



# **Alternative Fuel School Bus Incentive Program**

**For Vendors of Alternative Fuel School Buses within  
the South Coast Air Quality Management District**

**Request for Qualifications**

**Q2008-14**

**December 7, 2007**

## SECTION 1 - INTRODUCTION

The MSRC is seeking qualified school bus vendors and/or authorized agents to participate in an Alternative Fuel School Bus Buy-down Incentive Program. The program is intended to replace older, diesel or gasoline school buses with new, original equipment manufacturer (OEM) dedicated natural gas or liquefied petroleum gas (LPG, i.e. propane) school buses. The selected school bus vendor(s) will be able to offer a substantial vehicle price buy-down incentive to School Districts as a result of participation in this program. For the purpose of this program, allowable funding recipients include public school districts, private schools, and charter schools located within the jurisdiction of the South Coast AQMD. Private pupil transportation companies are not eligible funding recipients, as these entities receive incentives under a separate MSRC funding program.

## SECTION 2 - PARTICIPATION GUIDELINES

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

1. **Available Funding** - The MSRC has allocated up to \$1,200,000 in MSRC Discretionary Funds for the Alternative Fuel School Bus Buy-down Program. The MSRC reserves the right to increase the amount of total funding available.
2. **Incentive Levels** – Vendors of alternative-fuel school buses that are deemed qualified to participate in the MSRC Program will be able to offer qualifying school districts the following incentives:
  - Full Size “Type D” Alternative Fuel School Buses: \$60,000 per qualified bus;
  - Mid-Size Alternative Fuel School Buses: \$60,000 per qualified bus;
  - Cutaway “Type A” Alternative Fuel School Buses: \$25,000 per qualified bus.
3. **Program Timeframe** - The Program will commence coincident with qualified vendor contract execution and end on December 31, 2008 or at such time that all MSRC incentive funds have been expended.
4. **Eligible Applicants** – The MSRC intends to select one or more school bus vendors to participate in the program. The minimum qualifications for participation include the following:
  - Contractor must be a manufacturer, authorized agent, dealer, etc. of school buses that meet the requirements of paragraph E., “Vehicle Requirements”, below;
  - Contractor must be licensed to do business within the State of California;
  - Contractor must demonstrate financial stability and, as appropriate, sufficient manufacturing capability and capacity;
  - Contractor must provide written documentation confirming that Contractor is in good standing with the State Franchise Tax Board;
  - Contractor must provide documentation of past experience in marketing alternative-fuel school buses within the South Coast Air District jurisdiction;
  - Contractor must offer post-sale customer support.

5. **Vehicle Requirements** - To qualify for MSRC alternative fuel school bus incentive funds, each vehicle must comply with the following requirements:
- Vehicle must be configured with a factory installed, OEM, dedicated natural gas or LPG engine;
  - Engine must be certified by the California Air Resources Board;
  - Bus must be certified for the transport of school children by the California Highway Patrol;
  - Buses must offer a manufacturer's warranty.

In addition, eligible school buses must conform to all applicable standards, laws, and regulations in effect on the date of bus manufacture, including but not limited to:

- Federal Motor Vehicle Safety Standard (FMVSS, 49 CFR);
- Federal Highway Safety Program Guideline No. 17, Pupil Transportation Safety;
- DOT-Baseline Advanced Design Transit Coach Specifications;
- National Fire Protection Association (NFPA) Standard 52;
- State of California Vehicle Code, CCR Title 13 (with the exception of Sections 930 through 936 for CNG fuel systems already covered by NFPA Standard 52);
- CCR, Title 5, Education Division 13, Chapter 4, School Buses;
- California Air Resources Board.

6. **Roles & Responsibilities** - The following paragraphs outline the roles and responsibilities of each participant in the MSRC-sponsored Alternative Fuel School Bus Buy-down Program. Additional detail is provided in the Sample Contract. Please refer to Section IX of this RFQ.

**School Bus Vendor(s):**

- Actively market the availability of alternative fuel school bus incentives offered by the MSRC to all school Districts located within the jurisdiction of the South Coast Air Quality Management District;
- At the point of sale or lease of a qualifying alternative fuel school bus to a qualified school district or school transportation provider, reduce the manufacturer's suggested retail price by the MSRC-approved buy-down increment. In the case of a bus lease, the capitalized cost of the bus should be reduced by the approved incentive amount. ***Please note that the entire MSRC-approved buy-down amount should flow to the vehicle purchaser or lessee; no administrative fee is to be retained by the bus vendor.***
- Upon school bus delivery, submit an invoice to the South Coast AQMD requesting reimbursement of buy-down incentives expended. The invoice must include the following information, at a minimum, for each school bus transacted:
  - Purchaser (school district or school transportation provider);
  - Documentation affirming that the bus will be operated primarily within the jurisdiction of the South Coast Air District;
  - Purchaser point of contact (name and telephone number);

- Vehicle base price, options, total price, and final price including MSRC Buy-down Incentive;
- Leasing Company (if applicable);
- Bus make and model information;
- Vehicle Identification Number (VIN);
- Vehicle delivery date;
- Dealership contact (name and telephone number).

This information will be used to verify the sale or lease of qualifying buses prior to the disbursement of MSRC incentive funds.

In addition, the school bus vendor should support the purchaser in removing from service the school bus being replaced. The requirement of the MSRC is that the older vehicle be scrapped.

**MSRC/South Coast Air Quality Management District:**

- Upon receipt of a valid invoice requesting reimbursement of buy-down incentives, MSRC/SCAQMD staff will process the invoice and authorize payment of MSRC Discretionary Funds to the bus vendor. The MSRC/SCAQMD normally provides reimbursement within 30 days of receipt of a complete and correct invoice.

**School District/School Transportation Service Provider:**

- The participating school districts or school transportation service provider must state the vehicle(s) receiving the MSRC buy-down incentive will be operated primarily within the jurisdiction of the South Coast Air Quality Management District;
- If the bus is replacing an existing bus in the purchaser's fleet, the replaced vehicle must be scrapped, including destruction of the engine and cutting of the frame rails upon delivery of the new vehicle.

**Additional Requirements:**

- Buses receiving MSRC buy-down incentives must be used primarily to transport children to and from school. For the purpose of this solicitation, children include school grades kindergarten through high school;
- Only buses that will be used primarily within the geographical jurisdiction of the South Coast Air District are entitled to receive MSRC buy-down incentive funds.

**SECTION 3 - QUALIFICATION PACKAGE REQUIREMENTS**

ALL RESPONSES TO THIS RFQ MUST CONTAIN THE FOLLOWING ELEMENTS:

1. **Cover Letter** - Transmittal of the proposal must specify the subject of the proposal, the RFQ number, and Bidder's name, address, and telephone/fax number. The letter shall specify contact person(s) for technical and contractual matters, and be signed by the person(s) authorized to contractually bind the bidding entity. For joint proposals (from more than one entity) the bidder must include a statement confirming authorization to act on behalf of other co-bidders. The bidder must include a letter of support or memorandum of understanding,

including project contact name, telephone and fax number, from all proposing entities of a joint proposal.

2. **Summary Sheet** - Provide basic information in the space provided. The summary sheet form is included in this RFQ as Attachment A.
3. **Certifications** – All applicants must complete and submit the following Attachment B forms as an element of their Application (unless specifically exempted below):
  - Internal Revenue Service Form W-9 – Request for Taxpayer Identification Number and Certification. If you are selected for an award, you cannot be established as a vendor without this information.
  - Disadvantaged Business Certification. The AQMD needs this information for their vendor database. IT WILL NOT BE CONSIDERED IN THE DETERMINATION OF YOUR MSRC AWARD. Governmental entities do not need to complete this form.
4. **Vendor Qualifications** - Please provide detailed information relative to each of the following topics:
  - A. Manufacturer/Authorized Agent/Dealer Status: Provide documentation confirming that proposer is an authorized agent or dealer of qualifying school buses. In addition, please:
    - i) Certify that proposer is licensed to do business in the State of California, and is a legal entity capable of entering into contracts within the State of California;
    - ii) Provide written evidence that proposer is in good standing with the California Franchise Tax Board.
  - B. School Bus Data: For each bus model recommended to receive the buy-down incentive, please provide the following information:
    - i) Vehicle Technical Specifications, including engine and fuel system specifications;
    - ii) Vehicle Pricing Information, including base price and option prices;
    - iii) Vehicle Warranty Information, including location of service centers;
    - iv) Product availability, anticipated time between initial order and vehicle delivery;
    - v) California Air Resources Board (CARB) Executive Order/Engine Certification documentation.

In addition, the proposer shall certify that the recommended buses comply with all applicable State and Federal laws, regulations, and standards as discussed in Section I.E., “Vehicle Requirements”, and are legal for operation in California for the purpose of transporting school children.
  - C. Experience and Past Performance: Proposer should document past relevant experience in the marketing, outreach, sale, lease, and customer support of alternative fuel school buses within the South Coast Air District. Also, provide details of any previous contracts or participation in programs sponsored by the South Coast Air Quality Management District (SCAQMD), Mobile Source Air Pollution Reduction Review Committee (MSRC), or California Energy Commission/AB 35 School Bus Program.

- D. Marketing & Outreach Capabilities and Plans: Describe previous marketing and outreach efforts to promote use of alternative fuel school buses within the South Coast Air District. Describe the approach for providing marketing and outreach in support of the MSRC's Alternative Fuel School Bus Buy-down Program, especially as it relates to ensuring that all areas of the South Coast Air District are made aware of, and have equal access to, MSRC incentive funds.
  - E. Post-Sale Customer Support: Describe policies and business practices relative to post-sale customer support, including vehicle service, handling of warranty claims, issue resolution, dispute mediation, etc.
5. **Project Organization** - Describe the business organization proposed to support the MSRC Alternative Fuel School Bus Buy-down Program. This should include key personnel and subcontractors as appropriate.
  6. **Conflict of Interest** - Address possible conflicts of interest with other clients affected by actions performed by the firm on behalf of the MSRC. Although the bidder will not be automatically disqualified by reason of work performed for such firms, the MSRC reserves the right to consider the nature and extent of such work in evaluating the proposal.

**SECTION 4 - SCHEDULE OF EVENTS**

The vendor qualifications process will be conducted in accordance with the timeline illustrated in Table 4-1, below. Responses to this RFQ may be submitted at any time during the six-week period commencing December 7, 2007 and ending January 18, 2008. *Please note that qualifications must be received no later than 5:00 p.m. on January 18, 2008.*

*Table 4-1 - Key Alternative Fuel Infrastructure Program Dates*

<b>Program Event</b>	<b>Date</b>
Request for Qualifications Release	December 7, 2007
Qualifications Submittal Period	Dec. 7, 2007 – Jan. 18, 2008
Latest Date/Time for Qualifications Submittal	January 18 <sup>th</sup> @ 5:00 p.m.

**SECTION 5 – QUALIFICATIONS PREPARATION & SUBMITTAL INSTRUCTIONS**

A Qualifications Package must be submitted for participation consideration under this Program. Qualifications Packages must be prepared and submitted in accordance with the instructions outlined below.

1. **Qualification Package Submittal Instructions** – Alternative fuel school bus vendors seeking participation in the Incentive Program must submit one (1) original Application and three (3) copies (total of four) in a sealed envelope, marked in the upper left-hand corner with the name and address of the applicant and the words “Q2008-14, Alt-Fuel School Bus Program”. The original Qualifications Package should be submitted unbound on white, 8 ½” x 11” recycled paper. When possible, any plans, diagrams, etc. should be affixed to

standard size paper to facilitate reproduction. The last date and time to submit is January 18, 2008 at 5:00 p.m. All Qualifications Packages should be directed to:

Procurement Unit  
South Coast Air Quality Management District  
21865 Copley Drive  
Diamond Bar, CA 91765

In addition to the paper qualifications package, applicants must also submit an electronic copy of their package in either PDF format or Microsoft Word. This may be provided via e-mail or CD-ROM at the convenience of the Applicant. Over-sized attachments, such as site drawings, etc. are not required to be included in the electronic copy if inclusion would be problematic. E-mailed electronic Application copies should be sent to either [cynthia@cleantransportationfunding.org](mailto:cynthia@cleantransportationfunding.org) or [ray@cleantransportationfunding.org](mailto:ray@cleantransportationfunding.org); CD-ROM disks should be sent in care of the Procurement Unit at the street address listed above.

*Please note that the Qualifications Package is only deemed "received" when the four (4) complete paper copies are submitted in accordance with the above instructions - submittal of an electronic Application only does not constitute receipt by the South Coast AQMD. In addition, please note that faxed packages will not be accepted.*

3. **Addenda** – The Mobile Source Air Pollution Reduction Review Committee may modify the Request for Qualifications and/or issue supplementary information or guidelines relating to the Request for Qualifications during the preparation and acceptance period commencing December 7, 2007 and ending January 18, 2008. Amendments will be posted on the MSRC website at [www.cleantransportationfunding.org](http://www.cleantransportationfunding.org).
4. **Application Modifications** - Once submitted, Qualifications Packages cannot be altered without the prior written consent of the Mobile Source Air Pollution Reduction Review Committee.
5. **Certificates of Insurance** - Applicants are required to provide a statement that upon notification of award, a certificate(s) of insurance naming the SCAQMD as an additional insured will be provided within forty-five (45) days. Entities that are self-insured are required to provide a statement to that effect in their application.

## SECTION 6 - IF YOU NEED HELP...

This Request for Qualifications can be obtained by accessing the MSRC web site at [www.cleantransportationfunding.org](http://www.cleantransportationfunding.org). MSRC staff members are available to answer questions during the qualifications package preparation and acceptance period. In order to help expedite assistance, please direct your inquiries to the applicable staff person, as follows:

- For **General and Administrative Assistance**, please contact:  
Cynthia Ravenstein  
MSRC Contracts Administrator  
Phone: 909-396-3269  
Fax: 909-396-3682  
E-mail: [Cynthia@cleantransportationfunding.org](mailto:Cynthia@cleantransportationfunding.org)

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

Ray Gorski  
MSRC Technical Advisor  
Phone: 909-396-2479  
Fax: 909-396-3682  
E-mail: [Ray@cleantransportationfunding.org](mailto:Ray@cleantransportationfunding.org)

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

Dean Hughbanks  
AQMD Procurement Manager  
Phone: 909-396-2808  
E-mail: [dhughbanks@aqmd.gov](mailto:dhughbanks@aqmd.gov)

## **SECTION 7- QUALIFICATIONS EVALUATION AND APPROVAL PROCESS**

The following evaluation criteria form the basis upon which proposal scoring and selection will be conducted. The maximum score available is 100 points.

### **1. SCHOOL BUS PRODUCT LINE/PRODUCT AVAILABILITY:**

Maximum Points Available: 40 points

As discussed in RFP Section III, Subsections 4.A and 4.B, school bus manufacturers or vendors desiring to participate in the MSRC-sponsored program must describe the dedicated alternative fuel school bus product line offered for sale within the SCAQMD region. Also, the proposer should address product availability and delivery timetable issues. Based upon this information, and taking into consideration the information provided in Attachment B, "Business Questionnaire Forms", the MSRC-TAC Evaluation Subcommittee will award points based upon the quality and availability of the proposer's product line, and viability of the proposer as a business entity.

### **2. EXPERIENCE AND PAST PERFORMANCE IN MARKETING, SELLING/LEASING, AND SUPPORTING ALTERNATIVE FUEL SCHOOL BUSES:**

Maximum Points Available: 30 points

As described in RFP Section III, Subsection 4.C., proposers should discuss previous relevant experience in the marketing, outreach, sale, lease, and customer support of alternative fuel school buses within the SCAQMD region. Also, proposers should provide details of previous contracts with, or participation in, programs sponsored by the South Coast Air Quality Management District (SCAQMD), Mobile Source Air Pollution Reduction Review Committee (MSRC), or California Energy Commission/AB 35 School Bus Program. The MSRC-TAC Evaluation Subcommittee will award points based upon the proposer's documented experience and performance.

### **3. MARKETING AND OUTREACH PLAN:**

Maximum Points Available: 30 points

As discussed in RFQ Section III, Subsection 4.D., all proposers are requested to include a *Marketing & Outreach Capabilities and Plans* discussion as an element of their proposal. The Plan should describe the approach for providing marketing and outreach in support of the MSRC's Alternative Fuel School Bus Incentive Program, especially as it relates to ensuring that all areas of the South Coast Air District are made aware of, and have equal access to, MSRC incentive funds. Following a comprehensive review of the Plan, the MSRC-TAC evaluators will assign a score based upon the innovativeness, thoroughness, and quality of the information provided.

**SECTION 8 - APPLICATION ATTACHMENTS**

**Attachment A: APPLICATION SUMMARY INFORMATION**

A. Please provide the following applicant information in the space provided:

Business Name	
Division of:	
Subsidiary of:	
Website Address	
Type of Business	

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

**Attachment B: CERTIFICATIONS**

Form <b>W-9</b> (Rev. January 2005) Department of the Treasury Internal Revenue Service	<b>Request for Taxpayer          Identification Number and Certification</b>	Give form to the requester. Do not send to the IRS.
Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other ▶ ..... <input type="checkbox"/> Exempt from backup withholding	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	City, state, and ZIP code	
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 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.

Social security number										
<table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%; border: 1px solid black;"> </td> </tr> </table>										
OR										
Employer identification number										
<table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%; border: 1px solid black;"> </td> </tr> </table>										

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

**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. person (including a U.S. resident alien).

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 4.)

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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**Purpose of Form**

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

**U.S. person.** Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

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.

**Note.** If 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.

For federal tax purposes you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or

• Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

**Foreign person.** If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (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 recipient 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 not subject to backup withholding, give the requester the appropriate completed Form W-8.

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments (after December 31, 2002). This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, 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, or
2. You do not certify your TIN when required (see the Part II instructions on page 4 for details), or
3. The IRS tells the requester that you furnished an incorrect TIN, or
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 the instructions below and the separate Instructions for the Requester of Form W-9.

## 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

### Name

If you are an individual, you must generally enter the name shown on your social security card. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

**Sole proprietor.** Enter your individual name as shown on your social security card on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

**Limited liability company (LLC).** If you are a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Treasury regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line. Check the appropriate box for your filing status (sole proprietor, corporation, etc.), then check the box for "Other" and enter "LLC" in the space provided.

**Other entities.** Enter your business name as shown on required Federal tax documents on the "Name" line. 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 the "Business name" line.

**Note.** You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

### Exempt From Backup Withholding

If you are exempt, enter your name as described above and check the appropriate box for your status, then check the "Exempt from backup withholding" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

**Note.** If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

**Exempt payees.** Backup withholding is not required on any payments made to the following payees:

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 possession of the United States, or any of their political subdivisions or instrumentalities,
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation,

7. A foreign central bank of issue,
8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
9. A futures commission merchant registered with the Commodity Futures Trading Commission,
10. A real estate investment trust,
11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
12. A common trust fund operated by a bank under section 584(a),
13. A financial institution,
14. A middleman known in the investment community as a nominee or custodian, or
15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt recipients listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt recipients except for 9
Broker transactions	Exempt recipients 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt recipients 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt recipients 1 through 7 <sup>2</sup>

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

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

## 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-owner LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter your SSN (or EIN, if you have one). If the LLC is a corporation, partnership, etc., 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 Social Security Administration office or get this form online at [www.socialsecurity.gov/online/ss-5.pdf](http://www.socialsecurity.gov/online/ss-5.pdf). 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 ID Numbers under Related Topics. You can get Forms W-7 and SS-4 from the IRS by visiting [www.irs.gov](http://www.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, 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.** Writing "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded domestic 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, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt recipients, see *Exempt From Backup Withholding* on page 2.

Signature requirements. Complete the certification as indicated in 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 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)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
5. Sole proprietorship or single-owner LLC	The owner <sup>3</sup>
For this type of account:	Give name and EIN of:
6. Sole proprietorship or single-owner LLC	The owner <sup>3</sup>
7. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. 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

<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 second name line. You may use either your SSN or EIN (if you have one). If you are a sole proprietor, IRS encourages you to use your SSN.

<sup>4</sup>List first and circle the name of the legal 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.)

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.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, and the District of Columbia to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax 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. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

### DISADVANTAGED BUSINESS CERTIFICATION

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.

Following state guidance, a vendor may be deemed a disabled veteran business enterprise (DVBE) if it meets the following:

- is an independent business concern which is at least 51 percent owned and controlled by disabled veteran(s), and the home office is located in the U.S.

Statements of certification:

As a prime contractor to the SCAQMD, \_\_\_\_\_ (name of business) will engage in good faith efforts to achieve the fair share in accordance with 40 CFR Section 31.36(e), 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.

(a) Self-Certification Verification:

Check all that apply:

- |   |   |
|---|---|
| <input type="checkbox"/> Small business enterprise          | <input type="checkbox"/> Women-owned business enterprise            |
| <input type="checkbox"/> Local business                     | <input type="checkbox"/> Disabled veteran-owned business enterprise |
| <input type="checkbox"/> Minority-owned business enterprise |   |

Percent of ownership: \_\_\_\_\_ %

Name of Qualifying Owner(s): \_\_\_\_\_

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>B. NAME</b>	<b>TITLE</b>

_____	_____
<b>C. TELEPHONE NUMBER</b>	<b>DATE</b>

(a) *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 MBE/WBE/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 MBE/WBE/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 the SCAQMD at the time of bid proposal.
- 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 all of the following criteria:

- is any business enterprise including its affiliates located inside the United States that is organized for profit, pays U.S. taxes, and/or uses American products, materials, and/or labor, etc.
- is independently owned and operated
- is not dominant in the field of operation
- is qualified as a small business under the criteria and size standards set forth in 13 CFR 121

**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.

## SECTION 9 – SAMPLE CONTRACT



### South Coast Air Quality Management District



### ALTERNATIVE FUEL SCHOOL BUS BUYDOWN CONTRACT

1. PARTIES - The parties to this Contract are the South Coast Air Quality Management District (hereinafter referred to as "AQMD") whose address is 21865 Copley Drive, Diamond Bar, California 91765-4178, and \*\*\* (hereinafter referred to as "CONTRACTOR") whose address is \*\*\*.
2. RECITALS
  - A. AQMD is the local agency with primary responsibility for regulating stationary source air pollution in the South Coast Air Basin in the State of California (State). AQMD is authorized under State Health & Safety Code Section 44225 (Assembly Bill (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 the AQMD'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 AQMD.
  - C. AB 2766 further mandates that thirty (30) percent of such vehicle registration fees be placed by AQMD 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 AQMD'S Governing Board, AQMD Board authorized a contract with CONTRACTOR for the "School Bus Buydown Program" (the "Buydown Program"), as part of the 2006-07 AB 2766 Discretionary Fund Work Program which is intended to reduce emissions from motor vehicles by providing financial incentives to buyers and lessees of qualified alternative-fueled school buses.
  - E. CONTRACTOR has expended substantial funds of its own in the marketing, distribution, promotion, and servicing of alternative-fueled school buses in the South Coast Air Basin market. CONTRACTOR and AQMD agree that it would promote the penetration of alternative-fueled school buses in the South Coast Air Basin, and thereby benefit the public by reducing mobile source emissions and improving air quality, for the funds from the Buydown Program to be received as incentives by the public school buyers and lessees of certain alternative-fueled school buses offered by CONTRACTOR.
  - F. Under the Buydown Program, and in order to promote the penetration of alternative-fueled school buses within the South Coast Air Basin, AQMD will authorize CONTRACTOR to make available: up to *(include one or more of the following as appropriate)* a Sixty Thousand Dollar (\$60,000) buydown on each type D, a Sixty Thousand Dollar (\$60,000) buydown on each mid-size, a Twenty-Five Thousand Dollar (\$25,000) on each cutaway type A, original equipment manufacturer (OEM), California Highway Patrol-certified, CARB-certified, dedicated alternative fuel school bus sold or leased to a qualified school district to be operated primarily within the geographical boundaries of AQMD.

- G. Based upon representations and information provided by CONTRACTOR, the AQMD has determined that CONTRACTOR is eligible to participate in the Buydown Program. This determination does not constitute an endorsement or warranty by the AQMD of the vehicles sold or leased under this Buydown Program.
3. DMV FEES - CONTRACTOR acknowledges that AQMD cannot guarantee the amount of fees to be collected under AB 2766 will be sufficient to fund this Contract. CONTRACTOR further acknowledges that AQMD'S receipt of funds is contingent on the timely remittance by State's DMV. AQMD assumes no responsibility for the collection and remittance of motor vehicle registration fees by DMV to AQMD in a timely manner.
  4. AUDIT - Additionally, 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 AQMD 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. AQMD shall coordinate such audit through CONTRACTOR'S audit staff. If an amount is found to be inappropriately expended, AQMD may withhold revenue from CONTRACTOR in the amount equal to the amount which was inappropriately expended. Such withholding shall not be construed as AQMD'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 from **the date of execution by both parties** to **\*\*\***, unless terminated earlier as provided for in Clause 6 below entitled Termination or extended by amendment of this Contract in writing. Upon written request and with adequate justification from CONTRACTOR, the MSRC Contracts Administrator may extend the Contract up to an additional six months at no additional cost. Term extensions greater than six months must be reviewed and approved by the MSRC.
  6. TERMINATION - Either party may terminate this Contract upon thirty (30) days written notice to the other party.
  7. INDEMNIFICATION - CONTRACTOR agrees to hold harmless, defend, and indemnify, AQMD, its officers, employees, agents, representatives, and successors-in-interest against any and all loss, damage, cost, or expenses which AQMD, its officers, employees, agents, representatives, and successors-in-interest may incur or be required to pay by reason of any injury or property damage caused or incurred by CONTRACTOR, its employees, subcontractors, or agents in the performance of this Contract.
  8. DISCLAIMER OF WARRANTY - The AQMD does not warrant or endorse any vehicles sold or leased under this Buydown Program and shall not be liable for any injuries or property damage resulting from the patent or latent defects in the vehicle. Nothing herein shall be construed as granting any rights to third parties against the AQMD.
  9. MANUFACTURER'S WARRANTY - AQMD's determination of CONTRACTOR's eligibility to participate in the Buydown Program is based in part on CONTRACTOR's undertaking to provide each eligible customer an express warranty. However, CONTRACTOR does not warrant the vehicles to AQMD in any way, and shall not have any liability to AQMD for product defects. CONTRACTOR warrants the

vehicles expressly to customers only as provided in the written warranty document provided with each vehicle at the time of delivery.

10. PAYMENT

- A. AQMD will provide up to a maximum amount of Award Amount Dollars (\$xxx,xxx) in vehicle incentives for qualified *(include one or more as appropriate)* Type D, mid-size, and/or cutaway Type A OEM, California Highway Patrol-certified, CARB-certified, dedicated CNG or LPG school buses sold or leased to qualified public school districts, with the incentive amount per bus not to exceed Sixty Thousand Dollars (\$60,000) for Type D or mid-size school buses or Twenty-Five Thousand Dollars (\$25,000) for Type A school buses. The actual incentive for each bus will be adjusted to reflect any federal tax credits which will be claimed by the CONTRACTOR.
- B. CONTRACTOR may submit a request for reimbursement upon proof of delivery and acceptance of an eligible alternative-fueled school bus to customer (i.e., school districts, etc). The invoice shall include a completed and signed Participant Agreement (Attachment A) from each school district, a copy of the sales or lease agreement of the sales or lease agreement corresponding to each customer, including, at a minimum, the following information: 1) the customer's name and address, including an affirmative statement that the customer intends to operate the bus within the geographical boundaries of the AQMD, and will scrap the bus being replaced; 2) the leasing company, if the bus is leased; 3) make and model information; 4) Vehicle Identification Number; 5) the delivery date and delivering dealership or retail facility; and 6) the name and phone number of a contact at the dealership or retail facility.
- C. AQMD will then reimburse CONTRACTOR for each qualifying alternative fuel school bus sale or lease agreement submitted. The AQMD shall reimburse CONTRACTOR within thirty (30) days of receipt of an invoice deemed complete and correct by AQMD. CONTRACTOR shall not be eligible to receive reimbursement under the Buydown Program for the resale or re-lease of any vehicle as to which reimbursement to the CONTRACTOR has previously been made.
- D. Additional funds may be added to the Contract after the initial funding amount has been exhausted subject to the availability of remaining funds and MSRC approval.

11. RETURN OF FEDERAL TAX CREDITS – As described in 10.A above, incentives paid will be adjusted to reflect tax credits which will be claimed by CONTRACTOR. Any tax credits received by CONTRACTOR subsequent to the award, in excess of any adjustment made to the incentive amount at the time of payment, must be returned to the AQMD.

12. 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 other funding sources. These MSERCs, which are issued by AQMD, 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. AQMD 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.

13. **NOTICES** - Any notices from either party to the other shall be given in writing to the attention of the persons listed below or to other such addresses or addressees as may hereafter be designated in writing for notices by either party to the other. A notice shall be deemed received when delivered or three days after deposit in the U.S. Mail, postage prepaid, whichever is earlier.

AQMD: South Coast Air Quality Management District  
21865 Copley Drive  
Diamond Bar, CA 91765-4178  
Attn: **\*\*\***, MSRC Contract Administrator

CONTRACTOR: **\*\*\***

**\*\*\***  
**\*\*\***  
**\*\*\***  
Attn: **\*\*\***

14. **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.
15. **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.
16. **NON-EFFECT OF WAIVER** - CONTRACTOR'S or AQMD'S failure 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.
17. **ATTORNEYS' FEES** - In the event any action (including arbitration) 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.

18. FORCE MAJEURE - Neither AQMD 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 AQMD or CONTRACTOR.
19. 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.
20. 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.
21. DUPLICATE EXECUTION - This Contract is executed in duplicate. Each signed copy shall have the force and effect of an original.
22. 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 and to ensure that the provisions of this clause are included in all subcontracts.
23. 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 dispute shall be Los Angeles County, California.
24. PRECONTRACT 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 AQMD shall be liable for any amounts expended in anticipation of a formal Contract. If a formal Contract does result, precontract cost expenditures authorized by the Contract will be reimbursed in accordance with the cost schedule and payment provision of the Contract.
25. CHANGE TERMS - Changes to any part of this Contract must be requested in writing by CONTRACTOR, submitted to AQMD and approved by MSRC in accordance with MSRC policies and procedures. All modifications to this Contract shall be in writing and signed by both parties.
26. ENTIRE CONTRACT - This Contract represents the entire agreement between the parties hereto related to CONTRACTOR providing services to AQMD 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.
27. 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



**B. By:**

\_\_\_\_\_  
Dr. William A. Burke, Chairman, Governing Board  
(Select one option on final contract)

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

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

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

ATTEST:  
Saundra McDaniel, Clerk of the Board

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

APPROVED AS TO FORM:  
Barbara Baird, District Counsel

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

//MSRCCNGSchoolBus  
28February2003/Updated 14 November 2006