

Request for Proposal
El Dorado County Air Quality Management District
FY 13/14 School Bus Replacement Projects

Introduction:

This Request for Proposal (RFP), initiated by the El Dorado County Air Quality Management District (AQMD), is for public school bus replacement projects in FY 13/14 (July 1, 2013 through June 30, 2014). Project proposals must be from public school districts (DISTRICTS). The program is funded by AB 923 DMV Surcharge Fees.

Background:

The AQMD does not meet the National Ambient Air Quality Standards (NAAQS) for ozone and PM2.5. Reactive organic gases (ROG) and nitrogen oxides (NOx) are precursors that react in sunlight to form ozone. NOx is also important in the formation of secondary PM2.5. Replacement of old school buses with new more efficient models reduces air pollution (NOx and PM2.5) and children’s exposure to toxic diesel exhaust. Additionally, the California Air Resources Board (ARB) adopted the in-use Truck and Bus Regulation in December 2008 which included requirements to retrofit or replace diesel-fueled school buses. School districts’ yellow fleets must be 100% compliant with the Truck & Bus Regulation by January 1, 2014. This bus replacement funding can be used to assist school districts with early compliance of ARB’s in-use Truck and Bus Regulation. For more information on the Truck and Bus Regulation, please contact Lisa Jennings at ARB (916-322-6913).

Timeline:

The RFP process is scheduled to proceed as follows:

Date	Milestone
December 10, 2013	RFP released to interested parties
February 3, 2014	Proposals due to AQMD
February 2014	AQMD reviews projects for funding
TBD	AQMD Board Hearing to approve distribution (if necessary)
TBD	Contract/Agreement preparation
TBD	AQMD Board Hearing to approve Contract/Agreement
TBD	Contract/Agreement effective date

Contact:

The contacts for this RFP will be:

ATTACHMENT B

Technical
Dave Johnston
330 Fair Lane
Placerville, CA 95667
(530) 621-7501

Administrative
Michele Weimer
2850 Fairlane Court
Placerville, CA 95667
(530) 621-5670

Deadline: Two copies of all responses to this RFP must be received in the Environmental Management office at 2850 Fairlane Court, Placerville, CA 95667. Responses must be marked **Attn. Michele Weimer, Time Critical, Please hand deliver.** Respondents are advised that:

- Responses will be accepted on a continuous basis after RFP is released until the February 3, 2014 deadline.
 - Incomplete responses will not be accepted.
 - All components of the proposal are mandatory.
 - Failure to follow the instructions and/or to provide all requested information will result in the submittal being deemed unresponsive and the submittal will be rejected.
 - Minor or inconsequential deviations may be waived by the Air Pollution Control Officer.
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Eligibility: Funding is available to replace existing buses that meet all the following:

- Model Year 1993 and older.
- Gross Vehicle Weight Rating (GVWR) greater than 14,000 pounds.
- Current CHP safety certification (CHP form 292) with continuous certification since Dec 31, 2005.¹
- Current DMV registration.
- See Lower Emission School Bus Program (LESPB) Guidelines and all Advisory Mailouts for complete eligibility requirements.^{2,3}

*Buses previously retrofitted under Proposition 1B funding are **NOT** eligible. New replacement buses must be owned/operated for at least 5 years.*

¹ With some exceptions as allowed by ARB Advisory Mailouts found here:

<http://www.arb.ca.gov/bonds/schoolbus/advisory/advisory.htm#msc1024>

² Lower Emission School Bus Program (LESBP) 2008 Guidelines:

<http://arb.ca.gov/bonds/schoolbus/guidelines/2008lesbp.pdf>

³ LESBP Advisory Mailouts: <http://www.arb.ca.gov/bonds/schoolbus/advisory/advisory.htm#msc1024>

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Funding Cap: Maximum of \$140,000 of AB 923 funds per bus

Applicant to provide \$25,000 matching funds per bus. (i.e., if the bus cost is \$135,000, AB923 will fund \$110,000 and the applicant will pay the rest.)

AB 923 grant funds may be used to cover the following:

- Base cost of the replacement bus.
- Applicable taxes.
- Grant will only fund optional equipment for the new replacement bus that is similar to the equipment on the old bus being replaced. Other options deemed necessary to safely operate the new bus, such as on-spot chains, transmission retarders, air conditioning units, and other equipment may be considered an eligible cost but detailed written justification must be submitted. Extended warranties and video surveillance equipment are ineligible costs. See LESBP Guidelines and Advisory Mailouts for complete details.⁴

⁴ ARB Mailout: <http://www.arb.ca.gov/msprog/mailouts/msc0918/msc0918.pdf>

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What to Include in your RFP Response

Our Goal	The AQMD's goal in this RFP process is to identify those 1993 and older engine year public school buses that should be replaced.
Response Document	Your RFP response must be a separate application form, accompanied by the required attachments. Submittal of a proposal constitutes an agreement to all provisions and conditions set forth in the RFP
Proposal Requirements	Please provide the information requested in Attachment A , "Format for Proposals."
Limitations	This RFP does not commit the AQMD to award a contract, to pay any costs incurred in the presentation of proposals, or to procure or contract for services or supplies. Costs for developing proposals are entirely the responsibility of the applicant DISTRICT and shall not be chargeable to the AQMD. All proposals become the property of the AQMD and will not be returned to the applicants.
Ambiguity, conflict or other errors	<p>If a DISTRICT discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, immediately notify the AQMD of such error and request such modification or clarification of the document.</p> <p>The AQMD may modify the RFP prior to the deadline for proposals by issuance of a revision to all parties who have received the RFP.</p>
Withdrawal of Proposal	An applicant DISTRICT may withdraw its proposal at any time prior to the proposal submission deadline by submitting a written request signed by the applicant DISTRICT's authorized agent to Dave Johnston, Air Pollution Control Officer (APCO). The applicant DISTRICT may thereafter submit a new proposal prior to the deadline. Proposal modifications, oral or written, will not be considered after the deadline.

The Contract (“Agreement”)

Introduction

The term of the awarded contract (“Agreement”) shall be for a period not to exceed six years and shall commence upon the **month, day, year** the Agreement is signed by the Chair of the AQMD Board of Directors. Enclosed, as **Attachment B** is AQMD’s standard contract language and insurance requirements for funding agreements for your review.

Payment

The AQMD shall reimburse DISTRICT only for DISTRICT’s actual and eligible project expenses in accordance with the Agreement. The AQMD shall not under any circumstances reimburse DISTRICT for any commitments or work started, made, or completed by DISTRICT prior to execution of the Agreement.

Applicants can only be reimbursed for project costs incurred on or after the date of approval by the APCO. Payment will be made after eligible project expenses are incurred and documentation is provided to AQMD’s satisfaction.

Administration

The APCO or his designee shall administer the Agreement. The DISTRICT shall carry out all elements of the Agreement to the satisfaction of the APCO.

Evaluation Criteria and Selection Process

**AQMD
Discretion**

The AQMD reserves the right, without limitation, to reject any and all proposals received, to waive any minor or inconsequential deviation or irregularity in any proposal, or to cancel awarding of the Agreement and advertise for new proposals, all as the public good may require.

**Evaluation
Criteria**

Criteria for evaluating responses will be as described in the 2008 Lower-Emission School Bus Program (LESBP) Guidelines dated April 15, 2008 (Appendix 3)⁵ and all applicable subsequent Advisory Mail Outs.⁶

**Award
Notification**

Applicant DISTRICT(s) meeting the evaluation criteria as determined and selected by the APCO will be submitted to the AQMD Board of Directors for funding approval. The AQMD will notify in writing successful/unsuccessful applicant DISTRICT(s) within one week of AQMD Board of Directors decision.

⁵ Available at: <http://arb.ca.gov/bonds/schoolbus/guidelines/2008lesbp.pdf>

⁶ Available at: <http://www.arb.ca.gov/bonds/schoolbus/schoolbus.htm> under “Advisory/Mailouts” link

ATTACHMENT A

FORMAT FOR PROPOSALS

The RFP Content Checklist is not considered to be part of the proposal. The proposal must include the fully completed AB923 Funding Application and all requested information (the Authorization Letter/Resolution, the California Highway Patrol 292 Card, the replacement bus Vendor Quotation, etc.). **All proposals must be submitted in the following format:**

Request for Proposal Contents Checklist - Use the checklist sheet to ensure that all of the appropriate contents of the proposal have been included. (see *Request for Proposal Contents Checklist*, Appendix 1)

AB 923 Funding Application, School Bus Replacement - Provide all information indicated. (see *AB 923 Funding Application, School Bus Replacement*, Appendix 2)

Authorization Letter/Resolution - Grant applications must include a resolution from the school district governing board (or a duly authorized official with authority to make financial decisions) authorizing the submittal of the application and identifying the individual authorized to implement the replacement project. The letter must include the name, address, telephone number and contact person, and must be signed by the person authorized to represent the proposing DISTRICT. (LESBP p. 36)

California Highway Patrol 292 Card - The California Highway Patrol 292 Card for the bus to be replaced must be submitted with the Proposal (see Air Resources Board Mail Out #MSC 10-19 *Lower-Emission School Bus Program Mail-Out -- Replacement Of School Buses With CHP Safety Certification Documentation Options (dated April 19, 2010)*, for more detailed information, <http://www.arb.ca.gov/msprog/mailouts/msc1019/msc1019.pdf>, included in Appendix 3).

Method of Bus Disposal – for the bus to be replaced must be submitted with the Proposal.

Vendor Quotation for Replacement Bus - A Vendor Quotation for a replacement bus valid for at least 180 days must be submitted with the Proposal.

**NOTE: WORK STARTED OR COMPLETED PRIOR TO CONTRACT/
AGREEMENT EXECUTION WILL NOT BE REIMBURSED.**

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---- SAMPLE ----

_____ **SCHOOL DISTRICT**

FUNDING AGREEMENT # XXX-FXXXX

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

W I T N E S S E T H:

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

WHEREAS, AB 923, codified in California Health and Safety Code (H&SC) section 44225, authorizes districts to impose an additional fee of up to two dollars upon certain registered motor vehicles within the AQMD, and the Governing Board of the AQMD has imposed said fee; and

WHEREAS, AB 923 (H&SC section 44229(b)) requires the AQMD to use said funds for: (1) projects eligible for grants under the Carl Moyer Air Quality Standards Attainment Program; (2) the new purchase, retrofit, repower or add on equipment for previously unregulated agricultural sources of air pollution, (3) the purchase of new, or retrofit of emissions control equipment for existing, school buses pursuant to the Lower-Emission School Bus Program ("LESBP") adopted by the state board; and (4) an accelerated vehicle retirement or repair program, and

WHEREAS, District has proposed a Project Proposal that meets the eligibility criteria of LESBP and AQMD and that has been approved by AQMD for funding; and

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

WHEREAS, it is the intent of the parties hereto that such activities be in conformity with all applicable federal, state and local laws;

NOW, THEREFORE, AQMD and District mutually agree as follows:

ARTICLE I

Project/Project Milestones: District shall perform all activities and work necessary to complete the Project as set forth in the "New School Bus Replacement Project, Completion and Implementation Workplan and Schedule" attached hereto as Exhibit A and incorporated herein by this reference. District agrees to furnish all labor, materials, equipment, licenses, permits, fees, and other incidentals

ATTACHMENT B

necessary to perform and complete, per schedule, in a professional manner, the services described herein. District represents that District has the expertise necessary to adequately perform the Project specified in Exhibit A, marked "New School Bus Replacement Project, Completion and Implementation Workplan and Schedule," all applicable updates, amendments, and clarifications, and agrees that:

1. District shall own, operate, and maintain the new replacement school bus within El Dorado County in a daily use status for five (5) years or more. District is responsible for reporting to AQMD, on a yearly basis (Exhibit B) and in accordance with guidelines established by the Air Pollution Control Officer (APCO), the use status of each replacement bus. If District fails to own, operate, and maintain the new replacement bus for at least five (5) years after purchase, District shall immediately reimburse to AQMD the pro rata share of the awarded funding based on the minimum five year requirement.
2. District agrees to operate and maintain the new replacement school bus in accordance with the manufacturer's specifications and recommendations and the terms of this Agreement.
3. The obligations set forth in this Article I shall survive any termination of this Agreement.

In the event of any conflict between or among the terms and conditions of this Agreement, the Project Proposal incorporated herein, and the documents referred to and incorporated herein, such conflict shall be resolved by giving precedence in the following order of priority:

1. The text of this Agreement;
2. The California Air Resources Board (ARB) 2008 Lower-Emission School Bus Program (LESBP) Guidelines, issued April 15, 2008 including all applicable updates, amendments and clarifications found in the Advisory Mailouts and all collectively referred to as the "LESBP Guidelines" throughout this Agreement;
3. Exhibit A to this Agreement; and
4. The "School Bus Replacement Request for Proposals" (RFP) released to Interested Parties by AQMD and dated X*, 2013.

ARTICLE II

Term and Performance Timetable: District shall commence performance of work and produce all work products, and complete the Project within the deadlines for performance, as identified in Exhibit A of this Agreement, unless this Agreement is terminated sooner as provided for elsewhere in this Agreement. No work may begin on the Project until this Agreement is fully executed.

District shall ensure the existing school bus, which is being replaced, is dismantled within sixty (60) days of the receipt of the new, replacement bus, in accordance with the definition of "dismantle" set forth in 2008 LESBP Guidelines, Appendix A. In accordance with Appendix E of the LESBP Guidelines, District shall obtain, retain and send to AQMD required documentation of the dismantling and disposal of the replaced bus. District shall submit all other regular reports as specified in Exhibit A.

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ARTICLE III

Reimbursement/Funding Cap: AQMD will reimburse District for the cost of the Project in an amount not to exceed \$ _____, as follows:

1. If the funding identified above does not cover the total cost of the Project as outlined in the Project Proposal, District shall obtain through other sources sufficient additional monies to fund the total cost of the Project. Proof of such additional monies in the form required by AQMD shall be submitted to AQMD for approval prior to starting any work under this Agreement. In the event funding from other sources for the total cost of the Project is not received by District, AQMD reserves the right to terminate or renegotiate this Agreement in its sole discretion.
2. The total obligation of the AQMD under this Agreement Shall Not Exceed _____ Dollars and 00/100 (\$ _____) inclusive of all applicable sales taxes and use taxes.
3. In no event shall funding under this Agreement exceed the applicable funding cap set forth in the LESBP Guidelines.

ARTICLE IV

Payments: AQMD shall reimburse District after itemized invoices and verification are submitted to AQMD, Attention: Dave Johnston, and such invoices and verification are approved by AQMD as set forth below.

- A. Said invoice shall set forth in detail the eligible Project expenses incurred pursuant to this Agreement.
- B. The itemized invoices and supporting documentation are subject to verification and approval by the APCO. Payment to District for eligible Project expenses will be made within forty-five (45) calendar days of the APCO's approval and verification. Submitted documentation must include the original invoice from the District to the AQMD for the amount allowable under the LESBP.
- C. The amount to be paid to District under this Agreement is applicable only to the base cost of the replacement school bus and eligible optional equipment, including all sales and use taxes.
- D. In no event shall reimbursement paid by the AQMD to District for the eligible Project expenses pursuant to this Agreement exceed the amount set forth in ARTICLE III, Reimbursement / Funding Cap.

Surplus Funds: Any funding under this Agreement, which is not expended by District or subject to reimbursement to District pursuant to the terms and conditions of this Agreement shall automatically revert to the AQMD. Only expenditures incurred by District in the direct performance of this Agreement will be reimbursed by the AQMD. Allowable expenditures under this Agreement are specifically established and included in Exhibit A.

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Closeout Period: All final claims for reimbursement shall be submitted by District to AQMD within sixty (60) days after the delivery of the replacement bus is completed. No action will be taken by AQMD and no reimbursement will be made on claims submitted beyond the 60-day closeout period.

ARTICLE V

Non-Allocation of Funds: The terms of this Agreement and the reimbursement to be provided hereunder are contingent on the approval of funding by the appropriating government agency. If sufficient funds are not allocated for AB 923 funding, AQMD may request that the Project be modified and the Agreement amended or AQMD may, in its sole discretion, terminate this Agreement at any time by giving the District written notice of termination of this Agreement due to non-allocation of funds. Such notice shall be effective immediately subject to reimbursement for activities properly performed prior to termination and as limited by available funding.

ARTICLE VI

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 VII

Independent District/Liability: District is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs work required by the terms of this Agreement and exclusively assumes responsibility for the acts of District's employees, associates, and subcontractors in connection with the performance of District's obligations under the Project and this Agreement.

District 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 District or its employees.

ARTICLE VII, Independent District/Liability, shall survive any termination of this Agreement.

ARTICLE VIII

Termination: AQMD may withhold payments or immediately suspend or terminate this Agreement, in whole or in part, where in the determination of the 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 is submitted to the AQMD;
4. A failure to submit documentation detailing disposition of the replacement school bus, in compliance with the 2008 LESBP Guidelines, within 60 days of accepting delivery of the new school bus; or
5. Improperly performed services.

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In no event shall any payment by the AQMD constitute a waiver by the AQMD of any breach of this Agreement or any default, which may then exist on the part of District. Neither shall such payment impair or prejudice any remedy available to the AQMD with respect to the breach or default. District shall promptly refund to the AQMD, upon demand, any funds disbursed to District under this Agreement which in the judgment of the AQMD were not expended in accordance with the terms of this Agreement. This obligation of District to refund monies shall survive any termination of the Agreement.

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 without cause at any time upon giving the other party thirty (30) days advance, written notice of termination. In such case, the AQMD shall, pursuant to the requirements of Section 3, 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 District shall be promptly delivered to the AQMD. However, District acknowledges and agrees that its obligations under ARTICLE I, Project/Project Milestones, survive any termination of this Agreement.

ARTICLE IX

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 to AQMD shall be addressed as follows:

AIR QUALITY MANAGEMENT DISTRICT
330 Fair Lane
Placerville, CA 95667
ATTN: Dave Johnston, Air Pollution Control Officer

or to such other location as the County directs.

with a copy to:

COUNTY OF EL DORADO
Chief Administrative Office
Procurement and Contracts Division
360 Fair Lane
Placerville, CA 95667
ATTN: Terri Daly, Purchasing Agent

Notices to District shall be addressed as follows:

*(Company Name)
(Address)
(City, State, Zip)
ATTN: (Name), (Title)

or to such other location as the Consultant directs.

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ARTICLE X

Change of Address: In the event of a change in address for District's principal place of business, District's Agent for Service of Process, or Notices to District, District shall notify AQMD in writing as provided in ARTICLE IX, 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 XI

Indemnity: District shall defend, indemnify, and hold the AQMD 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 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 District's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the AQMD, the District, contractor(s), subcontractor(s) and employee(s) of any of these, except for the sole, or active negligence of the AQMD, its officers and employees, or as expressly prescribed by statute. This duty of District to indemnify and save AQMD 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 XII

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

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of District 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 \$2,000,000.00 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by District in the performance of the Agreement.
- D. In the event District is a licensed professional and is performing professional services under this Agreement, Professional Liability Insurance is required with a limit of liability of not less than \$1,000,000.
- E. District shall furnish a certificate of insurance satisfactory to the County of El Dorado Risk Management Division as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to County of El Dorado Risk Management Division, or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.

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- G. District agrees that the insurance required herein 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, District shall immediately provide a new certificate of insurance as evidence of the required insurance coverage. In the event District 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. New certificates of insurance are subject to the approval of County's Risk Management Division, and District agrees that no work or services shall be performed prior to the giving of such approval.
- H. The certificate of insurance must include the following provisions stating that:
1. The insurer will not cancel the insured's coverage without prior written notice to El Dorado County and AQMD; and
 2. The County of El Dorado, AQMD, 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.
- I. District's insurance coverage shall be primary insurance as respects the County of El Dorado, AQMD, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by AQMD, its officers, officials, employees or volunteers shall be in excess of District's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to, and approved by, the County of El Dorado and AQMD. At the option of the County of El Dorado and AQMD, either: The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to the County of El Dorado, AQMD, its officers, officials, employees and volunteers; or District shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County of El Dorado, AQMD, its officers, officials, employees, or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, AQMD, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. District's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- N. In the event District cannot provide an occurrence policy, District 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.
- O. The certificate of insurance shall meet such additional standards as may be determined by the County of El Dorado, AQMD, either independently or in consultation with County's Risk Management Division as essential for protection of the County of El Dorado and AQMD.

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ARTICLE XIII

Audits, Inspections and Enforcement: District shall maintain and retain all required documentation and records pertaining to the Project listed in 2008 LESBP Guidelines (Appendix E, Section B). District shall retain the documentation for activities performed under this Agreement for at least two years from the termination of District's obligations under this Agreement or until all state and federal audits are completed for the applicable fiscal year, whichever is later.

The AQMD, ARB, the California Department of Finance (DoF), or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of the Agreement – this includes programmatic and fiscal records and documentation. The AQMD and ARB, as an intended third party beneficiary, have the right to audit and enforce the terms of the Agreement at any time during the Agreement term plus two years. District shall maintain such records for possible audit for a minimum of the Agreement term plus two years. District shall allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records for a minimum of the Agreement term plus two years. Further, District agrees to include a similar right of AQMD and the State to audit records and interview staff in any subcontract related to performance of the Agreement. The AQMD, ARB, or their designated representative shall have the right to inspect the Project equipment during the entire term of the Agreement plus two years as long as it is still in use after the Agreement term. If, after audit, AQMD, ARB or DoF make a determination that funds provided to District pursuant to this Agreement were not spent in conformance with this Agreement, the 2008 LESBP Guidelines or any other applicable provisions of law, District agrees to immediately reimburse AQMD all funds determined to have been expended not in conformance with said provisions.

District 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, District shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the Agreement, all books, records and documentation necessary to demonstrate performance under the Agreement.

The obligations set forth in this section shall survive any termination of this Agreement.

ARTICLE XIV

Time is of the Essence and Liquidated Damages: It is understood that time is of the essence for the purchase of new school buses to replace older, higher-polluting buses. The parties reasonably anticipate that DISTRICT will, to the reasonable satisfaction of the AQMD, complete all activities provided herein within the time schedule outlined in Exhibit A to this Agreement. Failure to timely deliver the new school buses will result in harm to AQMD, District, schoolchildren, and air quality in El Dorado County. Further, every day in which deliver of a new school bus has been delayed may result in additional costs to AQMD and District to rent or lease an equivalent bus or otherwise mitigate the damages from the delay; such costs are definite but unquantifiable at the time of execution of this Agreement. Therefore, the parties acknowledge and agree to pay liquidated damages for failure to timely deliver the new school buses, as specified below:

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For every day after the deadline specified in Exhibit A to this Agreement in which a bus has not delivered as specified in this Agreement, AQMD shall reduce the grant payment by \$100 per day per bus purchased with AB 923 funds.

Contracts/purchase orders between District and school bus distributors/vendors shall include a similar liquidated damages clause in which school bus distributor/vendor shall be liable to the school district for liquidated damages in the amount of \$100 per day per bus purchased with AB 923 funds for each day a bus is delivered after the deadline specified in Exhibit A.

ARTICLE XV

Compliance With Applicable Laws: District will comply, for the full term of this Agreement, with all federal, State, and local laws and ordinances which are or may be applicable to the Project to be undertaken by District including but not limited to the 2008 LESBP Guidelines, criteria, and program requirements, California Health and Safety Code sections 44220 et seq, all ARB and AQMD criteria there under, prevailing wage requirements and work day definitions where applicable, Government Code Section 8546.7, contracting license requirements and permits.

ARTICLE XVI

CHP Safety Inspection: District agrees to have a CHP safety certification inspection [per Title 13, CCR section 1272(c)] after purchase of the new replacement bus and prior to the bus's return to service.

Upon satisfactory completion of the CHP safety certification inspection, District must obtain a copy of a Safety Compliance Report/Terminal Record Update (CHP 343), or a copy of a Vehicle/Equipment Inspection Report Motor Carrier Safety Operations form (CHP 343A).

ARTICLE XVII

Maintenance: District shall operate and maintain the replacement bus according to the manufacturer's warranty specifications for as long as District owns and operates each replacement bus.

ARTICLE XVIII

Fuel Additives: District agrees fuel additives are not allowed to be used unless specifically identified as allowable in the specific engine Executive Order.

ARTICLE XIX

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 XX

Business License: County'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 El Dorado County without possessing a County business license unless exempt under County Ordinance Code Section 5.08.070. Consultant warrants and represents that it shall comply with all of the requirements of County's Business License Ordinance prior to beginning work under this Agreement and at all times during the term of this Agreement.

ARTICLE XXI

ATTACHMENT B

Agreement Administrator: The AQMD Officer or employee with responsibility for administration of this Agreement is Dave Johnston, Air Pollution Control Officer, or successor.

ARTICLE XXII

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 XXIII

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 XXIV

No Third Party Beneficiaries: Except as otherwise provided in Article XIII, 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 XXV

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 XXVI

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.

Requesting Agreement Administrator Concurrence:

By: _____ Dated: _____
Dave Johnston
Air Pollution Control Officer

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

DISTRICT

**EL DORADO COUNTY
AIR QUALITY MANAGEMENT DISTRICT**

Date: _____

Date: _____

By: _____

By: _____
Ron Briggs,

ATTACHMENT B

Chairman

Attest:
James S. Mitrisin
Clerk of the Board

Date: _____

By: _____

ATTACHMENT B

Exhibit A

NEW SCHOOL BUS REPLACEMENT PROJECT COMPLETION AND IMPLEMENTATION WORKPLAN AND SCHEDULE FOR

SCHOOL DISTRICT

The Lower-Emission School Bus Program (LESBP) provides grants for the purchase of new, lower emission school buses to reduce school children's exposure to both cancer-causing and smog forming pollution. The intent is to offset up to 100% of the cost of a basic school bus plus selected safety options, subject to LESBP constraints.

_____ SCHOOL DISTRICT (DISTRICT) has submitted the attached "AB923 Funding Application New School Bus Replacement (Application) and Vehicle Quotation" to the El Dorado County Air Quality Management District (AQMD) seeking incentive funds to replace an existing school bus (*Vehicle Year, Make, VIN*) with a new (*Vehicle Year, Make,*) School Bus. The school bus to be replaced meets all the eligibility requirements as described in the 2008 LESBP Guidelines.

I. PROJECT COMPLETION (ends 1 year from signed Agreement date)

TASK 1 – Order of Replacement Bus

Upon execution of the Agreement by both parties the DISTRICT shall:

- Order the replacement school bus as specified in the attached Vehicle Quotation (*Model Name*)
- Notify the AQMD upon delivery and acceptance of the school bus (2008 LESBP Guidelines Chapter V, Section N)
- The anticipated date of delivery for the new, replacement school bus is XX.

TASK 2 – Disposal of the Replaced School Bus

Within **60 days** of accepting delivery of the new replacement bus:

- The replaced bus (*Model Name, VIN #*) must be taken out of service and dismantled in accordance with the definition of "dismantle" set forth in 2008 LESBP Guidelines (Appendix A)
- DISTRICT must maintain all documentation pertaining to the disposal of the replaced bus in accordance with the requirements detailed in Appendix E of the 2008 LESBP Guidelines.

TASK 3 – Invoice AQMD

Within **60 days** of accepting delivery of the new replacement bus, DISTRICT shall invoice AQMD and provide the following information:

- Copy of the Purchase Order, original Vendor Invoice and Proof of Payment.
- Documentation certifying disposal of the replaced bus (*Model Name, VIN #*) as detailed in Appendix E, Section B (and also in Chapter V, Section N) of the 2008 LESBP Guidelines.
- Any other documentation deemed necessary by AQMD to verify compliance with this Agreement and the 2008 LESBP Guidelines.

TASK 4 – Reporting and Records Submittal

Within **60 days** of accepting delivery of the new replacement bus DISTRICT shall submit to AQMD the following records:

- A copy of the Department of CA Highway Patrol Inspection Approval Certificate (292 Card) for the new replacement bus.
- A copy of the DMV registration for the new replacement bus.

ATTACHMENT B

II. PROJECT IMPLEMENTATION

(5 years beginning on final invoice payment of replacement bus)

TASK 4 – Bus Operation

- DISTRICT shall own, operate and maintain the replacement bus within El Dorado County in a daily use status for at least five years (per 2008 LESBP requirements) which coincides with the end of the Agreement. Fuel additives are not allowed to be used unless specifically identified as allowable in the Engine Certification Executive Order.

TASK 5 – Annual Usage Reporting and Records Submittal

Within **1 year and 60 days** of the date of the signed Agreement, and every year after until the end of the Agreement, the DISTRICT shall submit to AQMD the following records:

- Exhibit B completed for each replacement bus including annual mileage for each bus. Exhibit B must be signed by an authorized agent of the DISTRICT.
- In accordance with Appendix E, Section B of the 2008 LESBP Guidelines DISTRICT shall retain, for the full term of this Agreement plus two years all documents and records pertaining to the replacement bus Project.
- DISTRICT acknowledges that this Agreement is subject to examination and audit by the California State Auditor pursuant to Government Code Section 8546.7

ATTACHMENT B

Exhibit B

***AB 923 NEW SCHOOL BUS REPLACEMENT PROJECT
ANNUAL USAGE REPORTING FORM***

_____ **SCHOOL DISTRICT**

AGREEMENT NO. _____.

In accordance with the requirements of AB 923 and 2008 Lower-Emission School Bus Program (LESBP), DISTRICTS that received grant monies to replace their school buses with new buses must own and operate the bus for at least five years after purchase. This form must be completed by each DISTRICT and returned to the El Dorado County Air Quality Management District (AQMD) once annually during the five years to ensure compliance with this provision.

District Bus ID #	Vehicle Identification Number (VIN)	Mileage Begin Date	Mileage End Date	Annual Miles

I am an authorized employee/agent of the DISTRICT and I certify that the above information is correct and accurate.

Printed Name Title Phone #

Signature Date

Appendix 1

Request for Proposal Contents Checklist

ATTACHMENT B

REQUEST FOR PROPOSAL CONTENTS CHECKLIST

Applicant: _____

Please complete and attach this checklist with your application.

- Request for Proposal Contents Checklist (Cover)
- AB 923 Funding Application, New School Bus Replacement
- Authorization Letter/Resolution
- California Highway Patrol 292 Card
- Vendor Quotation for Replacement School Bus (including Piggy Back Bid used to determine the price)
- 2 Copies of Proposal

Appendix 2

*AB 923 Funding Application
New School Bus Replacement*



ATTACHMENT B

El Dorado County
 Air Quality Management District
 330 Fair Lane, Bldg A
 Placerville, CA 95667
 Ph: 530-621-7501/ Fax: 530-295-2774

AB923 FUNDING APPLICATION
NEW SCHOOL BUS REPLACEMENT
DUE DATE: February 3, 2014

(ALL REQUESTED INFORMATION MUST BE PROVIDED WITH THE APPLICATION)

Section 1 – Local Educational Agency Information

District Name	Mailing Address	
Contact Person and Title	Telephone Number	E-mail Address

Section 2 – Application Authority/Resolution

Resolution Number/Date (Attach Copy) <i>(Resolution must authorize the submittal of this Application and identify the individual authorized to implement and administer the bus replacement project)</i>

Section 3 – Existing School Bus Information

Fleet ID Number	Vehicle Identification Number (VIN)	Make/Model	Year Manufactured
Gross Vehicle Weight Rating (GVWR) (Not Unladen Weight)	CHP Certification Date (Attach Copies of 292 Card)	Recent Use (last 3 Years) <input type="checkbox"/> Daily <input type="checkbox"/> Standby	Current Odometer Reading
Average Annual Miles for last 3 Years	Miles Driven During 2012-2013 School Year	Specify Planned Method of Bus Disposal <i>(Must comply with 2008 Lower-Emission School Bus Program Guidelines - Verification will be required)</i>	

Section 4 – Existing Engine Information

Engine Year	Make	Model	Engine Size/Rated Horsepower
Serial Number	Fuel Type <i>(Only Diesel vehicles are eligible for replacement at this time)</i>	Was Existing Engine a Repower? <input type="checkbox"/> Yes <input type="checkbox"/> No	Was Existing Engine Retrofitted? <input type="checkbox"/> Yes <input type="checkbox"/> No

Section 5 – Proposed Replacement School Bus Data

Total Cost (Include Applicable Taxes)	Estimated Delivery Date	Attach Quote Good for 180 days <i>(Must include School Bus Year/Make /Model/Gross Vehicle Weight and Engine Year/Make/Model/Fuel Type/Hp)</i>
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Section 6 - Certification

I hereby certify that all applicable requirements and conditions of the California Air Resources Board “2008 Lower Emission School Bus Program Guidelines” and any other state and federal rules and regulations will be observed and that to the best of my knowledge the information contained in this application is correct and complete.

Signature of authorized agent	Printed Name	Title	Date
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Appendix 3

***2008 Lower-Emission School Bus Program Guidelines
(LESBP)
(dated April 15, 2008)***

<http://arb.ca.gov/bonds/schoolbus/guidelines/2008lesbp.pdf>

and all LESBP Mail Out Advisories.

<http://www.arb.ca.gov/bonds/schoolbus/advisory/advisory.htm#msc1024>