



This Contract consists of 20 pages.

1. **PARTIES** - The parties to this Contract are the South Coast Air Quality Management District ("AQMD") whose address is 21865 Copley Drive, Diamond Bar, California 91765-4178, and *** (referred to here as "CONTRACTOR") whose address is ***.

2. **RECITALS**
 - A. In November 2006, California voters approved the Highway Safety, Traffic Reduction, Air Quality and The Port Security Bond Act of 2006, also known as Proposition 1B that, among other things, provided \$1 billion to reduce emissions associated with the movement of freight along California's trade corridors. To establish standards and procedures for the expenditure of these funds, the Legislature adopted and the Governor signed Senate Bill 88 (Stats. 2007, ch. 181) creating the Proposition 1B: Goods Movement Emission Reduction Program ("Program"). Under the Program, the California Air Resources Board ("CARB") is authorized to appropriate \$1 billion to quickly reduce air pollution emissions and health risk from freight movement along California's priority trade corridors. CARB has adopted guidelines and criteria for the Program's implementation entitled, "Final 2010 Guidelines for Implementation, March 2010," as well as resolutions and executive orders for specific equipment categories (collectively referred to here as "Program Guidelines"), each of which are incorporated herein by reference. Copies of the Program Guidelines may be obtained from AQMD or at CARB's website at: <http://www.arb.ca.gov/bonds/gmbond/gmbond.htm>.
 - B. AQMD is the local agency with primary responsibility for regulating stationary source air pollution within the geographical boundaries of the South Coast Air Quality Management District in the State of California. AQMD is authorized to enter into this Contract under California Health and Safety Code Section 40489. Through this Program-funded Contract, CONTRACTOR agrees to participate in the Program, and AQMD and CARB agree to partially fund the project described in Attachment 1 – Statement of Work ("Project"), attached hereto and made a part hereof, to generate cost-effective and early or extra emission reductions within the State of California.
 - C. All parties to this Contract have had the opportunity to have this Contract reviewed by their attorney.
 - D. "Equipment," as used in this Contract, means the equipment described in Attachment 1 – Statement of Work and funded in whole or in part by the Program, which may include, but is not limited to, trucks, engines, marine vessels, retrofit devices, electrification infrastructure, cargo handling equipment and/or locomotives, as applicable.

3. **PERFORMANCE REQUIREMENTS**
 - A. CONTRACTOR agrees to obtain and maintain the required licenses, permits, and all other appropriate legal authorizations from all applicable federal, state and local jurisdictions and pay all applicable fees. CONTRACTOR further agrees to immediately notify AQMD in writing of any change in its licensing status which has a material impact on the CONTRACTOR's performance under this Contract.
 - B. CONTRACTOR shall submit reports to 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.
 - C. CONTRACTOR shall perform all tasks set forth in Attachment 1 - Statement of Work, and shall not engage, during the term of this Contract, in any performance of work that is in direct or indirect conflict with the duties and responsibilities set forth in Attachment 1 - Statement of Work.
 - D. CONTRACTOR shall require its subcontractors to abide by the requirements set forth in this Contract.

4. **TERM** - The term of this Contract is from the last date of execution by the parties, which shall be considered the effective date, to ***, unless it terminates earlier as provided in Clause 7 – Termination. CONTRACTOR assumes all financial risk and is in no way guaranteed Program funds for this project prior to the effective date of this Contract. The Contract term shall encompass both the project completion and project implementation/life periods,

as referenced in Attachment 1 – Statement of Work, whichever is longer, to ensure that the AQMD and CARB can fully enforce this Contract during the life of this Goods Movement Emission Reduction Program-funded Project.

- A. Project Completion – Project completion is the time frame starting with the effective date of this Contract to the date of project completion, i.e., the date the Project becomes operational as set forth in Attachment 1-Statement of Work. This includes the time period when the Equipment described in Attachment 1 – Statement of Work is ordered, delivered and/or installed, as applicable. .
 - B. Project Implementation/Life – The project implementation time frame is the second part of the Contract term and equals the project life, which is the number of years that the Equipment must operate as specified in Attachment 1 – Statement of Work to obtain early or extra emission reductions that are cost-effective. CONTRACTOR is required to operate and maintain the Program-funded Equipment according to the terms of this Contract for the full project implementation period.
5. TIME PERIOD FOR CONTRACT EXECUTION – This Contract must be signed by CONTRACTOR and received by AQMD no later than the deadline set forth in Attachment 1A. Failure to timely sign and return the Contract to AQMD may result in the withdrawal of the award.
6. TIME IS OF THE ESSENCE – Time is of the essence with respect to all provisions of this Contract that specify a time for performance.
7. TERMINATION
- A. CONTRACTOR's failure to comply with any term or condition of this Contract shall constitute a material breach of this Contract. The AQMD will either notify the CONTRACTOR that it must timely cure this breach, or provide ten (10) days' written notification of AQMD's intention to terminate this Contract and invoke the penalties under Clause 17. The AQMD reserves all rights under law and equity to enforce this Contract or to recover damages.
 - B. Notwithstanding sub-Clause 7A, this Contract may be terminated prior to completion of the Contract term if the Equipment becomes inoperable through mechanical failure of components or systems and cannot be repaired or replaced and such failure is not caused by CONTRACTOR's negligence, misuse or malfeasance, or if the Equipment has been stolen, as confirmed by a police report and an insurance determination of loss due to theft. CONTRACTOR shall submit written documentation supporting any basis for early termination under this sub-Clause for the approval of AQMD. Should CONTRACTOR desire to terminate this Contract under this sub-Clause, CONTRACTOR shall return to AQMD a prorated share of the funds already paid under this Contract using the formula established in Clause 8.A. below.
 - C. AQMD reserves the right to terminate this Contract, in whole or in part, without cause, upon thirty (30) days' written notice. Once such notice has been given, CONTRACTOR shall, except as otherwise directed by AQMD, discontinue any work being performed under this Contract and cancel all of CONTRACTOR'S orders in connection with such work, and shall use its best efforts to terminate existing subcontracts upon terms satisfactory to the AQMD. Thereafter, CONTRACTOR shall perform only such services as may be necessary to preserve and protect any work already in progress and to dispose of any property as requested by AQMD. CONTRACTOR shall also promptly deliver to AQMD all copies of documentation and other information and data prepared or developed by CONTRACTOR under this Contract. CONTRACTOR will be paid in accordance with this Contract for work performed before the effective date of termination.
 - D. Should CONTRACTOR desire to terminate this Contract in whole or in part prior to the completion of the Contract term for reasons other than those stated in sub-Clause 7B, CONTRACTOR shall return to AQMD a prorated share of the funds already paid under this Contract using the formula in Clause 8.B. below.
8. REIMBURSEMENT FORMULA FOR EARLY TERMINATION
- A. Equipment Accidentally Rendered Inoperable or Stolen – CONTRACTOR may replace the inoperable or stolen Equipment with equipment certified to equal or lower emission levels, and continue with the term of the original

Contract, upon the prior written consent of AQMD. Alternatively, CONTRACTOR may request to terminate the Contract pursuant to Clause 7.B. and remit the following amount to the AQMD:

$$\text{Amount due to AQMD} = A - (B \times A/C)$$

Where:

A = total amount paid to CONTRACTOR

B = the number of years Equipment was in operation

C = the project life (i.e. the number of years Equipment is required to be in operation)

- B. Contract Buy-Out – Pursuant to Clause 7.D., CONTRACTOR may request to buy out the remaining time on the Contract prior to the end of the Contract term. The Contract buy-out amount shall be the amount due to AQMD as calculated in Clause 8.A., plus an administrative fee (\$5,000 for each truck project, \$10,000 for each locomotive, commercial harbor craft or cargo handling equipment project, and \$250,000 for each ship at berth project).

9. TRANSFER OF EQUIPMENT

- A. The rights granted hereby may not be assigned, sold, licensed, or otherwise transferred by CONTRACTOR without the prior written consent of AQMD, and any attempt by CONTRACTOR to do so shall be void upon inception.
- B. Upon AQMD's written consent to the assignment, sale, license or transfer of the Equipment, and prior to completing the transaction, CONTRACTOR shall inform the proposed assignee, buyer, licensee or transferee (collectively referred to here as "Buyer") of the terms of this Contract. CONTRACTOR is responsible for establishing contact between AQMD and the Buyer and shall assist AQMD in facilitating the transfer of this Contract's terms and conditions to the Buyer. CONTRACTOR will not be relieved of his or her legal obligation to fulfill the terms and conditions of this Contract until and unless the Buyer has assumed responsibility of this Contract's terms and conditions through an executed contract with AQMD.

10. INSURANCE AND WARRANTY – CONTRACTOR must demonstrate proof of warranty and insurance on the Equipment. CONTRACTOR shall:

- A. 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. Furnish evidence to AQMD of automobile liability insurance with minimum coverage limits of at least equal to the replacement value of the vehicle prior to commencement of any work on this Contract. AQMD and CARB must be named as 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. For truck stop electrification projects, provide and maintain sufficient insurance against fire, vandalism and other loss, damage, or destruction of the facilities or structures constructed pursuant to this Contract, if any. This insurance shall be issued by a company or companies admitted to transact business in the State of California.
- D. 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.
- E. Except for workers compensation insurance, require its subcontractors to comply with the above-mentioned insurance requirements and to name AQMD and CARB as additional insureds for the above-mentioned insurance policies.
- F. 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.

- G. All insurance certificates should be mailed to: AQMD Risk Management, 21865 Copley Drive, Diamond Bar, CA 91765-4182. **The AQMD Contract Number must be included on the face of the certificate.**
11. INDEMNIFICATION - CONTRACTOR agrees to hold harmless, defend and indemnify AQMD, CARB, and their respective officers, employees, agents, representatives, and successors-in-interest against any and all loss, damage, costs, lawsuits, claims, demands, causes of action, judgments, attorney's fees, or any other expenses arising from or related to any third party claim against AQMD, CARB, and their officers, employees, agents, representatives, or successors in interest that arise or result in whole or in part, from any actual or alleged act or omission of CONTRACTOR, its employees, subcontractors, agents or representatives in the performance of this Contract.
12. COMPLIANCE WITH PROGRAM GUIDELINES – CONTRACTOR shall comply with the Program Guidelines, which include, but are not limited to, the following:
- A. The Program shall only fund emission reductions not otherwise required by any local, state and/or federal rule or regulation, memorandum of understanding/agreement, settlement agreement, mitigation requirement, or other legal mandate.
 - B. The Equipment is certified and/or verified in accordance with Attachment 1 – Statement of Work. No payment will be made under this Contract until and unless CONTRACTOR submits the required certifications and/or verifications to AQMD.
 - C. No emission reductions generated by Program-funded projects may be used as marketable emission reduction credits, or to offset any emission reduction obligation of any person or entity. All emission reductions generated from the expenditure of Program funds may be used for meeting the attainment schedule contained in the applicable State Implementation Plan or California greenhouse gas reduction targets.
 - D. Any vehicle funded under this Contract may not be included in the vehicle owner's fleet compliance strategy until CARB-specified dates allow. These dates vary based on vehicle option as well as fleet size and can be found on the Goods Movement website: <http://www.arb.ca.gov/bonds/gmbond/gmbond.htm>.
 - E. Except for locomotive projects, the Equipment must not have been ordered or paid for prior to: (1) the effective date of the Contract, and (2) the satisfactory completion of the pre-inspection, as described in Task 1 of Attachment 1 – Statement of Work.
 - F. For heavy-duty diesel repower and replacement projects, the existing (old) engine or replaced vehicle (including frame and engine) must be physically destroyed in such a manner to eliminate the possibility of future operation in accordance with the Program Guidelines and Attachment 1 – Statement of Work. There must be no cannibalization of parts from the old engine.
 - G. In signing this Contract, CONTRACTOR certifies that the Equipment is in compliance with all applicable federal state, and local air quality rules and regulations at the time of Contract execution, and that it will maintain compliance for the full Contract term.
13. PROGRAM APPLICATION INCORPORATION – CONTRACTOR's Goods Movement Emission Reduction Program application in response to Solicitation #PA2011-11 issued by AQMD on March 4, 2011 is hereby incorporated by reference and made part of this Contract.
14. MAINTENANCE OF EQUIPMENT – CONTRACTOR shall ensure that the Equipment is maintained in good operating condition and in accordance with the manufacturer's specifications for the Project life, in accordance with the Program Guidelines and Attachment 1 – Statement of Work. No tampering with the Equipment is permitted.
15. INSPECTIONS
- A. Prior to ordering or purchasing the Equipment a Pre-Inspection must be conducted by the AQMD on **all** existing (old) equipment (including engines and vehicles) to verify that CONTRACTOR has met all requirements of the Program regarding eligibility of the existing equipment. This includes documentation of the following, at a minimum: type of equipment, operational condition, mileage, vehicle and engine identification. This Contract

- may be modified or terminated based upon the results of the Pre-Inspection, including, but not limited to, an AQMD determination that: the existing equipment is non-operational; does not match the information submitted as part of the application (i.e. vehicle make, model, model-year, engine type, horsepower, model year, etc.); or other factors exist that would not result in the calculated real, quantifiable and early or extra emission reductions. It is the responsibility of the CONTRACTOR to contact AQMD and arrange a Pre-Inspection of the existing equipment, and to confirm with AQMD that the existing equipment has been pre-inspected and is eligible to participate in the Program.
- B. A Post-Inspection shall be conducted by the AQMD after receipt of the invoice from the CONTRACTOR or dealer. AQMD must verify that CONTRACTOR has met all applicable requirements of the Program and this Contract prior to payment under this Contract. AQMD must, at minimum, verify that: the Project specified in the Statement of Work has/have been installed; that the Equipment is operational; and, where applicable, that the existing (old) equipment has/have been destroyed and rendered useless and there is no evidence of cannibalization of parts from the old equipment.
16. ON-SITE INSPECTIONS AND AUDIT - AQMD, CARB, or their designee(s) shall have the right to conduct a fiscal audit of the Project, and to inspect the Equipment described in the Statement of Work and the associated records during the term of the Contract.
17. REMEDIES AND ENFORCEMENT OF CONTRACT TERMS
- A. The parties agree that in addition to AQMD, CARB also has the authority, jointly and severally, to enforce the terms of this Contract, and that CARB is a third-party beneficiary of this Contract. AQMD and CARB will seek whatever legal, equitable and other remedies are available for CONTRACTOR's failure to comply with the terms of this Contract, including the Program criteria and requirements as listed in the Program Guidelines.
- B. Nonperformance under this Contract includes, but is not limited to: failure to meet Contract terms and conditions; non-operational, damaged or malfunctioning Equipment; failure to operate or maintain Equipment in accordance with manufacturer's recommendations, intentional destruction of Equipment, failure to meet Project completion deadlines; failure to allow electronic monitoring device, or tampering with device or its data; misuse of direct payments to vendors; insufficient, incomplete, or faulty documentation; failure to complete a satisfactory pre-inspection; and failure to provide documentation or reports in a timely manner
- C. AQMD and CARB may seek any and all remedies available at law and equity for non-performance, which may include but is not limited to: recovery of all or a portion of the Program funds; other fiscal penalties based on severity of non-performance; Contract termination; a ban on participation in future State or local incentive programs; and prohibition of equipment from State or local incentive program participation.
18. RECORDS AND RECORDS RETENTION – CONTRACTOR shall maintain records related to this Project and retain these records for at least two years after the Contract expires or three years after final payment, whichever is later.
19. REPORTING REQUIREMENTS - CONTRACTOR shall submit reports in accordance with Attachments 1, 1A and 1B, attached here to and made a part hereof. Non-compliance with the reporting requirements of this Contract may result in the implementation of on-site monitoring by the AQMD.
20. SUCCESSORS-IN-INTEREST – This Contract shall be binding on and inure to the benefit of each party's heirs, executors, administrators, successors, and assigns.
21. OTHER PUBLIC FUNDS - CONTRACTOR is prohibited from applying for or receiving other State grant funds or incentives for the Project, except CONTRACTOR may apply for and receive Federal funds to implement the Project. Violation of this provision may result in CONTRACTOR being disqualified from receiving any funding for the Project, CONTRACTOR being banned from receiving future grant funds from AQMD, and termination for cause of this Contract, as well as be subject to any enforcement action pursuant to Clause 17.

22. PAYMENT

- A. AQMD shall reimburse CONTRACTOR an amount not to exceed \$*** as provided in Attachment 2, Payment Schedule to this Contract, attached hereto and made a part hereof, for work performed as specified in Attachment 1 – Statement of Work. “Reimbursement” means payment of money actually spent by CONTRACTOR for the purchase and/or installation of eligible services, materials and equipment for the Project in accordance with the Program Guidelines. CONTRACTOR may choose to have the payment sent directly to the dealer or financing company, or provide AQMD with proof of payment to the dealer or financing company in order to be reimbursed.
- B. Payment under this Contract will be made within thirty (30) business days after CONTRACTOR submits, and AQMD approves (which approval AQMD will not unreasonably withhold), the required itemized invoice(s) and after AQMD verifies that the Project has been completed according to the terms of this Contract and is fully operational as determined by the AQMD’s Post-Inspection. The itemized invoices must include enough detail to ensure that only eligible project costs are paid, in accordance with the Program Guidelines and Attachment 2 – Payment Schedule. Each invoice 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 any other specific information required as set forth in Attachment 2 – Payment Schedule. Each invoice shall be submitted to: South Coast Air Quality Management District, Attn: Goods Movement Emission Reduction Contract Administrator, Technology Advancement, 21865 Copley Drive, Diamond Bar, CA 91765-4178.
- C. Any payments required under this Contract are contingent upon AQMD’s receipt of funds from CARB in the amount of the required payments.
- D. AQMD may de-obligate from the Contract funds that remain unexpended pursuant to the Contract upon thirty (30) days’ written notice to CONTRACTOR.

23. 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. Notice shall be given by certified, express, or registered mail, return receipt requested, and shall be effective as of the date of receipt indicated on the return receipt card.

AQMD: South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765-4178
Attn: Goods Movement Contract Administrator, Technology Advancement

CONTRACTOR: ***

Attn: ***

24. INDEPENDENT CONTRACTOR – CONTRACTOR is an independent contractor. CONTRACTOR, its officers, employees, agents, representatives, or subcontractors shall in no sense be considered employees or agents of AQMD or CARB, nor shall CONTRACTOR, its officers, employees, agents, representatives, contractors or subcontractors be entitled to or eligible to participate in any benefits, privileges, or plans, given or extended by AQMD to its employees. AQMD will not supervise, direct, or have control over, or be responsible for, CONTRACTOR’s or subcontractor’s means, methods, techniques, work sequences or procedures or for the safety precautions and programs incident thereto, or for any failure by them to comply with any local, state, or federal laws, or rules or regulations, including state minimum wage laws and OSHA requirements. CONTRACTOR shall promptly notify AQMD of any material changes to subcontracts that affect the Project’s scope of work, deliverable schedule, and/or cost schedule.

25. SUBCONTRACTOR APPROVAL – If CONTRACTOR intends to subcontract all or a portion of the work under this Contract, then CONTRACTOR must first obtain written approval from AQMD'S Executive Officer or designee prior to subcontracting any work. Any material changes to the subcontract(s) that affect the scope of work, deliverable schedule, and/or cost schedule shall also require the prior written approval of the Executive Officer or designee. No subcontract charges will be reimbursed unless the required approvals have been obtained from AQMD.
26. SECURITY INTEREST - CONTRACTOR hereby grants AQMD a security interest in the Equipment, which is purchased in whole or in part with funding provided by AQMD pursuant to this Contract. CONTRACTOR acknowledges and agrees that AQMD shall have all lien rights as a secured creditor on the Equipment 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 or similar security instrument to secure its interests in the Equipment that is the subject of the Contract.** In the event the Equipment is repossessed or CONTRACTOR files for bankruptcy protection, CONTRACTOR shall notify AQMD within 10 business days of such repossession or filing.
27. INTELLECTUAL PROPERTY RIGHTS - Title and full ownership rights to any intellectual property developed under this Contract shall at all times remain with AQMD. Such material is agreed to be AQMD's proprietary information.
- A. Rights of Technical Data - AQMD shall have the unlimited right to use technical data, including material designated as a trade secret, resulting from the performance of services by CONTRACTOR under this Contract. CONTRACTOR shall have the right to use data for its own benefit.
- B. Copyright - CONTRACTOR agrees to grant AQMD a royalty free, nonexclusive, irrevocable license to produce, translate, publish, use, and dispose of all copyrightable material first produced or composed in the performance of this Contract.
28. PUBLICATION
- A. AQMD shall have the right of prior written approval of any document which shall be disseminated to the public by CONTRACTOR in which CONTRACTOR utilized information obtained from AQMD in connection with performance under this Contract.
- B. Information, data, documents, photographs or reports developed by CONTRACTOR for AQMD, pursuant to this Contract, shall be part of AQMD's public record unless otherwise indicated. CONTRACTOR may use or publish, at its own expense, such information provided to AQMD. The following acknowledgment of support and disclaimer must appear in each publication of materials, whether copyrighted or not, based upon or developed under this Contract.
1. "This report was prepared as a result of work sponsored, paid for, in whole or in part, by the South Coast Air Quality Management AQMD (AQMD). The opinions, findings, conclusions, and recommendations are those of the author and do not necessarily represent the views of AQMD. AQMD, its officers and its employees make no warranty, expressed or implied, and assume no legal liability for the information in this report. AQMD has not approved or disapproved this report, nor has AQMD passed upon the accuracy or adequacy of the information contained herein."
- C. CONTRACTOR shall ensure that the Program is clearly identified as a sponsor or source of funding in all of its documents, reports, brochures, advertising and other material relating to this Project.
29. 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 or mental disability 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.

30. NON-EFFECT OF WAIVER - The failure of CONTRACTOR or AQMD 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.
31. ATTORNEYS' FEES - In the event any action is filed in connection with the enforcement or interpretation of this Contract, each party shall bear its own attorneys' fees and costs.
32. FORCE MAJEURE - AQMD, CARB or CONTRACTOR shall not be liable or deemed to be in default for any delay or failure in performance under this Contract or interruption of services resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, war, strikes, labor disputes, shortages of suitable parts, materials, labor or transportation, or any similar cause beyond the reasonable control of AQMD, CARB or CONTRACTOR.
33. 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.
34. 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.
35. DUPLICATE EXECUTION - This Contract is executed in duplicate. Each signed copy shall have the force and effect of an original.
36. GOVERNING LAW - This Contract shall be construed and interpreted and the legal relations created thereby shall be determined in accordance with the laws of the State of California. Venue for resolution of any disputes under this Contract shall be Los Angeles County, California.
37. CITIZENSHIP AND ALIEN STATUS
 - A. CONTRACTOR warrants that it fully complies with all laws regarding the employment of aliens and others, and that its employees performing services hereunder meet the citizenship or alien status requirements contained in federal and state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986 (P.L. 99-603). CONTRACTOR shall obtain from all covered employees performing services hereunder all verification and other documentation of employees' eligibility status required by federal statutes and regulations as they currently exist and as they may be hereafter amended. CONTRACTOR shall have a continuing obligation to verify and document the continuing employment authorization and authorized alien status of employees performing services under this Contract to insure continued compliance with all federal statutes and regulations. Notwithstanding the above, CONTRACTOR, in the performance of this Contract, shall not discriminate against any person in violation of 8 USC Section 1324b.
 - B. CONTRACTOR shall retain such documentation for all covered employees for the period described by law. CONTRACTOR shall indemnify, defend, and hold harmless AQMD and CARB, its officers and employees from employer sanctions and other liability which may be assessed against CONTRACTOR or AQMD, or both in connection with any alleged violation of federal statutes or regulations pertaining to the eligibility for employment of persons performing services under this Contract.
38. TAX IMPLICATIONS FROM RECEIPT OF PROGRAM FUNDS – CONTRACTOR is advised to consult a tax attorney regarding potential tax implications from receipt of funds under the Goods Movement Emission Reduction Program, which may include receipt of a “1099G” form.

39. AMENDMENTS TO CONTRACT – This Contract shall only be amended by mutual Contract, in writing and signed by the authorized representatives of all parties.

40. ENTIRE CONTRACT

- A. This Contract represents the entire Contract between the Parties. A Spanish-translated version of this Contract and its Attachments may be provided to CONTRACTOR for information purposes only. The English-language Contract and Attachments shall govern at all times, and shall be the only documents which constitute the Contract between the Parties.
- B. By executing this Contract, CONTRACTOR understands and agrees to implement the Project according to the terms of the Contract and to cooperate with the AQMD and CARB implementation, monitoring, enforcement and other efforts to assure the emissions benefits are real, quantifiable, excess and enforceable. 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 authorized representatives of all the parties.

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: _____
Barry R. Wallerstein, D.Env., Executive Officer

By: _____
Name:
Title:

Date: _____

Date: _____

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

By: _____