



**Announcing the MSRC's**

**Showcase II Vehicle Program**  
**Announcement**

**A Funding Opportunity for Owners of Off-Road  
Diesel Vehicles and Manufacturers and Vendors  
of Retrofit Devices**

**Program Announcement & Participation  
Application**

**PA2011-07**  
**February 4, 2011**

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## SECTION I.A: PROGRAM INTRODUCTION

The Mobile Source Air Pollution Reduction Review Committee (MSRC) is pleased to announce a **Clean Transportation Funding™** opportunity for owners of off-road vehicles (henceforth referred to as “fleets”) located in the South Coast Air Quality Management District (AQMD). Recently-adopted changes to California’s regulation for off-road vehicles have allowed fleets additional time and options for compliance, thereby increasing the prospects for early compliance and double credit. The Off-Road Diesel Retrofit “Showcase II Program” offers to fund 100% of the cost of purchasing and installing a qualifying diesel emission control retrofit device. The MSRC can realize surplus emission reduction benefits, and fleets can take advantage of full **Clean Transportation Funding** for actions that count towards future requirements.

Participation in the Showcase II Program is open to most fleets, including private companies and public agencies. Profiles of priority vehicle and retrofit demonstrations sought for participation in the Showcase II are provided in Section I.E. for your information. However, a vehicle does not need to fall within the priority profile to qualify for funding, so anyone interested in installing a retrofit is encouraged to apply.

Please note that selection to participate will ultimately be based upon the specific attributes of each vehicle, with vehicles and engines evaluated for compatibility with the diesel emission control devices deemed qualified under the Showcase II Manufacturer Program. While the MSRC strives to be inclusive with its **Clean Transportation Funding™** programs, there is no guarantee that a particular vehicle will be selected to participate.

## I.B. PROGRAM SCHEDULE

The Showcase II Program will be conducted in accordance with the timeline shown below. Applications will be accepted as of February 4, 2011 for an eight-month period, closing on October 7, 2011. Applications may be submitted at any time during this period. The MSRC may elect to extend the period during which applications may be submitted.

Table 1.B.1: Key Program Dates

Showcase II Event	Date
Program Announcement & Application Release	February 4, 2011
Earliest Date for Application Submission	February 4, 2011
Applicant Workshop	February 24, 2011
Last Date that Applications will be Accepted	October 7, 2011
Matching of Devices with Vehicles	Continuously throughout application period and months immediately following

MSRC and CARB staff members are available to answer questions and provide technical guidance anytime during the application acceptance period. Please refer Section I.F. of this document for a list of staff contacts.

### **I.C. APPLICANT WORKSHOP**

An Applicant Workshop will be held on Thursday, February 24, 2011. Attendance is voluntary. The purpose is to provide new or updated solicitation information, provide clarification, and answer general questions regarding application preparation. In addition, the Applicant Workshop will provide a forum to address individual application preparation issues and provide one-on-one guidance to potential applicants. The location and time for the Workshop is as follows:

Date:	February 24, 2011
Time:	2:00 p.m. – 3:00 p.m.
Location:	South Coast AQMD Headquarters Conference Room CC-6
Address:	21865 Copley Drive Diamond Bar, California 91765

Please note that the Showcase II Manufacturer Workshop will be held prior to the Applicant Workshop at 1:00 pm in the same location. Fleets are welcome to attend both Workshops. Please contact the MSRC staff if you need directions or more information regarding either Workshop. Contact information is provided in Section I.F.

### **I.D. PARTICIPATION GUIDELINES, REQUIREMENTS, & PROCEDURES**

The Showcase II Program is a voluntary demonstration program that will pair manufacturers or authorized vendors of diesel emission control retrofit devices with fleets. The following requirements and conditions have been established and apply to all participants:

- 1. Eligible Participants** – Any fleet may apply. Manufacturers or authorized vendors of retrofit devices may also apply, but only when proposing a complete vehicle/device “package”—each application must identify the specific vehicle(s) to be retrofitted. For purposes of this Program Announcement, locomotives and marine vessels are not considered off-road vehicles. If an award is made, the applicant will be required to enter into a contract with AQMD to effectuate the award. If not the applicant, a participating fleet may be required to sign a Participant Agreement affirming that they will comply with Program requirements.
- 2. Funding Availability** - The amount of MSRC Clean Transportation Funding™ allocated for the Showcase II Program is \$2,250,000. \$1,250,000 of the available funding is initially reserved for retrofits which fall within the Priority Retrofit Profiles set forth in Section I.E. In the event that this Priority allocation is not fully awarded to projects by July 21, 2011, the

residual funds will become available to any qualifying project. Additional funding may be applied to this program at the discretion of the MSRC. Based on limited funding, not all applicants may receive funding.

3. **Showcase II Funding Level** – The MSRC will pay 100% of the cost of purchase and installation for Qualified devices. This includes:
  - Full purchase cost of device, including sales tax and shipping costs (if any). Device installation cost, and any additives needed for the 1000-hour demonstration period, should also be built into price.
  - Data logger and its installation
  - Reasonable funding for initial data logging and installation design. The MSRC reserves the right to reduce award for costs deemed excessive.
  - \$500 per vehicle to cover a portion of fleet’s program management costs through the installation phase (only available if fleet is the applicant)
  - Device manufacturers may propose the installation of particulate matter sensors. If the use of such sensors is authorized, the full purchase and installation cost will be included.
4. **Maximum Funding per Entity** – The maximum total funding award to any single fleet shall not exceed \$500,000. This maximum funding restriction can be waived in the event the MSRC allocates additional funding to this Program or does not receive qualifying applications from other fleets that meet or exceed \$2,250,000.
5. **Payment Terms** – Fleets will have the option to, but are not required to, request that payments be made directly to the manufacturer or vendor. The contractor can request reimbursement from the MSRC upon completion of initial vehicle data logging. All other reimbursements are contingent upon completion of retrofit device installation, submission of all required reports and invoices, and completion of a post-inspection to confirm installation in accordance with approved installation design. Manufacturers should negotiate payment provisions with the fleet as part of their agreements.

Please note that the source of MSRC **Clean Transportation Funding™** is motor vehicle registration fees collected by the California Department of Motor Vehicles (DMV) in accordance with the California Health and Safety Code. Thus, the availability of MSRC **Clean Transportation Funding™** is contingent upon the timely receipt of funds from the DMV. Neither the MSRC nor AQMD can guarantee the collection or remittance of registration fees by the DMV.

6. **Equipment Operating Location** – Off-road vehicles selected to participate must operate at least 85% of their total annual hours within the geographical jurisdiction of the AQMD.
7. **Emission Reductions must be “Above and Beyond” Mandated Requirements** - Applicants must certify that the proposed deployment of diesel retrofit devices is not required by, or in fulfillment of, any local, state or federal law, rule, or regulation.

8. **Device/Vehicle Matching** – Specific vehicle/device matches proposed will be evaluated and recommended for approval or denial. All devices, even those proposed as part of a package, must be deemed Qualified via the MSRC’s RFQ2011-07 – Request for Manufacturer Qualifications and Participation Application, before an award can be approved. Retrofit devices designed primarily for control of particulate matter must utilize technologies expected to achieve an 85% or greater reduction in particulate matter in off-road equipment applications (Level 3 verification), with two exceptions. In cases where installation of a Level 3 device poses insurmountable visibility challenges as discussed below in Section I.E. - Priority Retrofit Profiles, a device which achieves a reduction in particulate matter emissions of at least 50% (Level 2 verification) may be used. Devices which reduce NO<sub>x</sub> only are also eligible for demonstration.

If not already proposing a “package”, vehicle owners will be matched with pre-qualified retrofit devices deemed compatible with the proposed vehicle, engine, and duty-cycle. One or more manufacturers will be asked to provide quotes to retrofit the specific vehicle(s). Final match decisions will be made by MSRC and CARB based upon factors including, but not limited to, device purchase and maintenance costs, and the vehicle/device pairing’s ability to address Program priorities. Applicants will be asked to approve the proposed match. If an applicant declines a proposed match, MSRC and CARB may, at their discretion, propose an alternative match for that vehicle. Only approved retrofit devices will be eligible to receive an MSRC funding reimbursement.

All retrofit devices will be required to comply with warranty provisions to protect the participating vehicle owner.

9. **Retrofit Device Installation Deadline** – All vehicle retrofits should be completed within twelve months of the date of contract execution between the MSRC and the applicant.
10. **Access to Equipment** – On a periodic basis, CARB, AQMD or MSRC and the device manufacturer may request access to the equipment retrofitted with a diesel emission control device for the purpose of monitoring, data retrieval, and/or onsite emissions testing. Participating fleets will be required to grant limited access for these purposes.
11. **Reporting Requirements** – The reporting requirements are intended to ensure adequate monitoring of the use of public funds, while avoiding the imposition of excessive reporting burdens on the participants. The following are the minimum reporting requirements:
- An Interim Report, to be submitted along with the retrofit device purchase/installation invoice for each vehicle retrofitted. This report must contain a brief summary of the installation process, initial vehicle performance, and any relevant issues experienced. Fleets may be asked to maintain records of vehicle oil consumption. MSRC will provide an interim report template.

- A concise Final Report, to be submitted approximately six months from the date of the last retrofit device installation. This report must contain a brief summary of each vehicle's performance using the emission control device, driver comments regarding vehicle performance, and any mechanical or operational issues experienced. MSRC will provide a final report template. Failure to submit a Final Report will be considered in future funding requests from the applicant.

## 12. Additional Conditions for Participation:

- Once a vehicle/device match is approved, the device manufacturer will perform a vehicle evaluation to confirm the vehicle's readiness for retrofit including a period of datalogging, a smoke opacity test, and physical inspection;
- Fleets will be expected to keep funded devices installed for the duration of the demonstration. If the vehicle owner believes that an after-treatment device is interfering with proper operation of the vehicle, they will have to notify **both** the manufacturer and MSRC staff prior to modifying, removing, or disconnecting the after-treatment device;
- Fleets will be expected to maintain their vehicles and engines in accordance with the manufacturer's recommendations, and respond without delay to any retrofit device warning lights and messages, for the duration of the demonstration;
- Vehicles funded under the Showcase II Program are not eligible to receive additional diesel emission control system incentive funds from any other state or local agency;
- Device regeneration equipment, maintenance, etc. are not allowable costs for reimbursement;
- In accordance with state law, all projects funded with MSRC Discretionary Funds are subject to audit.

## I.E. PRIORITY RETROFIT PROFILES

As noted above, \$1,250,000 of the available funding is initially reserved for retrofits which fall within the Priority Retrofit Profiles. Priorities for retrofit span a number of characteristics, so that some vehicles and/or retrofits may fall into more than one Priority category, but any of the following will qualify as Priority:

1. **Vehicles Difficult to Retrofit Without Impacting Driver Visibility** – Some vehicle designs are more challenging to retrofit in compliance with Cal/OSHA visibility requirements. The MSRC believes that, in many of these cases, a motivated manufacturer or installer could develop a solution using a verified Level 3 device. Higher than average installation design costs would be allowable in such instances. Also, for this category *only*, Level 2 devices could be demonstrated in the interests of achieving substantial emission benefits when it is

not feasible to install a Level 3 device. Representative vehicles in this category include, but are not limited to, the following:

- Deere 624J wheel loader
  - Caterpillar RC60 forklift
  - Deere 200CLC excavator
  - Deere 225C excavator
  - Rollers (including Ingersoll Rand, Dynapac, Cat, and Hyster)
  - Cat 613C scraper
  - Cat 623B scraper
  - Deere 772D grader
  - Dresser 850 grader
2. **≥ 500 Hp Engines** – Due to a need for additional demonstrations in this size category, vehicles equipped with 500 horsepower or greater engines
  3. **Engines with EGR** – Due to the increased complexity of retrofit, vehicles equipped with engines which utilize exhaust gas recirculation (EGR) to reduce NO<sub>x</sub> emissions
  4. **Vehicle Operating Location** – Vehicles which are, or will be, operating at ports or landfills
  5. **NO<sub>x</sub> Reduction Technology** - Retrofit devices which utilize non-urea-based - technologies for NO<sub>x</sub> control

#### **I.F. IF YOU NEED HELP... CONTACT INFORMATION**

This Program Announcement can be obtained by accessing the MSRC web site at [www.cleantransportationfunding.org](http://www.cleantransportationfunding.org) or the CARB Showcase website at [www.arb.ca.gov/diesel/showcase/showcase.htm](http://www.arb.ca.gov/diesel/showcase/showcase.htm). MSRC and CARB staff members are available to answer questions during the application acceptance period. In order to help expedite assistance, please direct your inquiries to the applicable staff person, as follows:

- For **General & 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: [rgorski@aqmd.gov](mailto:rgorski@aqmd.gov)

- For **Testing and Installation**, please contact:

John Karim  
CARB, Testing and Field Support Section  
Phone: 626-459-4303  
Fax: 626-575-6699  
E-mail: [jkarim@arb.ca.gov](mailto:jkarim@arb.ca.gov)

## SECTION II: APPLICATION PROCESS

### II.A. APPLICATION SUBMITTAL INSTRUCTIONS

A Participation Application must be completed and submitted prior to receiving approval to participate in the Showcase II program. Applications must be submitted in accordance with the instructions outlined below.

1. **Application Elements** - All applications must contain the following:
  - a) **Cover letter** - Transmittal of the application must be accompanied by a cover letter signed by the person(s) authorized to contractually bind the proposing entity.
  - b) **Support letter** – If applicant is not the vehicle owner, a support letter from the vehicle owner must be included. This letter needs to indicate their intention to retrofit the vehicle(s) and approval of the proposed vehicle/device match(es).
  - c) **Application Attachments** - In an effort to reduce the paperwork burden on applicants, a template based application format has been provided. The template forms, included in Section II.B. below, are designed to be self-explanatory and should prove straightforward to complete.
  - d) **Certifications** – All applicants must complete and submit the following forms as an element of their Application:
    - 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.
    - Campaign Contributions Disclosure. This information must be provided at the time of application in accordance with California law. You may be asked for an update when awards are considered.
    - Disadvantaged Business Certification. The AQMD needs this information for their vendor database. IT WILL NOT BE CONSIDERED IN THE DETERMINATION OF YOUR MSRC AWARD.
2. **Application Submittal Instructions** - All applicants must submit one original application and five copies in a sealed envelope, marked in the upper left-hand corner with the name and address of the applicant and the words “PA2011-07” Showcase II Vehicle Program”.

**Please note that Showcase II applications must be received no later than 5:00 p.m., October 7, 2011, to be considered for funding.** All applications should be directed to:

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

**Please note that faxed or e-mailed applications will not be accepted.**

3. **Addenda** – The MSRC may modify this Program Announcement and/or issue supplementary information or guidelines during the application preparation period of February 4, 2011 through October 7, 2011. Any solicitation amendments will be posted on the MSRC Website at [www.CleanTransportationFunding.org](http://www.CleanTransportationFunding.org).
4. **Application Modifications** - Once submitted, applications cannot be altered without the prior written consent of the MSRC.
5. **Application Screening** - Applications received in response to this Program Announcement will be screened to insure they comply with all stated program requirements and policies of the MSRC and AQMD.
6. **Application Evaluation & Approval Process** - Applications deemed compliant by MSRC staff will be forwarded to a Committee of representatives from MSRC, AQMD and CARB staff. In some cases, additional clarifying information may be requested from a vehicle owner. As discussed in Section I.D.7. above, the Committee will match qualifying off-road vehicles with compatible diesel emission control systems. While every effort will be made to match qualifying vehicles with a retrofit device, funding availability and the technical and programmatic goals of Showcase may result in some vehicles not being recommended to participate.
  - Please note that substitutions of off-road diesel vehicles will constitute a new application. This new application will be evaluated when received and cannot directly replace an application that had been previously received;
  - The recommendations of the Evaluation Committee will be provided to each applicant. An applicant will have the ability to review the Evaluation Committee recommendation as it pertains to matching retrofit device(s). The applicant reserves the right to opt out of the Showcase II Program in the event the recommended retrofit device(s) is not acceptable to the applicant;
  - Once the applicant has concurred, the recommendations of the Evaluation Committee will be forwarded to the MSRC Technical Advisory Committee for review and approval;

- The recommendations of the MSRC Technical Advisory Committee will be forwarded to the MSRC for consideration. Upon approval by the MSRC, the funding recommendations will be brought to the AQMD Governing Board for approval;
- Applicants selected for participation will be required to enter into a binding contract with the AQMD on behalf of the MSRC. This contractual instrument is required to allow funding reimbursement for devices purchased under this Program;
- The selected applicants will be authorized to purchase and install qualifying retrofit devices only upon receipt of Authorization to Proceed from the MSRC/AQMD. Authorization to Proceed will be given at the time the contract is fully executed;
- The purchase of a qualified retrofit device by an applicant selected to participate in the Showcase Program, prior to receipt of a fully executed contract, is not allowable. **Any purchase of qualifying devices prior to receipt of a fully executed contract is done solely at the equipment owners' risk and there is no guarantee qualifying devices purchased in advance of contract execution will receive reimbursement;**

The forms included in the following templates should be completed by the applicant and submitted in accordance with the instructions provided in Section II.A., "Application Submittal Instructions".

**FORM 1: 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			

If Fleet is different from Applicant, please complete the following:

Fleet Name	
Fleet Address	
Fleet Phone	
Fleet Contact Name	
Fleet E-mail Address	

B. Funding Request Summary:

MSRC **Clean Transportation Funding™** Requested: \$ \_\_\_\_\_  
 Other Co-Funding Applied to Project (optional) \$ \_\_\_\_\_  
**Total Project Cost:** \$ \_\_\_\_\_

**FORM 2: VEHICLE INFORMATION**

Please provide the following information for each Off-Road Vehicle proposed. ***Please Use a Separate Sheet for each vehicle. Attach all completed sheets to your Application.***

Vehicle Type and ID (i.e., CAT D9N Dozer, Equipment ID 00123)	
Vehicle Model Year	
Engine Manufacturer	
Engine Model	
Engine Model Year	
Total Engine Hours Since New (Estimated)	
Engine Hours Since Last Rebuild	
Engine Serial Number	
Engine Rated Horsepower	
Annual Hours of Operation (Estimate)	
Address of Vehicle Storage Yard	Street Address:
	City:
Anticipated Vehicle Operating Location During Demonstration	Street Address (if known):
	City:
	Job Site Name:
Expected Duration at Above Location (months)	
Expected Number of Engine Hours to be Accrued at Proposed Operating Location	

1. CARB and the MSRC are seeking vehicles that will be able to accrue approximately **1000 hours of engine operation** within the jurisdiction of the South Coast AQMD. ***Do you anticipate that the proposed piece of equipment will be able to accrue approximately 1000 hours within the South Coast AQMD<sup>1</sup> jurisdiction within a 12 month period?*** (check appropriate box; a “no” answer will not automatically disqualify you)

- YES  
 NO

<sup>1</sup> The geographical jurisdiction of the South Coast AQMD includes the urban, non-desert portions of Los Angeles, Orange, Riverside, and San Bernardino Counties in Southern California. Includes the Coachella Valley.



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.



## CAMPAIGN CONTRIBUTIONS DISCLOSURE

California law prohibits a party, or an agent, from making campaign contributions to AQMD Governing Board Members or members/alternates of the Mobile Source Air Pollution Reduction Review Committee (MSRC) of \$250 or more while their contract or permit is pending before the AQMD; and further prohibits a campaign contribution from being made for three (3) months following the date of the final decision by the Governing Board or the MSRC on a donor's contract or permit. Gov't Code §84308(d). For purposes of reaching the \$250 limit, the campaign contributions of the bidder or contractor plus contributions by its parents, affiliates, and related companies of the contractor or bidder are added together. 2 C.C.R. §18438.5.

In addition, Board Members or members/alternates of the MSRC must abstain from voting on a contract or permit if they have received a campaign contribution from a party or participant to the proceeding, or agent, totaling \$250 or more in the 12-month period prior to the consideration of the item by the Governing Board or the MSRC. Gov't Code §84308(c). When abstaining, the Board Member or members/alternates of the MSRC must announce the source of the campaign contribution on the record. *Id.* The requirement to abstain is triggered by campaign contributions of \$250 or more in total contributions of the bidder or contractor, *plus* any of its parent, subsidiary, or affiliated companies. 2 C.C.R. §18438.5.

In accordance with California law, bidders and contracting parties are required to disclose, at the time the application is filed, information relating to any campaign contributions made to Board Members or members/alternates of the MSRC, including: the name of the party making the contribution (which includes any parent, subsidiary or otherwise related business entity, as defined below), the amount of the contribution, and the date the contribution was made. 2 C.C.R. §18438.8(b).

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

### **SECTION I. Please complete Section I.**

**Contractor:**

**RFP #:** PA2011-07

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

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### **SECTION II**

Has contractor and/or parent, subsidiary, or affiliated company, or agent thereof, made a campaign contribution(s) totaling \$250 or more in the aggregate to a current member of the South Coast Air Quality Management Governing Board or members/alternates of the MSRC in the 12 months preceding the date of execution of this disclosure?

Yes

No

**If YES, complete Section II below and then sign and date the form. If NO, sign and date below. Include this form with your submittal.**

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

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

_____	_____	_____
Governing Board Member or MSRC Member/Alternate	Amount of Contribution	Date of Contribution

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

_____	_____	_____
Governing Board Member or MSRC Member/Alternate	Amount of Contribution	Date of Contribution

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

_____	_____	_____
Governing Board Member or MSRC Member/Alternate	Amount of Contribution	Date of Contribution

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

_____	_____	_____
Governing Board Member or MSRC Member/Alternate	Amount of Contribution	Date of Contribution

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

_____	_____	_____
Governing Board Member or MSRC Member/alternate	Amount of Contribution	Date of Contribution

**I declare the foregoing disclosures to be true and correct.**

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

Title: \_\_\_\_\_

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

## DEFINITIONS

Parent, Subsidiary, or Otherwise Related Business Entity.

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

2 Cal. Code of Regs., §18703.1(d).

**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 application.
- performs 90 percent of the work within SCAQMD's jurisdiction.

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

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

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

**Small Business Enterprise** means a business that meets 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.



**ATTACHMENT A - SAMPLE CONTRACT  
OFF-ROAD DIESEL VEHICLE RETROFIT DEMONSTRATION PROGRAM**

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 services described in Attachment 1 - Statement of Work, expressly incorporated herein by this reference and made a part hereof of this Contract. CONTRACTOR warrants that it is well qualified, experienced, and has the expertise to provide such services on the terms set forth here.
  - E. This project is part of the *Showcase II* Program. The *Showcase II* Program brings together owners of off-road vehicles, manufacturers of after-treatment devices, the California Air Resources Board (CARB), AQMD and the MSRC in order to achieve multiple goals. By providing essential in-use operations data, the *Showcase* Program encourages verification of diesel after-treatment devices for off-road vehicles by CARB. Additionally, the *Showcase II* Program in general and this project in particular are intended to reduce the public's exposure to diesel exhaust particulate and/or oxides of nitrogen by reducing emissions from off-road motor vehicles and further the applicability of the technology to other motor vehicle applications.
  - F. The MSRC and AQMD have relied upon the expertise of CARB for determining which after-treatment device would be appropriate, and most efficacious and successful for the *Showcase II* Program, and for demonstration on each particular off-road vehicle. The MSRC and AQMD make no warranty or endorsement of any product or technology associated with the *Showcase II* 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. SERVICES - CONTRACTOR agrees to furnish all labor, materials, equipment, required licenses, permits, fees, and other appropriate legal authorization from all applicable federal, state, and local jurisdictions necessary to perform and complete, per schedule, in a professional manner, the services described herein.
6. REPORTING - CONTRACTOR shall submit reports to AQMD as outlined in Attachment 1 - Statement of Work. AQMD reserves the right to review, comment, and request changes to any report produced as a result of this Contract.
7. TERM - The term of this Contract is from the date of execution by both parties to **\*\*\***, unless terminated earlier as provided for in Clause 8 below entitled Termination, or extended by modification of this Contract in writing. No work shall commence prior to the Contract start date, except at CONTRACTOR'S cost and risk, and no charges are authorized until this Contract is fully executed. 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.
8. TERMINATION - In the event any party fails to comply with any term or condition of this Contract, or fails to provide the services in the manner agreed upon by the parties, including, but not limited to, the requirements of Attachment 1 - Statement of Work, this shall constitute a material breach of the Contract. The nonbreaching party shall have the sole and exclusive option either to notify the breaching party that it must cure this breach within fifteen (15) days or provide written notification of its intention to terminate this Contract with thirty (30) day's written notice. Notification shall be provided in the manner set forth in Clause 13 below, entitled - Notices. Termination shall not be the exclusive remedy of the nonbreaching party. The nonbreaching party reserves the right to seek any and all remedies provided by law. AQMD will reimburse CONTRACTOR for actual costs incurred (not to exceed the total Contract value), including all noncancellable commitments incurred in performance of this Contract through the effective date of termination for any reason other than breach.

9. INSURANCE

- A. CONTRACTOR shall furnish evidence to AQMD of workers' compensation insurance for each of its employees, in accordance with either California or other states' applicable statutory requirements prior to commencement of any work on this Contract.
- B. CONTRACTOR shall furnish evidence to AQMD of general liability insurance with a limit of at least \$1,000,000 per occurrence, and \$2,000,000 in a general aggregate prior to commencement of any work on this Contract. AQMD 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 AQMD.
- C. CONTRACTOR shall furnish evidence to AQMD of automobile liability insurance with limits of at least \$100,000 per person and \$300,000 per accident for bodily injuries, and \$50,000 in property damage, or \$1,000,000 combined single limit for bodily injury or property damage, prior to commencement of any work on this Contract. AQMD 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 AQMD.
- D. If CONTRACTOR fails to maintain the required insurance coverage set forth above, AQMD 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.
- E. All insurance certificates should be mailed to: AQMD Risk Management, 21865 Copley Drive, Diamond Bar, CA 91765-4178. **The AQMD Contract Number must be included on the face of the certificate.**
- F. CONTRACTOR must provide updates on the insurance coverage throughout the term of the Contract to ensure that there is no break in coverage during the period of contract performance. Failure to provide evidence of current coverage shall be grounds for termination for breach of Contract.

10. 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.

11. DISCLAIMER OF WARRANTY

- A. The AQMD does not warrant, guarantee or endorse any after-treatment or data-logging devices, nor any thermal insulation sold or provided under this program. It is understood by the Parties that the after-treatment devices are warranted solely by the manufacturer of the devices, and that a manufacturer's warranty pursuant to Title 13, California Code of Regulations, §2707 is required for verification by CARB. It is understood by the Parties that the AQMD does not warrant the design, workmanship, installation or operation of the after-treatment devices, thermal insulation or data logging devices, or the suitability of such devices for CONTRACTOR's intended use.
- B. AQMD shall not be liable for any injuries or property damage resulting from the patent or latent defects in such devices or insulation. It is understood by the Parties that the AQMD is not liable for any damage to CONTRACTOR's engines or vehicles on which the devices are installed and operated. CONTRACTOR's sole remedy is against the manufacturer or installer. AQMD is relying

on the determination made by CARB that the devices are suitable for installation in CONTRACTOR's fleet. Nothing herein shall be construed as granting any rights to participants or to third parties against the AQMD.

12. WARRANTY BY MANUFACTURER – As discussed more fully in Attachment 1 – Statement of Work, attached hereto and made a part hereof, after-treatment device manufacturers shall be required to warrant their devices for the term of the demonstration. This includes coverage for full repair or replacement cost of returning engine components to the condition they were in prior to the device's failure. CONTRACTOR is responsible for ensuring that purchase agreement(s) between after-treatment device manufacturers/vendors and vehicle owners provide for such warranty. Documentation of warranty coverage is a condition of payment as specified in Clause 13.C.3. below.

13. PAYMENT

- A. AQMD shall reimburse CONTRACTOR up to a total amount of \*\*\* Dollars (\$\*\*\*) in accordance with Attachment 2 - Payment Schedule, expressly incorporated herein by this reference and made a part hereof of this Contract. Any funds not expended upon early contract termination or contract completion shall revert to the AB 2766 Discretionary Fund. Payment of charges shall be made by AQMD to CONTRACTOR within thirty (30) days after approval by AQMD of an itemized invoice prepared and furnished by CONTRACTOR, referencing the task completed or a percent of work accomplished and detailing line item expenditures as listed in Attachment 2 - Payment Schedule, and the amount of charge claimed. In those cases where CONTRACTOR is the owner of the vehicle being retrofitted, and if desired by CONTRACTOR, payment shall be made directly to the device manufacturer or data-logger vendor upon submission of invoice from the CONTRACTOR requesting that such direct payment be made.
- B. An invoice submitted to AQMD for payment must be prepared in duplicate, on company letterhead, and list AQMD'S contract number, period covered by invoice, and CONTRACTOR'S social security number or Employer Identification Number and submitted to:
- South Coast Air Quality Management District  
21865 Copley Drive  
Diamond Bar, CA 91765-4178  
Attn: Cynthia Ravenstein, MSRC Contract Administrator
- C. AQMD'S payment of invoices shall be subject to the following limitations and requirements:
1. Charges for equipment, material, and supply costs, travel expenses, subcontractors, and other charges, as applicable, must be itemized by CONTRACTOR. Reimbursement for equipment, material, supplies, subcontractors, and other charges shall be made at actual cost. Supporting documentation must be provided for all individual charges (with the exception of direct labor charges provided by CONTRACTOR).
  2. CONTRACTOR'S failure to provide receipts shall be grounds for AQMD'S non-reimbursement of such charges. AQMD may reduce payments on invoices by those charges for which receipts were not provided.
  3. Prior to payment of any invoices for the purchase and installation of an after-treatment device, AQMD must have received documentation of warranty coverage as discussed in Clause 12. above and Attachment 1 – Statement of Work.
- D. CONTRACTOR must submit final invoice no later than ninety (90) days after the termination date of this Contract or invoice may not be paid.

14. 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.

15. DISPLAY OF SHOWCASE PROGRAM LOGO - CONTRACTOR agrees to permanently display one *Showcase* Program decal in a prominent location on each vehicle equipped with an after-treatment device pursuant to this Contract. Decals will be provided by MSRC upon notification that subject vehicles have been returned to service following device installation. Decals are approximately 12 inches in height and 18 inches in width. CONTRACTOR shall maintain decal for life of vehicle or equipment subject to this Contract. Should any decal become damaged, faded, or otherwise unreadable, CONTRACTOR shall request replacement decal from MSRC and apply new decal in the same or other prominent location. MSRC shall not be responsible for damage to paint or other vehicle surfaces arising from application or removal of decals. In addition, all promotional materials related to the project, including, but not limited to, press kits, brochures and signs shall include the *Showcase* Program logo. Press releases shall acknowledge MSRC financial support for the project.

16. 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: Cynthia Ravenstein, MSRC Contract Administrator

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

17. EMPLOYEES OF CONTRACTOR

- A. CONTRACTOR warrants that it will employ no subcontractor without written approval from AQMD. CONTRACTOR shall be responsible for the cost of regular pay to its employees, as well as cost of vacation, vacation replacements, sick leave, severance pay and pay for legal holidays.
- B. CONTRACTOR shall also pay all federal and state payroll taxes for its employees and shall maintain workers' compensation and liability insurance for each of its employees.
- C. CONTRACTOR, its officers, employees, agents, or representatives shall in no sense be considered employees or agents of AQMD, nor shall CONTRACTOR, its officers, employees, agents, or representatives be entitled to or eligible to participate in any benefits, privileges, or plans, given or extended by AQMD to its employees.
- D. CONTRACTOR warrants that it has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. CONTRACTOR further represents that in performance of this Contract, no person having any such interest shall be employed by CONTRACTOR or any subcontractor.

18. RIGHTS OF TECHNICAL DATA - AQMD shall have unlimited right to use technical data resulting from performance of CONTRACTOR under this Contract. CONTRACTOR shall have the right to use data for its own benefit.

19. ACCESS TO EQUIPMENT – On a periodic basis, representatives of AQMD, MSRC and the California Air Resources Board (CARB) may request access to the equipment retrofitted with a diesel emission control device for the purpose of monitoring, data retrieval, and/or onsite emissions monitoring. CONTRACTOR shall grant access to AQMD, MSRC and CARB representatives for these purposes.

20. OPERATION WITHIN SOUTH COAST AIR QUALITY DISTRICT – Each of the vehicles retrofitted with a diesel emission control device under this Contract must accrue at least 85% of its annual mileage or engine hours of operation within the geographical boundaries of the South Coast Air Quality Management District.

21. 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.

22. 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 AQMD during the term of this Contract without the consent of AQMD.

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 – 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.
25. 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.
26. 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.
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. DUPLICATE EXECUTION - This Contract is executed in duplicate. Each signed copy shall have the force and effect of an original.
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 dispute shall be Los Angeles County, California.
31. APPROVAL OF SUBCONTRACT
  - A. If CONTRACTOR intends to subcontract a portion of the work under this Contract, written approval of the terms of the proposed subcontract(s) shall be obtained from AQMD’s Executive Officer or designee prior to execution of the subcontract. No subcontract charges will be reimbursed unless such approval has been obtained.

- B. Any material changes to the subcontract(s) that affect the scope of work, deliverable schedule, and/or cost schedule shall also require the written approval of the Executive Officer or designee prior to execution.
  - C. The sole purpose of AQMD's review is to insure that AQMD's contract rights have not been diminished in the subcontractor agreement. AQMD shall not supervise, direct, or have control over, or be responsible for, subcontractor's means, methods, techniques, work sequences or procedures or for the safety precautions and programs incident thereto, or for any failure of subcontractor to comply with any local, state, or federal laws, or rules or regulations.
32. 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. Requests to expend funds above the Contract value stated in Clause 11A must be approved prior to the expenditure of additional funds. CONTRACTOR must make such request a minimum of 90 days prior to desired effective date of change. All modifications to this Contract shall be in writing and signed by both parties.
33. 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.
34. 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.

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



**B. By:**

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

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

Name:  
Title:

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

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

ATTEST:  
Saundra McDaniel, Clerk of the Board

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

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

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