

# **Request for Proposals**

## **El Dorado County Air Quality Management District**

### **Motor Vehicle Emission Reduction Projects CY 2021 & 2022**

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#### **Background**

In 1990, Assembly Bill 2766 (AB 2766) was adopted into the California Health and Safety Code. AB 2766 authorized the Department of Motor Vehicles (DMV) to collect a motor vehicle registration clean air surcharge of \$4 per vehicle. Revenues generated from the surcharge are utilized by the Air Quality Management District (AQMD) for grant programs that reduce air pollution from motor vehicles in order to implement the California Clean Air Act and internal operations. Grant programs include alternative fueled vehicles, electric vehicle infrastructure, shuttles, park and ride facilities, bike trails, dirt road paving and others. Internal operations include planning, monitoring, enforcement and technical studies.

#### **Purpose**

This is a competitive grant program with the sole purpose of improving air quality. The AQMD's goal is to identify projects that reduce motor vehicle emissions at the lowest cost per ton of emissions reduced. Project information and cost-effectiveness rankings will be presented to the El Dorado County Air Quality Management District Board of Directors for award consideration. Grants funds are to subsidize emission reduction projects, not supplant existing normal operating expenses.

#### **Grant Funding**

Approximately \$400,000 will be available for the two year grant term, contingent upon Board of Directors approval. The Board of Directors reserves the right to approve proposals, reject proposals, or fund amounts less than the amounts requested.

#### **Matching Funds**

**Match must be at least 20% of requested and awarded funding or at least 16.66% of total project budget identified in the application.**

**Example: \$50,000 requested/awarded will require at least \$10,000 in match.**

**$\$50,000 \times 20\% = \$10,000$**

**$\$10,000/\$60,000 = 16.66\%$**

All applicants must contribute minimum matching funds equal to or greater than 20% of the grant amount requested. The Match Share requirement must be fulfilled after receiving the Notice to Proceed and throughout the grant term. The Match Share may be monetary and/or in-kind (non-dollar) contributions. Volunteer services are acceptable in-kind contributions and will be valued as the number of volunteer hours at the current State of California minimum hourly wage rate, or other appropriate rate if identified in the subsequent agreement. Other non-dollar contributions will be considered. The Match Share must be actual cost to the grant applicant of matching services.

## **Applicant Eligibility**

El Dorado County jurisdictions including: cities, special districts, other political subdivisions and jurisdictions joined together by JPAs or MOUs, private companies, private individuals and non-profit organizations are eligible to apply for these grants. Applicants may jointly submit regional project applications.

**Eligible Project Examples** (Other projects that reduce motor vehicle emissions are also encouraged)

### Alternative Fuel Vehicle Infrastructure

1. Electric Vehicle Supply Equipment (EVSE) installation and upgrade.
2. Alternative gas or liquid fuel equipment installation and upgrade.

### Public Education

The California Clean Air Act requires districts include a public education element in their attainment plans. Public education programs should deliver a focused message encouraging behavioral changes that reduce motor vehicle emissions. Project examples include:

1. Development/distribution of educational materials on how residents can improve air quality.
2. Development and distribution of educational materials to at-risk populations on the health impacts of poor air quality and how to avoid them.
3. Air quality curriculum development and implementation in school districts.

### Vehicle Miles Traveled (VMT) Reduction

Projects to reduce motor vehicle trips by providing alternative methods of travel. Examples of these projects include:

1. Videoconferencing systems that reduce the vehicle trips of the public to public facilities.
2. Construction of public park and ride facilities.
3. Subsidies for new commuter vanpools.
4. Construction of bike paths that serve schools or employment centers.
5. Shuttle services.

### Vehicle Retrofit and Replacement

Projects that reduce mobile source tail pipe emissions by retrofit or replacement of vehicles and engines with eligible, new (2021 model or later) vehicles and engines, and related fueling infrastructure. Replaced vehicles and engines must be scrapped. Applications for vehicle replacement projects eligible for Carl Moyer funding may be redirected to the Carl Moyer program. Examples of these projects include:

1. Replacement of old light-duty motor vehicles (8500 lbs. or less) with a new light-duty electric, hybrid, alternative fuel or other low emitting vehicle that meets the zero emission vehicle (ZEV), alternative technology partial zero emission vehicle (ATPZEV), or partial zero emission vehicles (PZEV) standard.
2. Replacement of old medium-duty (8501 lbs – 14,000 lbs.) vehicles with new low emitting medium-duty vehicle that meets the ZEV or super low emission vehicles (SULEV) standard.
3. Replacement of an old heavy-duty vehicle (14,001 lbs or greater) with a low emission alternative fuel vehicle (AFV) of the same class.
4. Replacement of an old high emitting engine in a heavy-duty vehicle with a new alternative fueled low emitting engine.

## 5. Liquefied and compressed natural gas or electric vehicle infrastructure projects

### **Eligible Costs**

Eligible costs are direct costs associated with implementing the project, which are incurred after receiving the Notice to Proceed and by the end of the grant term. AQMD reserves the right to make final determinations regarding cost eligibility for each project.

### **Ineligible Costs**

Any costs not directly related to the project are ineligible for grant or matching funds. Ineligible costs using grant or matching funds including, but are not limited to:

- Costs not specifically identified in the Proposal, unless approved in writing by the Air Pollution Control Officer (APCO) prior to costs being incurred;
- Costs covered by another government grant, contract or loan;
- Expenses incurred for meetings, workshops, training not associated with the project;
- Personnel travel or per diem costs, unless approved in writing by the APCO prior to the costs being incurred;
- Food or beverages;
- Overhead expenses such as costs for utilities, office supplies, and other miscellaneous costs incurred during the project;
- Overtime costs (except for local government staffing during evening or weekend events when law or labor contract requires overtime compensation), unless approved in writing by the APCO prior to the costs being incurred.
- Any personnel costs not directly related to salaries and/or benefits;
- Any personnel costs incurred as a result of any employee assigned to the project funded by the grant while not actually working on the project (i.e., working on other tasks, use of accrued sick leave, vacation, etc.)
- Any costs not consistent with local, state, and federal guidelines and regulations;
- Interest charges or payments on bonds or indebtedness required to finance project costs;
- Fines or penalties due to violation of federal, state or local laws, ordinances or regulations;
- Cameras, cell phones, electronic personal data devices and/or pagers;
- Costs connected with contractor claims against the grantee; and
- Any costs not deemed appropriate by the APCO.

### **Audit Requirements**

All grantees are required to comply with the following:

1. **Audit/Records Access:** Grantees agree that AQMD, El Dorado County Auditor, California Air Resources Board, Bureau of State Audits, or their designated representative(s) shall have the right to review and copy any records and supporting documentation pertaining to contract performance. Grantees agree to maintain such records for a minimum of three years after final payment, unless a longer period of records retention is stipulated, or until completion of any action and resolution of all issues which may arise as a result of any litigation, dispute or audit, whichever is later. Grantees agree to allow designated representative(s) access to such records during normal business hours and allow interviews of any employees who might reasonably have information related to such records. Further, grantees agree to include a similar right to audit records and interview staff in any contract or subcontract related to contract performance.

2. **Personal Jurisdiction Waiver:** If as a result of an audit finding, AQMD seeks reimbursement of costs paid to a grantee, the grantee hereby waives any jurisdictional defenses as a defense to any action in any court of the State of California for recovery of such funds.

**Payment of Grant Funds**

Grant funds are paid on a reimbursement basis for the actual eligible costs directly related to the implementation of the project as approved in the Contract. All payment requests must include an itemization with documentation of claimed expenses (e.g., itemized receipts, proof of payment invoices, billable personnel hours, etc.).

A minimum of ten percent (10%) of documented expenses on each payment request must be applied to the match requirement. The AQMD shall not under any circumstances reimburse Contractor for commitments made by Contractor for services not performed or materials not received.

**Reporting Requirements**

The AB 2766 grant is performance based. Periodic performance reports are required to ensure projects are on schedule and within parameters approved by AQMD. A final report summarizing all grant activities is due February 28, 2023.

**Grant Term**

The grant term is from the Notice to Proceed date through December 31, 2022. Term may be shortened if all project activities will be completed well in advance of December 31, 2022. All costs must be incurred during this term. The final payment request is due February 28, 2023. Failure to submit final payment request and final report with appropriate documentation by the due date will result in Payment Request rejection and forfeiture of claims for costs incurred.

**GRANT PROGRAM MILESTONES**

Activity	Date
Request for Proposal Issued	7/31/2020
Proposal Deadline (no extensions allowed)	<b>9/4/2020 at 5PM</b>
Review and Ranking of Applications	September 2020*
Board Receives Proposals, Rankings and Awards Grants	October 2020*
Contract Preparation / Execution	November 2020*
Grant Performance Period	Notice to Proceed to 12/31/22
Final Report and Payment Request Due	2/28/23

\* Tentative

**Proposals**

Proposal submittal constitutes an agreement to all conditions set forth in the RFP. Proposals must include all required information, letters of support, and technical appendices as follows:

Project Summary (Attachment 1) - Provide basic information indicated, including a brief project overview.

Contents Checklist (Attachment 2) - Use the checklist sheet to ensure that all required proposal contents are included.

Authorization Letter/Resolution – For public agencies, provide governing body letter /resolution authorizing proposal submittal. Authorization must identify grant administrator. For joint proposals, the authorization must be signed by an authorized representative from each entity.

Project Description - Identify objectives and describe project scope of work.

Project Organization/Background - A description of your ability to implement project. Describe previous, similar, successful projects. If using sub-contractors, identify and state their qualifications. If sub-contractors have not been identified, state qualifications to be met.

Emission Benefits/Cost Effectiveness - Estimate total lifetime NO<sub>x</sub>, ROG, and PM-10 emission reductions. You must use any historical data on ridership, vehicle miles traveled, participation or other metric in the calculations. Calculations, assumptions and data necessary for estimates must be included in proposal and will be verified by AQMD staff. Automated Methods to Calculate Cost-Effectiveness and other cost-effectiveness analysis information is at: <http://www.arb.ca.gov/planning/tsaq/eval/eval.htm> Use **April 2018** emission factors found on that same webpage.

Work Statement - Describe work phases, tasks and deliverables in sequence. Include all relevant information regarding materials, equipment and personnel involved with the project.

Acknowledgment - All recipients must provide public acknowledgment that project was funded by AQMD with AB2766 Funds. Acknowledgments include placards on equipment, acknowledgment in a public education address or pamphlets, etc. Describe acknowledgment.

Funding Request/Breakdown of Cost - Include amount of money requested from AB2766 DMV Surcharge fund and total project cost. Estimate cost for each task. Identify source of funding for each task. Itemized any equipment to be purchased and the proportion of the cost of each piece of equipment to be paid with AB2766 DMV Surcharge funds. Grant funds may only be used to fund the portion of equipment's cost related to the provision of air quality benefit.

Matching Funds – State if matching funds are monetary or in-kind (non-dollar). AQMD staff will evaluate matching funds. Ineligible funds will not be used in cost-effectiveness determination. Provide proof (letter of commitment) that matching funds are available. Matching funds must be available when the grantee enters into contract with AQMD and must be used to fund project. If matching funds become unavailable, projects will be cancelled.

Monitoring Program - A monitoring program is required for all projects. Describe how project objectives will be measured and reported to the AQMD.

**Evaluation**

Proposals will be evaluated as described in Attachment 3.

Respondents are advised that:

- Responses will be accepted on a continuous basis after RFP is released up until the deadline.
- Incomplete responses will not be accepted.
- All components of the proposal are mandatory.
- Failure to include all requested information may result in rejection.
- Minor or inconsequential deviations may be waived by the Air Pollution Control Officer.
- AQMD reserves the right to reject any and all of the responses to the RFP.

**Limitations:**

This RFP does not commit AQMD to award contracts, pay any proposal presentation costs, or procure or contract for services or supplies. Respondents are entirely responsible for proposal development costs. All proposals become AQMD property and will not be returned.

**Contacts:**

Technical  
Dave Johnston, Air Pollution Control Officer  
Air Quality Management District  
330 Fair Lane  
Placerville, CA 95667  
(530) 621-7578

Administrative  
Scott Wilson, AQ Admin Analyst  
Air Quality Management District  
330 Fair Lane  
Placerville, CA 95667  
(530) 621-7554

**Submission of Proposals:**

Two copies of all responses to this RFP must be received in the Air Quality Management District office at 330 Fair Lane, Placerville, CA 95667. Responses must be marked **Attn. Dave Johnston, Time Critical**. Applications may also be emailed.

**Proposal Withdrawal and Modifications**

Applicants may withdraw their proposal by submitting a written request to the APCO, signed by the applicant or authorized agent at any time prior to the proposal submission deadline. The respondent may thereafter submit a new proposal prior to the deadline. Proposal modifications, oral or written, will not be considered after the deadline. Applicants are not to initiate contact with and lobby AQMD during the project evaluation phase about proposed projects.

**Notification:**

The AQMD will notify applicants within one week of AQMD Board of Directors decision.

**Contract:**

Projects chosen for funding will be required to enter into a contract with AQMD. Grantees must comply with County vendor and insurance requirements for service agreements. AQMD may require a proposal to be modified prior to being included as an attachment to a contract to help clarify the project commitment.

# Attachment 1

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## PROJECT SUMMARY

**Applicant:**  
**Contact Person:**  
**Address:**  
**Telephone:**  
**Email:**

**FAX:**

**Project Description:**

<b>Estimated Emission Reductions/Cost-Effectiveness</b>	
Useful Life of Project (years)	
Total Lifetime Emissions Reduced (lbs. of ROG, NO <sub>x</sub> , PM-10)	
Cost-Effectiveness (total project costs)*	
Cost-Effectiveness (AQMD Funded project costs)*	

\* See Attachment 3 for instructions

<b>Budget Summary</b>	<b>AB 2766 Funds</b>	<b>Matching Funds</b>	<b>In-Kind Match</b>	<b>Total Project Costs</b>
Materials	\$	\$	\$	\$
Personnel	\$	\$	\$	\$
Other	\$	\$	\$	\$
<b>TOTAL</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>

**BUDGET ITEMIZATION**

Expand Table as necessary to itemize all expenditures

Line Item	Title/Classification	No. Of Hours	Salary Rate	Benefit %	Total	Total Costs
Personnel						
Contracts (removal, transportation, disposal)						
Materials & Supplies						
Equipment Rental						
Other Costs						

**PROJECT GRAND TOTAL: \$** \_\_\_\_\_

# Attachment 2

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## CONTENTS CHECKLIST

Applicant:

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- Project Summary Sheet (Cover) – page \_\_\_\_\_
- Request for Proposal Contents Checklist (Second Page) – page \_\_\_\_\_
- Authorization Letter/Resolution page \_\_\_\_\_
- Project Description – page \_\_\_\_\_
- Project Organization/Background – page \_\_\_\_\_
- Emission Benefits/Cost Effectiveness – page \_\_\_\_\_  
(*Must utilize April 2018 Emission Factors*)
- Work Statement – page \_\_\_\_\_
- Funding Request/Cost Breakdown – page \_\_\_\_\_
- Matching Funds – page \_\_\_\_\_
- Schedule of Deliveries/Self-Monitoring Program – page \_\_\_\_\_
- Local TRPA Review (If Applicable) – page \_\_\_\_\_
- 2 Copies of Proposal – page \_\_\_\_\_

# Attachment 3

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## PROPOSAL EVALUATION CRITERIA

The following criteria are for reference only. AQMD staff will determine a score and make a recommendation to the AQMD Board of Directors. The Board of Directors will make the final award determinations. Applicants must provide sufficient, accurate data to allow AQMD staff to accurately evaluate cost effectiveness. Required data may include time of operation, ridership and vehicle miles traveled. Projects should be designed to achieve the maximum emission reduction at the lowest cost.

### Cost Effectiveness - 90 Points

Cost effectiveness will be determined for total project costs (total of grant funds and matching funds):

<u>Points</u>	<u>\$/Pound of Motor Vehicle Pollutants</u>
90	\$0 - 10/lb.
80	\$10 - 25/lb.
70	\$25 - 50/lb.
60	\$50 - 75/lb.
50	\$75 - 125/lb.
40	\$125 - 200/lb.
30	\$200 - 400/lb.
20	\$400 - 999/lb
10	>\$1000/lb

### Preferred Projects – 10 Points

Points are awarded for projects having benefits in addition to motor vehicle emissions reduction. Additional benefits include reduction of non motor vehicle emissions, such as burning, and projects that improve quality of life for County residents. Projects with additional benefits are:

- Projects that include new technology demonstration and introduction
- Enhanced Transit/Shuttle Service Projects
- Biomass Transport Reduction

If two or more projects receive the same score, priority will be given to the lowest cost project.

# Attachment 4

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## SAMPLE CONTRACT

FUNDING AGREEMENT # \_\_\_\_\_

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**THIS AGREEMENT**, made and entered by and between the **El Dorado County Air Quality Management District**, a county air pollution control district formed pursuant to California Health and Safety Code section 40100, et seq. (hereinafter referred to as "AQMD"); and \_\_\_\_\_, (hereinafter referred to as "Grantee");

### WITNESSETH:

**WHEREAS**, the California Clean Air Act requires local air pollution control districts to reduce emissions from motor vehicles; and

**WHEREAS**, AB2766, codified in California Health and Safety Code section 44220, et seq., authorizes districts to impose a fee of up to four dollars upon certain registered motor vehicles within the AQMD's jurisdiction, and the Governing Board of AQMD has imposed said fee; and

**WHEREAS**, said legislation requires AQMD to use said funds for activities related to reducing air pollution from motor vehicles and for related planning, monitoring, enforcement, and technical studies necessary for the implementation of the California Clean Air Act of 1988; and

**WHEREAS**, Grantee has proposed a project that meets the eligibility criteria of AQMD and that has been approved by AQMD and the Governing Board of AQMD for funding; and

**WHEREAS**, Grantee represents that it is willing and able to perform the activities set forth herein;

**NOW, THEREFORE**, AQMD and Grantee mutually agree as follows:

### ARTICLE I

**Project:** Grantee shall perform all activities and work necessary to \_\_\_\_\_ (hereinafter referred to as "Project"); as set forth in Exhibit A, marked "Scope of Work" attached hereto and incorporated herein by this reference. Grantee agrees to furnish all labor, materials, equipment, licenses, permits, fees, and other incidentals necessary to perform and complete, per schedule, in a professional manner, the services described herein.

Grantee represents that Grantee has the expertise necessary to adequately perform the Project specified in Exhibit A

In the event of any conflict between or among the terms and conditions of this Agreement, the conflict shall be resolved by giving precedence in the following order of priority:

- i) The text of this Agreement;
- ii) Exhibit A, Scope of Work;
- iii) Exhibit B, marked "Request for Proposals El Dorado County Air Quality Management District Motor Vehicle Emission Reduction Projects CY 2021 & 2022," attached hereto and incorporated herein by this reference (RFP) released by AQMD and dated July 31, 2020;
- iv) Exhibit C, marked "Budget Itemization," attached hereto and incorporated herein by this reference.

## **ARTICLE II**

**Period of Performance/Timetable:** Grantee shall commence performance of work and produce all work products in accordance with Exhibit A unless this Agreement is terminated sooner as provided for in ARTICLE IX, Termination.

Grantee shall submit biannual performance reports and a comprehensive final report. The biannual reports shall detail the work performed during the previous period; work planned for the next period; problems identified, solved, and/or unresolved; and the percentage of each task completed. Grantee shall provide AQMD with a comprehensive final written report by February 28, 2023. Said final report shall be complete and shall document the work performed under this Agreement.

## **ARTICLE III**

**Term:** The term of this Agreement shall cover the period from \_\_\_\_\_ through February 28, 2023, unless terminated earlier in accordance with ARTICLE IX, Termination. All eligible Project costs, except for final report preparation costs, must be incurred prior to December 31, 2022.

## **ARTICLE IV**

**Compensation:** AQMD will pay Grantee for work completed in accordance with this Agreement the total sum of \$\_\_\_\_\_ as set forth in Exhibit C as follows:

- A. Grantee shall obtain through other sources sufficient additional monies to fund the total cost of the Project as outlined in the Proposal. Satisfactory written evidence of such funding commitments shall be provided to AQMD prior to the release by AQMD of any funds under this Agreement. In the event funding from other sources for the total cost of the Project is not received by Grantee, AQMD reserves the right to terminate or renegotiate this Agreement. In accordance with Section 44233 of the California Health and Safety Code, Grantee agrees to limit expenditure of funds for the

purpose of administration to not more than five percent of the monies distributed to Grantee.

- B. The total obligation of AQMD under this Agreement shall not exceed \$\_\_\_\_\_.
- C. AQMD is not obligated to pay Grantee for administrative costs exceeding five percent (5%) of the actual total cost of the Project.
- D. Match must be at least twenty percent (20%) of requested and awarded funding or at least sixteen and sixty six hundreds percent (16.66%) of total Project budget identified in the application.

#### **ARTICLE V**

**Payments:** Payments will be permitted only at which time an equivalent service has been completed. AQMD will reimburse Grantee monthly, in arrears, after receipt and verification of submitted invoices. Invoices shall be mailed to AQMD at the following address:

El Dorado County Air Quality Management District  
330 Fair Lane  
Placerville, CA 95667  
Attn: Dave Johnston, Air Pollution Control Officer

Payment will be made by AQMD upon submission and evaluation of Grantee's invoice of claim. Said invoice of claim shall set forth the work completed pursuant to this Agreement.

Upon receipt of proper documentation and verification that Grantee has satisfactorily completed the work for which compensation is sought, and that the work is in accordance with Exhibit A, AQMD will issue payment to Grantee within forty-five (45) calendar days of verification.

The amount to be paid to Grantee under this Agreement includes all sales and use taxes incurred pursuant to this Agreement, if any, including any such taxes due on equipment purchased by Grantee. Grantee shall not receive additional compensation for reimbursement of such taxes and shall not decrease work to compensate therefore.

Concurrently with the submission of any claim for payment, Grantee shall certify (through copies of invoices issued, checks, receipts, and the like) that complete payment has been made to any and all subcontractors as provided.

It is understood that all expenses incidental to Grantee's performance of services under this Agreement shall be borne exclusively by Grantee.

In no event will compensation paid by AQMD to Grantee for the performance of all services and activities under this Agreement exceed the amount set forth ARTICLE IV, Compensation.

Any compensation under this Agreement, which is not expended by Grantee pursuant to the terms and conditions of this Agreement by the Project completion date, shall automatically revert to AQMD. Only expenditures incurred by the Grantee in the direct performance of this Agreement will be reimbursed by AQMD. Allowable expenditures under this Agreement are specifically established and included in Exhibit C.

#### **ARTICLE VI**

**Non-Allocation of Funds:** The terms of this Agreement and the services to be provided thereunder are contingent on the approval of funds by the appropriating government agency. Should sufficient funds not be allocated, the services provided may be modified or this Agreement terminated at any time by giving Grantee thirty (30) days prior written notice.

#### **ARTICLE VII**

**Changes to Agreement:** This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

#### **ARTICLE VIII**

**Independent Contractor Liability:** Grantee is, and shall be at all times, deemed as an independent contractor and shall be wholly responsible for the acts of Grantee's employees, associates, and subcontractors, in connection with the implementation of the Project, and in performance of the work, duties and obligations by Grantee under this Agreement.

Grantee shall be responsible for performing the work under this Agreement in a safe, professional, skillful, and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. AQMD shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Grantee or its employees. AQMD shall retain the right to administer this Agreement so as to verify that Grantee is performing its obligations in accordance with the terms and conditions thereof.

ARTICLE VIII, Independent Contractor Liability, shall survive any termination of this Agreement.

#### **ARTICLE IX**

**Termination:** AQMD may immediately suspend or terminate this Agreement, in whole or in part, where in the determination of AQMD there is:

1. An illegal or improper use of the grant funds;
2. A failure to comply with any term of this Agreement;
3. A substantially incorrect or incomplete report submitted to AQMD; or
4. Improperly performed services.

In no event shall any payment by AQMD constitute a waiver by AQMD of any breach of this Agreement or any default, which may then exist on the part of Grantee. Neither shall such payment impair or prejudice any remedy available to AQMD with respect to the breach or default. AQMD shall have the right to demand of Grantee the repayment

to AQMD of any funds disbursed to Grantee under this Agreement which in the judgment of AQMD were not expended in accordance with the terms of this Agreement. Grantee shall promptly refund any such funds upon demand.

In addition to immediate suspension or termination, AQMD may impose any other remedies available at law, in equity, or otherwise specified in this Agreement.

Either party may terminate this Agreement at any time upon giving the other party at least thirty (30) days advance, written notice of intention to terminate. In such case, AQMD will, subject to ARTICLE IV, Compensation, pay it's pro rata share of the reasonable value of all services satisfactorily rendered and actual, reasonable costs incurred up to the time of the termination. Upon such termination, the entire work product produced by Grantee shall be promptly delivered to AQMD.

#### **ARTICLE X**

**Indemnity:** Grantee shall defend, indemnify, and hold AQMD, its Board, officers, agents, employees, and representatives and the County of El Dorado, its Board, officers, agents, employees and representatives harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorneys' fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, AQMD and the County of El Dorado employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the acts or omissions of Grantee, its officers, agents, subcontractors or employees in their performance of this Agreement unless such claim, loss, damage, injury or death is the result of the sole or active negligence of AQMD and the County of El Dorado. This duty of Grantee to indemnify and save AQMD and the County of El Dorado harmless includes the duties to defend set forth in California Civil Code, Section 2778.

This indemnification obligation shall survive any termination of this Agreement.

#### **ARTICLE XI**

**Insurance:** Grantee shall provide proof of a policy of insurance satisfactory to County of El Dorado's Risk Management Division and documentation evidencing that Grantee maintains insurance that meets the following requirements:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Grantee as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by Grantee in the performance of the Agreement.

- D. Grantee shall furnish a certificate of insurance satisfactory to the El Dorado County Risk Manager as evidence that the insurance required above is being maintained.
- E. The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.
- F. Grantee agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Grantee agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Grantee agrees that no work or services shall be performed prior to the giving of such approval. In the event Grantee fails to keep in effect at all times insurance coverage as herein provided, AQMD may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- G. The certificate of insurance must include the following provisions stating that:
  - 1. The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to AQMD and the County of El Dorado; and
  - 2. AQMD, its officers, officials, employees, and volunteers and the County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- H. Grantee's insurance coverage shall be primary insurance as respects AQMD, its officers, officials, employees and volunteers and the County of El Dorado, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by AQMD, its officers, officials, employees or volunteers and the County of El Dorado, its officers, officials, employees or volunteers shall be excess of Grantee's insurance and shall not contribute with it.
- I. Any deductibles or self-insured retentions must be declared to and approved by AQMD and the County of El Dorado, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects AQMD, its officers, officials, employees, and volunteers and the County of El Dorado, its officers, officials, employees, and volunteers; or Grantee shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

- J. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to AQMD, its officers, officials, employees or volunteers and the County of El Dorado, its officers, officials, employees or volunteers.
- K. The insurance companies shall have no recourse against AQMD, its officers and employees or any of them or the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- L. Grantee's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- M. In the event Grantee cannot provide an occurrence policy, Grantee shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- N. The certificate of insurance shall meet such additional standards as may be determined by AQMD and the County of El Dorado, either independently or in consultation with County's Risk Management Division as essential for protection of AQMD and the County of El Dorado.

## **ARTICLE XII**

**Audits, Inspections and Enforcement:** Grantee shall at any time during regular business hours, and as often as AQMD may deem necessary, make available to AQMD for examination all of Grantee's records and data with respect to the matters covered by this Agreement. Grantee shall, and upon request by AQMD, permit AQMD to audit and inspect all of such records and data necessary to ensure Grantee's compliance with the terms of this Agreement. Grantee shall be subject to an audit by AQMD or its authorized representative to determine if the revenues received by Grantee were spent for the reduction of air pollution as provided in AB2766 and to determine whether said funds were utilized as provided by law and this Agreement. If, after audit, AQMD makes a determination that funds provided Grantee pursuant to this Agreement were not spent in conformance with this Agreement, or AB2766 or any other applicable provisions of law, Grantee agrees to immediately reimburse AQMD all funds determined to have been expended not in conformance with said provisions.

Grantee shall retain all records and data for activities performed under this Agreement for at least three (3) years from the date of final payment under this Agreement or until all state and federal audits are completed for that fiscal year, whichever is later.

Grantee acknowledges that if total compensation under this Agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to California Government Code §8546.7. In order to facilitate these potential examinations and audits, Grantee shall maintain, for a period of at least three (3) years, or for any longer period required by law, after

final payment under the contract, all books, records and documentation necessary to demonstrate performance under the Agreement.

The obligations set forth in this ARTICLE XII, Audits, Inspections and Enforcement, shall survive any termination of this Agreement.

**ARTICLE XIII**

**Notice to Parties:** All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices shall be in duplicate and addressed as follows:

To AQMD:  
El Dorado County  
Air Quality Management District  
330 Fair Lane  
Placerville, CA 95667

Attn: Dave Johnston  
Air Pollution Control Officer

or to such other location as AQMD directs.

Notices to Grantee shall be addressed as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn: \_\_\_\_\_  
\_\_\_\_\_

or to such other location as Grantee directs.

**ARTICLE XIV**

**Change of Address:** In the event of a change in address for Grantee's principal place of business, Grantee's Agent for Service of Process, or Notices to Grantee, Grantee shall notify AQMD in writing as provided in ARTICLE XIII, Notice to Parties. Said notice shall become part of this Agreement upon acknowledgment in writing by AQMD's Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

**ARTICLE XV**

**Time is of the Essence:** It is understood that for Grantee's performance under this Agreement, time is of the essence. The parties reasonably anticipate that Grantee shall, to the reasonable satisfaction of AQMD, complete all activities provided herein within the time schedule outlined in Exhibit A to this Agreement.

## **ARTICLE XVI**

**Compliance with Applicable Laws:** Grantee shall comply with all federal, State, and local laws and ordinances which are or may be applicable to the Project to be undertaken by Grantee including but not limited to California Health and Safety Code sections 44220 et seq, all Air Resources Board and AQMD criteria thereunder, prevailing wage and work day definitions where applicable, Government Code Section 8546.7, contracting license requirements and permits.

## **ARTICLE XVII**

**California Forum and Law:** Any dispute resolution action arising out of this Agreement, including but not limited to litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

## **ARTICLE XVIII**

**Contract Administrator:** The AQMD Officer or employee with responsibility for administration of this Agreement is Dave Johnston, the Air Pollution Control Officer, or successor. The Grantee Officer or employee with responsibility for administration of this Agreement is \_\_\_\_\_, or successor.

## **ARTICLE XIX**

**Authorized Signatures:** The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

## **ARTICLE XX**

**Partial Invalidity:** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

## **ARTICLE XXI**

**Business License:** County of El Dorado's Business License Ordinance provides that it is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of County of El Dorado without possessing a County of El Dorado business license unless exempt under County Ordinance Code Section 5.08.070. Grantee warrants and represents that they shall comply with all of the requirements of County of El Dorado's Business License Ordinance, where applicable, prior to beginning work under this Agreement and at all times during the term of this Agreement.

## **ARTICLE XXII**

**Conflict of Interest:** The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Grantee attests that it has no current business or financial relationship with any AQMD employee(s) that would constitute a conflict of interest with provision of services under this Agreement and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. AQMD represents that it is unaware of any financial

or economic interest of any public officer or employee of Grantee relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in ARTICLE IX, Termination, herein.

#### **ARTICLE XXIII**

**Interest of Public Official:** No official or employee of AQMD who exercises any functions or responsibilities in review or approval of services to be provided by Grantee under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of AQMD have any interest, direct or indirect, in this Agreement or the proceeds thereof.

#### **ARTICLE XXIV**

**Interest of Grantee:** Grantee covenants that Grantee presently has no personal interest or financial interest, and shall not acquire same in any manner or degree, in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Grantee further covenants that in the performance of this Agreement no person having any such interest shall be employed by Grantee.

#### **ARTICLE XXV**

**Confidentiality:** Grantee shall maintain the confidentiality and privileged nature of all records, including billing records, together with any knowledge therein acquired, in accordance with all applicable state and federal laws and regulations, as they may now exist or may hereafter be amended or changed. Grantee, and all Grantee's staff, employees, and representatives, shall not use or disclose, directly or indirectly at any time, any said confidential information without prior written approval from AQMD except, other than to AQMD for the purpose of, and in the performance of, this Agreement. This confidentiality provision shall survive after the expiration or earlier termination of this Agreement.

#### **ARTICLE XXVI**

**Taxes:** Grantee certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Grantee to El Dorado County or AQMD. Grantee agrees that it shall not default on any obligations to El Dorado County or AQMD during the term of this Agreement.

#### **ARTICLE XXVII**

**California Residency (FORM 590):** Grantee will submit a Form 590 prior to execution of this Agreement, or seven (7) percent of each payment made to Grantee will be withheld during the term of this Agreement. This requirement applies to any agreement/contract exceeding \$1,500.

#### **ARTICLE XXVIII**

**County Payee Data Record Form:** Grantee shall file a County Payee Data Record Form with El Dorado County, unless Grantee has on file with El Dorado County a Department of the Treasury Internal Revenue Service Form W-9.

#### **ARTICLE XXIX**

**Binding on Successors:** This Agreement, including all covenants and conditions contained therein, shall be binding upon and inure to the benefit of the parties, including their respective successors-in-interest, assigns, and legal representatives.

#### **ARTICLE XXX**

**No Third Party Beneficiaries:** Except as otherwise provided in ARTICLE XII, Audits, Inspections and Enforcement, nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this Agreement.

#### **ARTICLE XXXI**

**Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

#### **ARTICLE XXXII**

**Entire Agreement:** This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the dates indicated below.

**--COUNTY OF EL DORADO  
AIR QUALITY MANAGEMENT DISTRICT--**

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

Dave Johnston  
Air Pollution Control Officer  
"AQMD"

Dated: \_\_\_\_\_

**--GRANTEE--**

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

\_\_\_\_\_  
\_\_\_\_\_  
"Grantee"

Dated: \_\_\_\_\_