by either party of any breach of, or of compliance with, any condition or provision of this Contract by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time.

42. 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: _____
Michael A. Cacciotti, Chair, Governing Board
Wayne Nastri, Executive Officer

By: _____
Name: _____
Title: _____

Date: _____

Date: _____

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

By: _____
//Standard Boilerplate
February 8, 2023; Updated February 7, 2023; July 25, 2024

