



Alternative Fuel Infrastructure Funding Opportunities

**For New and Expanded Refueling Facilities in the
South Coast Air Quality Management District**

Program Announcement

PA2011-12

March 4, 2011

SECTION 1 - INTRODUCTION

The Mobile Source Air Pollution Reduction Review Committee (MSRC) is pleased to announce the availability of **Clean Transportation Funding™** to assist in the construction of Alternative Fuel Refueling Infrastructure within the South Coast Air Quality Management District.

This funding opportunity has at its core the following goals and objectives:

- Offer funding opportunities to *most*, if not all, entities interested in pursuing alternative fuel infrastructure projects, including public and private site owners, fleet owners, infrastructure providers, fuel providers, and school districts;
- Support fleets purchasing alternative fuel vehicles in compliance with the South Coast AQMD Fleet Rules, or pursuing vehicle incentives under the South Coast AQMD Carl Moyer Program.

The following Sections describe requirements for participation, guidelines for application preparation, as well as maximum incentive levels available as a function of the type of refueling infrastructure proposed and type of entity requesting funding assistance. The Alternative Fuel Infrastructure Program is not a competition in the traditional sense. Funding will be distributed on a first-come, first-served basis to applicants that satisfy specified project requirements. However, as funding is limited, the availability of funds cannot be guaranteed.

MSRC staff members are available to answer questions and provide technical and programmatic guidance as appropriate during the entire application preparation period. Please refer to Section 6 of this document for a list of MSRC Staff contacts.

SECTION 2 - PARTICIPATION GUIDELINES

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

1. **Funding Availability** - The amount of FY 2010-11 MSRC **Clean Transportation Funding** allocated for the Alternative Fuel Infrastructure Program is \$5,000,000. Please note that this funding level is a targeted amount – should meritorious projects be received totaling greater than the current funding allocation of \$5,000,000, the MSRC reserves the right to increase the amount of total funding available. Also, should the MSRC receive applications with total requests less than the amount allocated, or if proposals are deemed non-meritorious, the MSRC reserves the right to reduce the total funding available and reallocate funds to other Work Program categories. The MSRC also reserves the right to not fund any of the applications received, irrespective of the merits of the applications submitted.

For the purpose of this Program, all qualified project applications received on or before 5:00 p.m. on the first day of the Application Acceptance Period, April 1, 2011, will be deemed received at the same time. In the event the Program is oversubscribed following receipt of first-day applications, an across-the-board pro-rating factor will be determined so that all qualified project applications will receive the same percentage of the award to which they would otherwise have been entitled pursuant to the Program terms. Please note that the Geographic Funding Minimums discussed in paragraph 2, below, will take precedence in the event funding must be pro-rated. Qualifying applications received after 5:00 p.m. on April 1, 2011 will be funded in the order of receipt.

Please note that the source of MSRC **Clean Transportation Funding™** for projects submitted in response to this solicitation is motor vehicle registration fees collected by the California Department of Motor Vehicles (DMV) in accordance with the California Health and Safety

Code. Thus, the availability of MSRC Clean Transportation Funding™ is contingent upon the timely receipt of funds from the DMV. Neither the MSRC nor South Coast AQMD can guarantee the collection or remittance of registration fees by the DMV.

2. **Geographical Funding Minimum** - The MSRC has established a Geographical Funding Minimum for each county within the AQMD. The geographical funding minimum amount has been set at \$250,000 per county. This funding set-aside guarantees a minimum level of funding for each county to implement alternative fuel infrastructure projects. At the end of the application submittal period, October 14, 2011, if any county has funds remaining in its geographical minimum, these funds will be made available to qualifying projects from any other county in order of receipt.
3. **Eligible Applicants** – Most entities interested in implementing alternative fuel refueling station projects within the South Coast AQMD jurisdiction are welcome to participate in the Program. Eligible applicants include, but are not necessarily restricted to:
 - Infrastructure developers and alternative fuel providers;
 - Fleet operators, both public and private, including fleets participating in the AQMD Carl Moyer Program;
 - School districts seeking assistance for new compressed natural gas refueling station development;
 - Project teaming by multiple stakeholders, such as real property owners working in partnership with infrastructure providers or fleet operators, joint powers authorities, limited liability partnerships, etc., are eligible to participate. The MSRC does require, however, that a single prime contractor and contract signatory be designated at the time of application submission. ***Please note: the MSRC further requires the applicant to be the entity that will own the fueling equipment;***
4. **Eligible Alternative Fuels** – In order to tie MSRC funding to fuels that have the most commercially available vehicle and engine products, the following alternative fuels are allowable under this Program:
 - Compressed Natural Gas (CNG);
 - Liquefied Natural Gas (LNG);
 - Liquefied/Compressed Natural Gas (L/CNG);
5. **Maximum Total Funding Per Entity** – To ensure broad-based participation, the MSRC has established the following maximum funding parameters:
 - The maximum total funding award to any public or private entity under this solicitation shall not exceed 20% of the total Available Funding. This maximum funding restriction can be waived by the MSRC in the event the MSRC does not receive meritorious Applications from other bidders that meet or exceed 80% of the total available funds, or if the MSRC allocates additional funds to the program. The MSRC reserves the right to determine which projects, if any, are deemed meritorious and warrant a **Clean Transportation Funding™** award; and
 - The total of the MSRC funding award cannot exceed 50% of the Total Project Cost.
6. **Signage Requirements** – Publicly accessible refueling stations that receive an award must have motorist directional signage installed in proximity to the refueling station. This includes identification signs in immediate proximity to the refueling station and directional “trailblazer” signs on major streets and arterials in proximity to the refueling station. The installation of

freeway signs is not required. The cost of sign procurement, permitting, and installation may be included as a station capital cost element.

7. **Federal Tax Credits** – Entities that sell, compress and/or dispense alternative fuels may be eligible for a Federal Tax Credit. To promote the use of alternative fuel, the MSRC believes it is appropriate that any Federal Tax credit ultimately reduce the price of fuel dispensed. Therefore, commercial entities seeking MSRC funding, whose primary business is the construction of refueling stations and/or sale of fuel, must disclose how potential Federal Tax Credits are accounted for when developing station cost construction cost estimates and fuel pricing. Please refer to Attachment G.
8. **Funding Restrictions** – MSRC funds cannot be used to fund the following project elements:
 - Alternative fuel refueling station maintenance or operations costs, including utility costs, or fuel purchase costs;
 - Purchase or lease of real property.
9. **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 applicant 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 application.
10. **Certifications** – All applicants must complete and submit the following Attachment H 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.
 - 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. Governmental entities do not need to complete this form.
11. **Earliest Date for an MSRC-Funded Project to Commence** – The release date of this Program Announcement, March 4, 2011, is the earliest date work on a project can commence and be potentially eligible for MSRC Alternative Fuel Infrastructure Funding. Any expenditures made in anticipation of an award and prior to execution of a contract are solely at the proposer's risk. If no contract is executed, neither the MSRC nor South Coast AQMD are liable for payment of any funds expended in anticipation of a contract. Please note that in the event a contract is executed, reimbursement for any costs incurred by the proposer in anticipation of the contract is at the discretion of the MSRC and South Coast AQMD.
12. **Project Implementation Schedules** - Applicants are expected to provide a realistic project implementation schedule as an element of their application. In order to ensure that MSRC funds are awarded to projects which are ready to proceed, the following requirements apply:
 - All stations are expected to be operational within 24 months of contract execution. If a prospective applicant does not expect completion within this time frame, they should consider awaiting future funding opportunities.

- In the event an application is awarded MSRC funds, the project implementation schedule will become an element of the contract.
- Once a proposed contract is sent to the applicant for execution, the applicant must negotiate any requested changes and sign and return the contract within six months, or contract negotiations will terminate and the award will be returned to the Discretionary Fund.
- In the event a contractor is unable to meet project milestones and requires additional time, the MSRC reserves the right to administratively authorize a one-time extension to the period of performance, not to exceed an additional one (1) year. No additional extensions to the contract period of performance will be granted;

13. Additional Conditions on MSRC Funding

- MSRC projects are funded on a “site-specific” basis; that is, each project is evaluated with respect to its unique location. Thus, applications that result in an award of MSRC funds are not allowed to change the project implementation location under any circumstances. In the event the project location becomes unavailable, nonviable, or no longer cost-effective, either contract negotiations will terminate or the contract will terminate, as applicable. The award will then be returned to the Discretionary fund. The contractor would be required to submit a new application for evaluation;
- MSRC funds will be distributed on a reimbursement basis only upon completion of approved project tasks and submission of all required reports and invoices.
- Recipients of MSRC **Clean Transportation Funding™** must guarantee that projects implemented under this Program will remain operational and in the approved location for a period of no less than five (5) years from the date the project is fully implemented. For the purpose of refueling station construction, “fully implemented” is defined as the date the refueling station initiates fueling operations;
- Infrastructure projects funded under this Program Announcement are not eligible to receive additional funds under any other current MSRC Work Program solicitation;
- Infrastructure projects that received MSRC **Clean Transportation Funding™** under a previous award are not eligible to seek additional funding for the same project;
- MSRC funds are not intended to fund staff salaries or administrative costs. Reasonable project management costs necessary to implement infrastructure projects are allowable; however, the MSRC reserves the right to reduce or delete program management costs that appear excessive;
- All projects must include a media and community outreach component. Acceptable outreach strategies may include, but are not limited to, a Grand Opening/project kickoff event, press releases, or press conference to highlight the project’s accomplishments;
- Finally, in accordance with state law, all projects awarded MSRC **Clean Transportation Funding™** are subject to audit. The provisions of the audit are discussed in the Sample Contract, included as Section 10 of this document. It is highly recommended that bidders employ government acceptable standard accounting practices when administering their MSRC co-funded project.

SECTION 3 – PROJECT ELIGIBILITY AND INCENTIVE LEVELS

Project Eligibility - The MSRC Alternative Fuel Infrastructure Program offers incentives for a range of infrastructure types, including fast-fill stations, slow or time-fill stations, and

FuelMaker™ -type refueling apparatus. The expansion of existing operational stations to accommodate growing throughput needs is also eligible, **except** that commercial entities whose business is the construction, operation, maintenance, or sale of fuel are not eligible to seek funding for the expansion or upgrade of their own stations, as these entities have an economic interest in keeping their own stations in an operable condition with sufficient throughput capacity.

Projects must use new refueling station components. The relocation of existing alternative fuel refueling stations, or the reuse of components or equipment from existing stations, is prohibited. Furthermore, exclusively private access stations are not eligible for funding under this Program Announcement—see Limited Access definition, below. Applications must identify at least one anchor fleet to use the station, and indicate the base number of vehicles committed to fuel at the station and/or the base throughput from that fleet. Applications for station upgrades must provide documentation that the proposed project will result in increased station utilization and increased alternative fuel throughput.

Incentive Levels – In no case shall the MSRC funding award exceed 50% of the combined cost of the station/upgrade capital equipment, site construction, signage, and reasonable project management costs. The incentive levels available also vary as a function of the type of refueling infrastructure proposed and type of entity requesting funding assistance. The following maximums apply for both new and expansion projects:

Proposing Entity Type	Fuels Offered	Limited Access	Full Public Access (fast fill, meets minimum capacity)
Private Entity	Single Fuel	\$100,000	\$150,000
	Multi-Fuel	\$125,000	\$175,000
Public Entity	Single Fuel	\$175,000	\$225,000
	Multi-Fuel	\$200,000	\$250,000

For purposes of this Program Announcement, the following definitions apply:

Full Public Access – A Full Public Access station is:

- open 24 hours per day, 7 days per week to any user,
- equipped with a universal card reader system which accepts Visa, Mastercard, and/or American Express, at a minimum, and
- has capacity to dispense at least 3 gasoline gallon equivalents (GGE) per hour.

Limited Access – A Limited Access station does not meet one or more of the Full Public Access criteria above. However, the station owner must attest to their willingness to make arrangements for at least one other fleet to use the station, if approached by an interested fleet. The “other fleet” must be a separate legal entity from the station owner. The owner of a Limited Access station may place reasonable restrictions on the “other fleet’s” hours of access, etc.

Multi-Fuel – Station will be L/CNG, i.e. offering both CNG and LNG fuels.

Private Entity – An applicant which is not a Public Entity as defined below.

Public Entity – A government agency of any level, including but not limited to: municipal, county, State, Federal, special districts, and school districts.

Project applications that do not reasonably fit within the Eligible Project Categories outlined above will not be approved and will not be eligible to receive MSRC **Clean Transportation Funding™**. *The MSRC retains sole discretion when determining project eligibility.*

SECTION 4 - SCHEDULE OF EVENTS

The Alternative Fuel Infrastructure Program will be conducted in accordance with the timeline shown in Table 4-1, below. Project applications may be submitted at any time during the period commencing April 1, 2011 and ending October 14, 2011. *Please note that applications must be received no later than 2:00 p.m. on October 14, 2011. Late applications will not be evaluated and will not be eligible for MSRC funding.*

Table 4-1 - Key Alternative Fuel Infrastructure Program Dates

Program Event	Date
Program Announcement Release	March 4, 2011
Application Submittal Period	April 1 – October 14, 2011
Latest Date/Time for Application Submittal	October 14, 2011 @ 2:00 p.m.
Application evaluation and award consideration	Continuously throughout application period and months immediately following

SECTION 5 - APPLICATION PREPARATION & SUBMITTAL INSTRUCTIONS

A Project Application must be completed and submitted for funding consideration under this Program. As stated in the Introduction, only applications deemed complete will be evaluated and considered for a funding award. Applications must be prepared and submitted in accordance with the instructions outlined below.

1. **Application Preparation** – The following information must be included in all Applications seeking MSRC **Clean Transportation Funding™** under the Alternative Fuel Infrastructure Program:

- a) **Cover letter** - Transmittal of the Application must be accompanied by a cover letter. The letter should also provide the name, telephone and fax numbers, and e-mail address of the contact person(s) for technical and contractual matters, and be signed by the person(s) authorized to contractually bind the applying entity.

For joint Applications, the Proposer must include a statement confirming authorization to act on behalf of the other co-Proposers. The Proposer must include a letter of support, including contact name and telephone/fax number, from all proposing entities of a joint Application.

b) **Attachments A-H** - Applications must include the following completed Attachments, including all required supporting documentation as requested. Application Templates and Instructions are included in Section 8 of this Request for Proposals; see page 11:

- Attachment A: Proposer Information
- Attachment B: Project Description & Technical Specifications
- Attachment C: Project Cost Breakdown
- Attachment D: Project Implementation Schedule
- Attachment E: Memorandum of Understanding/Memorandum of Agreement
- Attachment F: Utilization Estimates/Letters of Commitment
- Attachment G: Federal Tax Credit Accounting
- Attachment H: Certifications

2. **Application Submittal Instructions** - Proposers 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 Proposer and the words "PA2011-12, Infrastructure Program". The original Application should be submitted unbound on 8 ½" x 11" paper. When possible, any plans, diagrams, etc. should be affixed to standard size paper to facilitate reproduction. The earliest date for Application submittal is April 1, 2011. The last date and time to submit is October 14, 2011 at 2:00 p.m. All Applications should be directed to:

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

In addition to the paper Application, applicants must also submit an electronic copy of their Application, in either PDF format or Microsoft Word, on CD-ROM. Attachments such as site drawings, etc. are not required to be included in the electronic copy if inclusion would be problematic.

Please note that the Application 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 AQMD. In addition, please note that faxed Applications will not be accepted.

3. **Addenda** – The Mobile Source Air Pollution Reduction Review Committee may modify the Program Announcement and/or issue supplementary information or guidelines relating to the Program Announcement during the Application preparation and acceptance period of March 4 to October 14, 2011. Amendments will be posted on the MSRC website at www.CleanTransportationFunding.org.
4. **Application Modifications** - Once submitted, Applications cannot be altered without the prior written consent of the Mobile Source Air Pollution Reduction Review Committee.
5. **Certificates of Insurance** - Proposers 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 Program Announcement can be obtained by accessing the MSRC web site at www.CleanTransportationFunding.org. MSRC staff members are available to answer questions during the Application acceptance period. In order to help expedite assistance, please direct your inquiries to the applicable staff person, as follows:

- For **General and Administrative Assistance**, please contact:
Cynthia Ravenstein
MSRC Contracts Administrator
Phone: 909-396-3269
Fax: 909-396-3682
E-mail: 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

- For **Contractual Assistance**, please contact:
Dean Hughbanks
AQMD Procurement Manager
Phone: 909-396-2808
E-mail: dhughbanks@aqmd.gov

SECTION 7- APPLICATION EVALUATION AND APPROVAL PROCESS

Applications will be evaluated as they are received to determine compliance with all mandatory requirements. Applications that do not comply with the stipulated requirements will be returned to the project applicant for revision and resubmission. Any returned applications will lose their original submittal date and, if resubmitted, will be issued a new date upon receipt by the MSRC for purposes of disbursing funds on a first-come, first-served basis.

Proposals deemed compliant will be forwarded to the MSRC Technical Advisory Committee (MSRC-TAC) for review and concurrence with staff's recommendation. Applications recommended for approval by the MSRC-TAC will be forwarded to the MSRC for approval (applicants may be asked to provide an updated Campaign Contributions Disclosure form at this time). Applications recommended for funding by the MSRC will be forwarded to the South Coast AQMD Governing Board for final approval.

Upon receipt of Governing Board approval, the MSRC staff will prepare a contract for execution by the applicant. The time period from AQMD Governing Board approval to contract execution is anticipated to be approximately one hundred twenty (120) days.

SECTION 8 - PROPOSAL ATTACHMENTS

Attachment A: PROPOSAL SUMMARY INFORMATION

A. Please provide the following Proposer 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			

B. Funding Request Summary:

MSRC **Clean Transportation Funding™** Requested: \$ _____
 Existing or Anticipated AQMD Funding Applied to Project: \$ _____
 Other Co-Funding Applied to Project: \$ _____
Total Project Cost: \$ _____

Attachment B: PROJECT DESCRIPTION & TECHNICAL SPECIFICATIONS

Please provide the following information regarding the proposed alternative fuel refueling facility:

1. Proposed Location – Please provide the street address of the proposed facility:
2. Project Type (please check the appropriate box):
 - New Station
 - Expansion of Existing, Operational Station
3. The proposed new/upgraded refueling station will be (please check the appropriate box):
 - Full Public Access (open to any user 24 hours per day, 7 days per week; equipped with universal card reader, and minimum dispensing capacity of 3 GGE per minute)
 - Limited Access (does not meet criteria of Full Public Access. Applicant attests their willingness to make the station available to at least one other fleet)
4. Fuel Type(s) – please check the appropriate box specifying the alternative fuel(s) proposed for the station:
 - CNG
 - LNG
 - L/CNG
5. Site Owner – Owner of the real property upon which the station will be constructed:
6. Station Operator – Entity that will operate and maintain the refueling facility:
7. Infrastructure Vendor/Installation Contractor – Name of equipment vendor(s) and installation contractor(s), if known:
8. Fuel Provider – Name of fuel vendor:
9. Refueling Infrastructure Description/Technical Specification. Please respond to a. or b. below, as appropriate:
 - a. New Refueling Facility - Description must include, at a minimum:
 - i. Site plan illustrating the proposed station's location on the property, including at a minimum the adjacent streets, entrance and exit locations, locations of dispenser islands, canopies, fuel storage tanks, compressors, walls and/or spill containment areas as appropriate;
 - ii. Technical Specification, including a complete listing of all station equipment, hardware, and components, including component manufacturer and model number if known. In addition, the specification must provide minimum fuel storage capacities,

- compression and dispenser ratings, as well as number, make, and model of dispensers and card readers, etc. if known;
- iii. Description of other project elements, including site amenities such as private access/public access islands, card reader payment options, overhead canopies, signage, traffic circulation plan, landscaping, fencing, security lighting, etc.
- b. Expansion of Existing Refueling Facility – description must include, at a minimum:
- i. a description of the site location, existing fuel type and storage capacity, number of existing fuel dispensers, level of accessibility (private access, limited fleet access, etc.), current station utilization, including average monthly fuel throughput, numbers and types of vehicles that typically utilize station, etc.
 - ii. Please discuss the proposed station expansion and/or upgrades: Provide a detailed description of the proposed upgrade and/or expansion project. Include a technical description of the station in its modified or expanded configuration. Discuss, at a minimum, how the proposed upgrades/expansion will impact the station's ability to remain operational and accessible, the strategic importance of the expanded and/or upgraded station, and the number, types, and sizes of vehicles the station will accommodate in its expanded and/or upgraded configuration.
 - iii. Please describe the funding requirements for implementing the proposed refueling station expansion and/or upgrades, including the need for MSRC funding assistance: Discuss co-funding commitments offered by the Proposer or other station stakeholders. Describe other funding sources currently being pursued to support station upgrades/expansion. Discuss any unique financial constraints that impact the Proposer's ability to perform station upgrades and/or expansion.

Attachment C: COST BREAKDOWN: Please provide a detailed cost breakdown of the proposed project. Please note that MSRC **Clean Transportation Funding™** is intended to help offset the cost of station capital equipment, site construction, signage, and reasonable project management costs, and cannot be applied to real property purchases, operations and maintenance costs, or labor and administrative costs deemed excessive. The MSRC reserves the right to exclude cost elements deemed unallowable, as well as award funding in an amount less than the requested amount.

Site Improvements, including fencing, driveways, curbing, landscaping, lighting, other construction, etc. Please itemize site improvement costs below:	
	\$
	\$
	\$
	\$
	\$
	\$
	\$
Refueling Station Capital Equipment	
Compressors	\$
Dryers	\$
Storage Vessels	\$
Dispensers	\$
Card Readers	\$
Signage (mandatory – see Section 2 paragraph 5)	\$
Other (Canopy, etc. Please specify)	\$
Shipping & Delivery Charges	\$
Installation	\$
Taxes	\$
Project Management	\$
Total Project Cost Estimate	\$
MSRC FUNDING REQUEST	\$

Please note that the total of the MSRC funding award cannot exceed 50% of the Total Project Cost.

Attachment D: PROJECT IMPLEMENTATION SCHEDULE

Please provide, either in the space outlined below or separate attached sheet, a Milestone Schedule for your proposed alternative fuel station project. Please note that this information will become an element of any contract resulting from a potential award of MSRC **Clean Transportation Funding™**.

Please endeavor to make your Milestone Schedule as accurate as possible. Please note that extensions to the project period of performance are not guaranteed and in no event will exceed one additional year! Attach additional sheets as necessary.

<i>PROJECT MILESTONE</i>	<i>START DATE</i>	<i>COMPLETION</i>
<i>Example: Task 1 – Order equipment</i>	<i>Authority to Proceed (ATP) + one month</i>	<i>ATP + 3 months</i>

Attachment E: MEMORANDUM OF UNDERSTANDING BETWEEN CONTRACTOR AND HOST SITE

For projects seeking MSRC **Clean Transportation Funding™** for construction of alternative fuel refueling stations, a fully executed Memorandum of Understanding (MOU) or Memorandum of Agreement (MOA) must be submitted as an element of the application package. **Please note that an MOU/MOA is NOT REQUIRED if the project applicant is the Site or Facility Owner.**

The MOU/MOA must be provided at the time of Application submittal and must contain the following essential elements, at a minimum:

- The parties to the MOU/MOA, including the fuel provider and/or facility developer and the site owner;
- The term of the MOU/MOA;
- The specific location of the refueling station to be constructed;
- Anticipated date of infrastructure construction;
- Anticipated date of infrastructure completion and start of operation;
- Executed signatures by individuals authorized on behalf of the parties to the MOU/MOA.

Attachment F: STATION UTILIZATION ESTIMATES

Applicants are required to demonstrate that the proposed station will have an adequate usage level to ensure the station remains operational for the required five-year period, as follows:

- Identify at least one anchor fleet which has committed to use the station on a regular basis. Please provide contact information for the anchor fleet. Please note that MSRC members or staff may contact any and all references provided in relation to station utilization commitment.
- Provide an estimate of the estimated annual station fuel throughput, and/or describe the number and types of alternative fuel vehicles expected to utilize the station immediately upon completion.
- Please attach letters of commitment between the applicant and fleets or other station users that commit to use the alternative fuel station for vehicle refueling.

Please be aware that any contract resulting from an award of MSRC **Clean Transportation Funding™** will include fuel throughput obligations as an enforceable element of the contract. Therefore, it is strongly recommended that Proposers present station utilization estimates that are as accurate as possible and based on firm station utilization commitments!

Attachment G: FEDERAL TAX CREDIT ACCOUNTING

Please note that this Attachment only pertains to commercial business entities. Public agencies are not required to complete Attachment G.

As stated in Section 2, paragraph 6, the MSRC is aware that starting October 1, 2006, Federal Tax Credits became available to help defray the cost of CNG and LNG station construction and fuel purchase. It is important to the MSRC that stations funded using public money demonstrate that the benefits of these funds are enjoyed broadly, especially as it pertains to the price of alternative fuel paid by the end user.

Thus, in the event that the tax credits are extended, the MSRC requires that prior to any award of **Clean Transportation Funding™** to commercial business applicants whose primary business is the construction of refueling stations and/or sale of alternative fuel, the applicant must disclose in writing if they:

- a) Are or are not eligible to receive Federal Tax Credit(s), and if they are;
- b) How the Tax Credit(s) is factored into the cost of station construction and the pricing of alternative fuel dispensed at the proposed refueling station.

This discussion should be labeled “Attachment G” and be included in the Application package at the time of submittal. Please note that Applications submitted by affected entities that fail to include Attachment G will be deemed incomplete and returned for corrective action.

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 ¹	Generally, exempt recipients 1 through 7 ²

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

²However, 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. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses/ and clicking on Employer ID Numbers under Related Topics. You can get Forms W-7 and SS-4 from the IRS by visiting 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 ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or single-owner LLC	The owner ³
For this type of account:	Give name and EIN of:
6. Sole proprietorship or single-owner LLC	The owner ³
7. A valid trust, estate, or pension trust	Legal entity ⁴
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

¹List 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.

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

³You 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.

⁴List 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.

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.

NAME *TITLE*

TELEPHONE NUMBER *DATE*

(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 the following criteria:

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

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.



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 member/alternate 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). 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 #: _____

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

SECTION II.

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

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

Campaign Contributions Disclosure, *continued*:

Name of Contributor _____

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

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).

SECTION 9 – SAMPLE CONTRACT



South Coast Air Quality Management District



AB 2766/MSRC ALTERNATIVE FUEL INFRASTRUCTURE PROGRAM CONTRACT

WHEREAS, 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 ***.

WHEREAS, 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) and 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; and

WHEREAS, under State Health and Safety Code Section 44223(a) the AQMD's Governing Board has authorized the imposition of the statutorily set motor vehicle fee and by taking such action the State's Department of Motor Vehicles (DMV) is required to collect such fee and remit it periodically to AQMD; and

WHEREAS, State Health and Safety Code Section 44243(c) 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; and

WHEREAS, State Health and Safety Code Section 44244(a) creates a regional Mobile Source Air Pollution Reduction Review Committee (MSRC) to develop a work program to fund projects from the separate account and pursuant to approval of the work program by AQMD's Governing Board, AQMD Board authorized a contract with CONTRACTOR for the project described in Attachment 1 - Statement of Work, incorporated herein and made a part hereof; and

WHEREAS, CONTRACTOR has met the requirements for receipt of AB 2766 Discretionary Funds as set forth in CONTRACTOR's Alternative Fuel Infrastructure Proposal dated ***.

NOW THEREFORE, the Parties agree as follows:

TERMS AND CONDITIONS OF PERFORMANCE

1. 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.

2. AUDIT - 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 that 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.
3. 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. No work shall commence prior to the Contract start date, except at CONTRACTOR's cost and risk, and no charges are authorized until this Contract is fully executed, subject to the provisions stated in Clause 28.
4. SUCCESSORS-IN-INTEREST - Obligations under this Contract requiring the operation of equipment and annual reporting for *** (***) years as defined in Attachment 1- Statement of Work, shall be binding upon CONTRACTOR, their respective successors-in-interest and heirs.
5. 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.
6. 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 Attachments 1 and 3, this shall constitute a material breach of the Contract. The non-breaching 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 15 below, entitled - "Notices." Termination shall not be the exclusive remedy of the non-breaching party. The non-breaching party reserves the right to seek any and all remedies provided by law. AQMD reserves the right to terminate this Contract at any time for non-breach, and for the convenience of AQMD for any reason judged sufficient by AQMD. 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
7. EARLY TERMINATION – This Contract may be terminated early due to the following circumstances: The fueling station becomes inoperable, and is either not technically able to be repaired, or is too costly to repair, and such failure is not caused by CONTRACTOR's negligence, misuse, or malfeasance.
8. REFUELING STATION LOCATION, OPERATIONAL AVAILABILITY & ACCESSIBILITY, AND THROUGHPUT – CONTRACTOR is obligated to comply with the alternative-fuel refueling infrastructure requirements set forth as follows:

- A. Refueling station shall remain in the original location, operational and accessible to public and/or fleets, for a period of not less than five (5) years from the date the station begins dispensing fuel in its upgraded or expanded capacity.
- B. In the third, fourth, and fifth years of station operation, CONTRACTOR shall meet the annual fuel throughput requirements as set forth in Attachment 1, Statement of Work.
- C. Should CONTRACTOR deviate from either of these obligations, for reasons other than those stated in Clause 7, above, CONTRACTOR shall reimburse AQMD for a prorated share of the funds provided. The prorated share for which CONTRACTOR shall be liable shall be 100% if the deviation occurs within one (1) year of initial station operation; 80% if the deviation occurs between years one (1) and two (2); 60% between years two (2) and three (3); 40% between years three (3) and four (4); 20% between years four (4) and five (5); and 0% after year five (5). The appropriate reimbursable amount shall be paid to AQMD within sixty (60) days from the date of the deviation.

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.

(ii) (Use above clause or Self Insurance clause below)-Remove before printing

Self Insurance Clause:

INSURANCE - CONTRACTOR represents that it is permissibly self-insured and will maintain such self-insurance in accordance with applicable provisions of California law throughout the term of this Contract. CONTRACTOR shall provide evidence of sufficient coverage during the term of this Contract and any

extensions thereof that meet or exceed the minimum requirements set forth by the South Coast AQMD below. CONTRACTOR shall furnish certificate of self-insurance to: South Coast Air Quality Management District, Attn: Risk Management Office. **The AQMD Contract Number shall be included on the face of the certificate.** If CONTRACTOR fails to maintain the required insurance coverage, AQMD reserves the right to terminate the Contract or purchase such additional insurance and bill CONTRACTOR or deduct the cost thereof from any payments owed to CONTRACTOR. Minimum insurance coverages are as follows:

- A. Worker's compensation insurance in accordance with either California or other state's applicable statutory requirements.
 - B. General Liability insurance with a limit of at least \$1,000,000 per occurrence, and \$2,000,000 in general aggregate.
 - C. Automobile Liability insurance with limits of at least \$100,000 per person and \$300,000 per accident for bodily injuries and \$50,000 in property damage, or \$1,000,000 combined single limit for bodily injury or property damage.
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 as a result of the performance of this Contract.
11. 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 the Contract.
 - B. An amount equal to ten percent (10%) shall be withheld from each invoice. Upon satisfactory completion of project and final acceptance of work and the final report, CONTRACTOR's invoice for the ten percent (10%) withheld shall be released. Proof of project completion shall include a Final Report detailing the project goals and accomplishments, data collected during project performance, if any, documentation of significant results, and emissions reduction input data needed for calculation of emissions reductions.
 - C. Any funds not expended upon early Contract termination or Contract completion shall revert to the AB 2766 Discretionary Fund. Payment of charges shall be made by AQMD to CONTRACTOR within thirty (30) days after approval by AQMD of an itemized invoice prepared and furnished by CONTRACTOR.
 - D. If, at the completion of the Project described in Attachment 1, the actual cost of the project is less than the Total Project Cost described in Attachment 2, the Firm Fixed Price amount reimbursed to CONTRACTOR by AQMD shall not exceed fifty percent (50%) of the actual cost of the project.
 - E. 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

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. CONTRACTOR may reduce payments on invoices by those charges for which receipts were not provided.
 3. CONTRACTOR must submit final invoice no later than ninety (90) days after the termination date of this Contract or invoice may not be paid.
12. 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.
13. 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 proposal is submitted. AQMD staff, at the time an MSERC proposal 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.
14. DISPLAY OF MSRC LOGO - CONTRACTOR agrees to permanently display one MSRC decal in a prominent location on each fueling or charging station constructed or upgraded pursuant to this Contract. Decals will be provided by MSRC upon notification that subject fueling station equipment

and/or vehicles are placed into service. Decals are approximately twelve (12) inches in height and eighteen (18) inches in width (Note: a smaller decal may be provided if CONTRACTOR demonstrates that proposal of the standard decal is not feasible). 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 proposal 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 MSRC logo. Press releases shall acknowledge MSRC financial support for the project.

15. 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:

16. EMPLOYEES OF CONTRACTOR
- A. 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.
17. OWNERSHIP - Title and full ownership rights to any products purchased or developed under this Contract shall at all time remain with CONTRACTOR.

18. AQMD LIEN RIGHTS - CONTRACTOR agrees AQMD shall have lien rights on any and all equipment and/or vehicles purchased in whole or in part by the CONTRACTOR, under this Contract or any amendments thereto. The AQMD shall have lien rights in effect until the CONTRACTOR satisfies all terms under the Contract, including but not limited to, the use and reporting requirements. Accordingly, CONTRACTOR further agrees that AQMD is authorized to file a UCC filing statement to secure its interests in the equipment and/or vehicles that are the subject of the Contract. In the event CONTRACTOR files for bankruptcy protection, CONTRACTOR shall notify AQMD within 10 business days of such filing.
19. 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.
20. ASSIGNMENT - The rights granted hereby may not be assigned, sold, licensed, or otherwise transferred by either party without the written consent of the other, and any attempt by either party to do so shall be void upon inception.
21. 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.
22. 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.
23. 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.
24. 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.

25. 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.
26. DUPLICATE EXECUTION - This Contract is executed in duplicate. Each signed copy shall have the force and effect of an original.
27. 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.
28. PRE-CONTRACT COSTS - Any costs incurred by CONTRACTOR prior to CONTRACTOR receipt of a fully executed Contract shall be incurred solely at the risk of the CONTRACTOR. In the event that a formal Contract is not executed, neither the MSRC nor the AQMD shall be liable for any amounts expended in anticipation of a formal Contract. If a formal Contract does result, pre-contract cost expenditures authorized by the Contract will be reimbursed in accordance with the cost schedule and payment provision of the Contract.
29. CHANGE TERMS - Changes to any part of this Contract must be requested in writing by CONTRACTOR and approved by MSRC in accordance with MSRC policies and procedures. 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. Fueling station location changes shall not be approved under any circumstances, and in no case shall the contract term be extended for more than one (1) year beyond the original termination date.
30. PREVAILING WAGES - CONTRACTOR is alerted to the prevailing wage requirements of California Labor Code section 1770 et seq. Copies of the prevailing rate of per diem wages are on file at the AQMD's headquarters, of which shall be made available to any interested party on request. Notwithstanding the preceding sentence, CONTRACTOR shall be responsible for determining the applicability of the provisions of California Labor Code and complying with the same, including, without limitation, obtaining from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work, making the same available to any interested party upon request, paying any applicable prevailing rates, posting copies thereof at the job site and flowing all applicable prevailing wage rate requirements to its subcontractors. CONTRACTOR shall indemnify, defend and hold harmless the South Coast Air Quality Management District against any and all claims, demands, damages, defense costs or liabilities based on failure to adhere to the above referenced statutes.
31. 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 requested.

32. 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.

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

By: _____
Dr. William A. Burke, Chairman, Governing Board

By: _____
Name:
Title:

Date: _____

Date: _____

ATTEST:
Saundra McDaniel, Clerk of the Board

By: _____

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

By: _____