

## **AGREEMENT**

THIS AGREEMENT, dated the 1st day of August, 2019, in the County of Orange, State of California, is by and between **Anaheim Elementary School District, Anaheim Union High School District, Capistrano Unified School District, Fullerton School District, Fullerton Joint Union High School District, Garden Grove Unified School District, Huntington Beach Union High School District, Irvine Unified School District, Newport-Mesa Unified School District, Orange Unified School District, Placentia-Yorba Linda Unified School District and Westminster School District**, (hereinafter referred to as "Districts"), and **Pinnacle Petroleum Inc.**, (hereinafter referred to as "Supplier").

The Districts and the Supplier, for the consideration stated herein, agree as follows:

1. Supplier agrees to comply with all the terms and conditions set forth in the bid documents, including but not limited to the Notice Calling For Bids, Information for Bidders, Bid Form, Information Required of Bidder, Noncollusion Declaration, Workers' Compensation Certificate, Drug-Free Workplace Certification, Criminal Records Check Certification, Insurance Certificates and Endorsements, General Conditions, Special Provisions, Specifications, and all modifications, addenda and amendments thereto by this reference incorporated herein. The bid documents are complementary, and what is called for by any one shall be as binding as if called for by all.

2. Supplier shall timely perform everything required to be performed, and shall provide, furnish and pay for all the labor, materials, supplies, tools, equipment, and all applicable taxes, utility and transportation services required pursuant to this Agreement. All of said work shall be performed and completed in a good workmanlike manner in strict accordance with all provisions of this Agreement as hereinabove defined and in accordance with applicable laws, codes, regulations, ordinances and any other legal requirements. The Supplier shall be liable to the Districts for any damages arising as a result of a failure to fully comply with this obligation.

3. Districts shall pay to the Supplier, as full consideration for the faithful performance of this Agreement, subject to any additions or deductions as agreed to in writing, the prices as indicated in Exhibit A to this Agreement (the Supplier's Bid Form response to PYLUSD Bid #220-02). Payment will be based on actual deliverables.

4. The term of this Agreement shall be three (3) years commencing August 1, 2019 and ending July 31, 2022.

5. **Time is of the essence.**

6. Each District shall have discretion to terminate this Agreement at any time and require Supplier to cease all work under this Agreement by providing Supplier thirty (30) days prior written notice of termination specifying the desired date of termination. Upon receipt of written notice of such termination, Supplier shall:

- a. Cease operations as it applies to the District in the notice;
- b. Take any actions necessary, or that District may direct, for the protection and preservation of the work; and
- c. Not terminate any insurance provisions required by the bid documents.

In case of such termination for a District's convenience, Supplier shall be entitled to receive payment from that District for fuel and services satisfactorily received and accepted prior to the effective date of the termination. The foregoing provisions are in addition to and not in limitation of any other rights or remedies available to the Districts.

7. The Supplier agrees to and does hereby indemnify and hold harmless the Districts, Governing Boards, officers, agents, and employees from every claim or demand made, and every liability, loss, damage, or expense, of any nature whatsoever, which may be incurred by reason of:

- a. Any injury to or death of any person(s) or damage to, loss or theft of any property sustained by the Supplier or any person, firm or corporation employed by the Supplier, either directly or by independent contract, upon or in connection with the work called for in this Agreement, except for liability resulting from the sole active negligence, or willful misconduct of the Districts.
- (b) Any injury to or death of any person(s), or damage, loss or theft of any property caused by any act, neglect, default or omission of the Supplier, or any person, firm, or corporation employed by the Supplier, either directly or by independent contract, arising out of, or in any way connected with the work covered by this Agreement, whether said injury or damage occurs either on or off Districts' property, if the liability arose due to the negligence or willful misconduct of anyone employed by the Supplier, either directly or by independent contract.

The Supplier, at Supplier's own expense, cost, and risk shall defend any and all actions, suits, or other proceedings that may be brought or instituted against the Districts, Governing Boards, officers, agents or employees, on any such claim, demand or liability, and shall pay or satisfy any judgment that may be rendered against the Districts, Governing Boards, officers, agents or employees in any action, suit or other proceedings as a result thereof.

8. Supplier shall, at Supplier's sole cost and expense, provide for and maintain in force and effect, from the commencement of services until expiration of this Agreement, a policy or policies of insurance covering Supplier's services, and furnish to Districts a certificate of insurance evidencing all coverages and endorsements required hereunder. Supplier shall require all subcontractors, if any, to take out and maintain the same insurance coverages set forth below.

Comprehensive General Liability Insurance for injuries including accidental death, to any one person in an amount not less than and	<u>\$ 2,000,000.00</u>
Subject to the same limit for each person on account of one accident, in an amount not less than	<u>\$ 1,000,000.00</u>
Broad Form Property Damage Insurance in an amount not less than	<u>\$ 1,000,000.00</u>
Contractual Liability Insurance in an amount not less than	<u>\$ 1,000,000.00</u>
Comprehensive Automobile Liability Insurance covering the use of all owned, non-owned and hired vehicles with combined bodily injury and property damage in an amount not less than	<u>\$ 1,000,000.00</u>
Product & Completed Operations Liability	<u>\$ 1,000,000.00</u>
Statutory Workers' Compensation Insurance in accordance with Sections 3700 and 3800 of the Labor Code of the State of California	
An endorsement to said policy(s) naming Districts as additional insureds while rendering services under this Agreement	

Thirty (30) days written notice to Districts of cancellation or reduction in coverage.

9. If Supplier is a corporation, the undersigned hereby represents and warrants that the corporation is duly incorporated and in good standing in the State of California, and that Liz McKinley, whose title is President, is authorized to act for and bind the corporation.

10. The failure of the Districts in any one or more instances to insist upon strict performance of any of the terms of this Agreement or to exercise any option herein conferred shall

not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option in the future.

11. The Supplier shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement or of its rights, title or interest in or to the same or any part thereof. If the Supplier shall assign, transfer, convey, sublet or otherwise dispose of the Agreement or its right, title or interest therein, or any part thereof, such attempted or purported assignment, transfer, conveyance, sublease or other disposition shall be null, void and of no legal effect whatsoever; and the Agreement may, at the option of the Districts, be terminated, revoked and annulled, and the Districts shall thereupon be relieved and discharged from any and all liability and obligations growing out of the same to the Supplier, and to its purported assignee or transferee.

12. Any notice from one party to the other or otherwise under the Agreement shall be in writing and shall be dated and signed by party giving such notice or by a duly authorized representative of such party. Any such notice shall not be effective for any purpose whatsoever unless served in one of the following manners:

- (1) If notice is given to Districts, by personal delivery thereof to Districts, or by depositing same in United States mail, enclosed in a sealed envelope addressed to Districts, and sent by registered or certified mail with postage prepaid;
- (2) If notice is given to Supplier, by personal delivery thereof to said, or by depositing same in United States mail, enclosed in a sealed envelope addressed to said Supplier at its regular place of business or at such address as may have been established for the conduct of work under this Agreement, and sent by registered or certified mail with postage prepaid;

13. Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either party the Agreement shall forthwith be physically amended to make such insertion or correction. The Agreement and bid documents are complementary, and what is called for by any one shall be as binding as if called for by all. Supplier warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, laws, rules, regulations and orders of the United States, and of any state or political subdivision thereof, including laws and regulations pertaining to labor, wages, hours, and other conditions of employment, and applicable price ceilings if any. The Supplier shall indemnify, hold harmless and defend the Districts against any and all actions, proceedings, penalties or claims arising out of the failure to comply strictly with the IRCA. Failure of the Districts to insist on the strict performance of the terms, conditions, and agreements of this Agreement shall not constitute or be construed as a waiver or relinquishment of the Districts' rights thereafter to enforce strict compliance with any such terms, conditions or agreements but the same shall continue in full force and effect.

14. This Agreement constitutes the entire agreement of the parties. No other agreements, oral or written, pertaining to the work to be performed, exists between the parties. This Agreement can be modified only by an amendment in writing, signed by both parties and pursuant to action of the Governing Boards of the Districts. This Agreement shall be governed by the laws of the State of California.

15. The laws of the State of California and County of Orange shall govern the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed.

DISTRICT:

**Newport-Mesa Unified School District**

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

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

SUPPLIER:

**Pinnacle Petroleum**

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

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Supplier's License No.

\_\_\_\_\_  
Tax ID No.

(CORPORATE SEAL OF SUPPLIER,  
if corporation)

# Exhibit A

## **BID FORM**

Name of Bidder: Pinnacle Petroleum, Inc.

**To: Anaheim Elementary School District, Anaheim Union High School District, Capistrano Unified School District, Fullerton School District, Fullerton Joint Union High School District, Garden Grove Unified School District, Huntington Beach Union High School District, Irvine Unified School District, Newport-Mesa Unified School District, Orange Unified School District, Placentia-Yorba Linda Unified School District and Westminster School District, acting by and through their Governing Boards, herein called the "Districts."**

1. The undersigned bidder, having become familiarized with all the following documents, including but not limited to the Notice Calling for Bids, Information for Bidders, Bid Form, Information Required of Bidder, Non-collusion Declaration, Workers' Compensation Certificate, Agreement, Drug-Free Workplace Certification, Criminal Records Check Certification, all insurance requirements, General Conditions, Special Provisions, specifications, and all modifications, addenda and amendments, if any (hereinafter Bid Documents), the local conditions affecting the performance of the work and the cost of the work at the place where the work is to be done, hereby proposes and agrees to be bound by all the terms and conditions of the Bid Documents and agrees to perform, within the time stipulated, the work, including all of its component parts, and everything required to be performed, and to provide and furnish and pay for any and all of the labor, materials, supplies, tools, equipment, and all applicable taxes, utility and transportation services necessary to perform the work and complete in a good workmanlike manner all of the work required in accordance with laws, codes, regulations, ordinances and any other legal requirements governing the work, in connection with the following:

### **Bid No. 220-02: Fuel (Gasoline and Diesel)**

all in strict conformity with the Bid Documents, including Addenda Nos. 1,       ,       , on file at the Purchasing Department of the **Placentia-Yorba Linda Unified School District** for the sums as set forth in this Bid Form.

2. It is understood that the Districts reserve the right to reject any or all bids or to waive any irregularities or informalities in any bids or in the bidding process. Bidder agrees that this bid shall remain open and not be withdrawn for the period specified in the Information for Bidders.

3. The required list(s) of proposed subcontractors is attached hereto and the undersigned represents and warrants that such list(s) is complete.

4. It is understood and agreed that if written notice of the award of a contract is mailed, faxed, or delivered to the bidder, the bidder will execute and deliver to the **Placentia-Yorba Linda Unified School District** the Agreement and will also furnish and deliver to the **Placentia-Yorba Linda Unified School District** certificates and endorsements of insurance, the Workers' Compensation Certificate, Drug-Free Work Place Certification, and the Criminal Records Check Certification, within five (5) working days of the notice of award of the contract. The bidder



further agrees that the work shall be commenced by the bidder, if awarded the contract, upon receipt of a Notice to Proceed.

5. Communications conveying notice of award of the contract, requests for additional information or other correspondence should be addressed to the bidder at the address stated below.

6. The name(s) of all persons interested in the bid as principals are as follows:

Liz McKinley - President/CEO

7. The bidder hereby warrants that the bidder has all appropriate licenses and permits to perform the work as specified in the bid documents and that such licenses and permits will be in force and effect throughout the contract.

8. In submitting this bid, the bidder offers and agrees that if the bid is accepted, it will assign to the Districts all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Business & Professions Code Section 16700, et seq.) arising from purchases of goods, materials, or services by the bidder for sale to the Districts pursuant to the bid. Such assignment shall be made and become effective at the time the Districts tender final payment under the contract. (Public Contract Code Section 7103.5; Government Code Section 4450, 4451 and 4552).

9. The bidder hereby certifies that it is, and at all times during the performance of work hereunder shall be, in full compliance with the provisions of the Immigration Reform and Control Act of 1986 ("IRCA") in the hiring of its employees, and the bidder shall indemnify, hold harmless and defend the Districts against any and all actions, proceedings, penalties or claims arising out of the bidder's failure to comply strictly with the IRCA.

10. It is understood and agreed that if requested by the Districts, the bidder shall furnish a notarized financial statement, references, and other information required by the Districts sufficiently comprehensive to permit an appraisal of bidder's ability to perform the work.

**11. Time is of the essence.**

12. The required noncollusion declaration properly notarized is attached as required by Public Contract Code Section 7106. Bidder understands and agrees that failure to submit a completed and signed affidavit will render the bidder automatically nonresponsive.

13. The Information Required of Bidder form has been fully completed and is attached hereto.

14. The Districts reserve the right to award one contract for both gasoline and diesel fuel or two separate contracts, one for gasoline and one for diesel fuel.



15. Failure to complete the Bid Form in its entirety will render a bidder nonresponsive.

16. Fuels. Consumption estimates are approximate and the Districts do not guarantee a minimum or maximum amount.

All pricing is FOB Destination at all Districts' locations.

Do not include applicable state, federal and local taxes and fees. The Districts' Accounts Payable Departments will pay applicable taxes and regulatory compliance fees after auditing invoices from the successful bidder(s) who is/are awarded a contract.

There is a separate line item for delivery charges (inclusive of applicable loading, line haul and unloading fees).

The price of gasoline and diesel fuel shall be adjusted weekly. Per gallon prices shall be determined by the Average Rack Terminal Price in the column entitled "Los Angeles—Padd 4/5" in the weekly publication of the Oil Price Information Service (OPIS). The OPIS price shall be effective on the Monday following the date of the OPIS Padd 4/5 Report containing the latest OPIS weekly average price until the following Sunday (a duration of seven (7) days). The OPIS pricing arrangement will be valid at all times of the year including periods when oxygenated fuel is mandated by law or regulation. The successful bidder shall supply oxygenated fuel during those mandated periods.

On invoices, delivery charges per gallon shall be listed as a separate line item on each invoice and shall not be combined with fuel costs when computing tax. Each tax and fee shall be identified as a separate line item, listing the unit price of the fee or tax, the applicable quantity of gallons and the extended amount. Each District may require that its purchase order number be placed on each invoice.

For informational purposes, the current tax and fee schedule (the unit of measure is gallon) currently in force is:

Gasoline Tax and Fee Schedule

Federal Excise Tax	.183 (School Districts should be exempt from this tax)
L.U.S.T.	.001 (Leaking Underground Storage Tank clean-up fee)
Federal Oil Spill	
CA State Excise Tax	.0017
AB32	.30
Lead Fee	.0029
CA Sales Tax	.0015
	8.00% in Orange County

Diesel Tax and Fee Schedule

Federal Excise Tax	.243 (School Districts should be exempt from this tax)
L.U.S.T.	.001



Federal Environmental Fee (OSF)	.0019
CA State Excise Tax	.13
AB32	.0034
CA Sales Tax	8.00% in Orange County

Note: Taxes and fees may change in the future according to legislative action. In the event of any change, the successful bidder shall advise the Districts of said change in writing within ten (10) days of the announced change and the effective date of the change.



**Bid Form**  
**Pricing Sheet**

**Regular Unleaded Gasoline**

Gasoline prices (four decimal places, i.e. 0.0000)

<b><u>87 OCTANE</u></b>	<b><u>89 OCTANE</u></b>	<b><u>91 OCTANE</u></b>
<b>1. Bulk fuels full truck and trailer</b>	<b>Bulk fuels full truck and trailer</b>	<b>Bulk fuels full truck and trailer</b>
Delivery size: 7,000+ gallons	Delivery size: 7,000+ gallons	Delivery size: 7,000+ gallons
OPIS Plus _____ cents per gallon	OPIS Plus _____ cents per gallon	OPIS Plus _____ cents per gallon
or Minus <u>0.0816</u> cents per gallon	or Minus <u>0.1375</u> cents per gallon	or Minus <u>0.2080</u> cents per gallon
Delivery <u>0</u> cents per gallon	Delivery <u>0</u> cents per gallon	Delivery <u>0</u> cents per gallon
Other (Specify) <u>0</u> cents per gallon	Other (Specify) <u>0</u> cents per gallon	Other (Specify) <u>0</u> cents per gallon
Applicable Discount(s) <u>0</u> cents per gallon	Applicable Discount(s) <u>0</u> cents per gallon	Applicable Discount(s) <u>0</u> cents per gallon
Total OPIS + <u>-0.0816</u> net cents per gallon	Total OPIS + <u>-0.1375</u> net cents per gallon	Total OPIS + <u>-0.2080</u> net cents per gallon
<b>2. Smaller Tank — less than full truck</b>	<b>Smaller Tank — less than full truck</b>	<b>Smaller Tank — less than full truck</b>
Delivery size: 3,500— 6,999 gallons	Delivery size: 3,500—6,999 gallons	Delivery size: 3,500—6,999 gallons
OPIS Plus _____ cents per gallon	OPIS Plus _____ cents per gallon	OPIS Plus _____ cents per gallon
or Minus <u>0.0656</u> cents per gallon	or Minus <u>0.1224</u> cents per gallon	or Minus <u>0.1759</u> cents per gallon
Delivery <u>0</u> cents per gallon	Delivery <u>0</u> cents per gallon	Delivery <u>0</u> cents per gallon
Other (Specify) <u>0</u> cents per gallon	Other (Specify) <u>0</u> cents per gallon	Other (Specify) <u>0</u> cents per gallon
Applicable Discount(s) <u>0</u> cents per gallon	Applicable Discount(s) <u>0</u> cents per gallon	Applicable Discount(s) <u>0</u> cents per gallon
Total OPIS + <u>-0.0656</u> net cents per gallon	Total OPIS + <u>-0.1224</u> net cents per gallon	Total OPIS + <u>-0.1759</u> net cents per gallon

**Large bulk deliveries  
exceeding 7,000 gallons  
could include a combined  
load of gasoline and diesel.**



**Bid Form**  
**Pricing Sheet**

**Diesel – Ultra Low Sulphur CARB**

1. Bulk fuels full truck and trailer

Delivery size: 7,000+ gallons

OPIS Plus 0.0178 cents per gallon

or Minus \_\_\_\_\_ cents per gallon

Delivery 0 cents per gallon

Other (Specify) 0 cents per gallon

Applicable Discount(s) 0 cents per gallon

Total OPIS + 0.0178 net cents per gallon

2. Smaller Tank — less than full truck

Delivery size: 3,500— 6,999 gallons

OPIS Plus 0.0417 cents per gallon

or Minus \_\_\_\_\_ cents per gallon

Delivery 0 cents per gallon

Other (Specify) 0 cents per gallon

Applicable Discount(s) 0 cents per gallon

Total OPIS + 0.0417 net cents per gallon

**Alternative Renewable Diesel (meeting ASTM D975 specs)**

\$ -0.0266 /gallon

Pinnacle Petroleum, Inc. does not recommend Renewable Diesel for busses that are too old for this type of fuel. Pinnacle Petroleum, Inc. will not be responsible for diesel engine issues.



Joint Venturer Name: \_\_\_\_\_

Signed By: \_\_\_\_\_, Joint Venturer

Print Name: \_\_\_\_\_

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

Business Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Other Parties to

Joint Venture

*If an Individual:* \_\_\_\_\_

(Name)

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

Print Name: \_\_\_\_\_

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

Doing Business as: \_\_\_\_\_

Business Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

*If a Partnership:* \_\_\_\_\_

(Name)

Signed by: \_\_\_\_\_, Partner

Print Name: \_\_\_\_\_

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

Business Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

*If a Corporation:* \_\_\_\_\_

(a \_\_\_\_\_ Corporation)



Signed By: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

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

Business Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_



## INFORMATION REQUIRED OF BIDDER

The bidder shall furnish all the following information. Bidder shall carefully read and answer all questions to ensure completeness and accuracy. Failure to comply with this requirement may cause rejection of the bid. Additional sheets may be attached if necessary. "You" or "your" as used herein refers to the bidder and any of its owners, officers, directors, shareholders, principals, responsible managing officer (RMO) or responsible managing employee (RME). Districts have discretion to request additional information.

- (1) Bidder name and address (Post Office Box Number not sufficient):

Pinnacle Petroleum, Inc.  
16651 Gemini Lane  
Huntington Beach, CA 92647

- (2) Telephone: 714-841-8877 Fax No.: 714-841-8855  
Electronic Mail: lmckinley@pinnaclepetroleum.com

- (3) Individual \_\_\_\_\_ Partnership \_\_\_\_\_ Corporation X Joint Venture \_\_\_\_\_ (check one)

- (4) Distributor's License No. 27578 CARB Motor Vehicle Fuel Distributor  
Name of License Holder Pinnacle Petroleum, Inc.

- (5) Names and titles of all your owners, officers, principals, responsible managing officers and responsible managing employees:

Name	Title
Liz McKinley	President

- (6) Person who inspected Districts' sites:

Name and Title: Jewelita Noriega Contract & Sales Manager

Date of Inspection: 2016

- (7) How many years' experience have you had in supplying fuel to school districts?  
25 years



- (8) Have you been in litigation or arbitration or dispute of any kind on a question or questions relating to a school district during the past ten (10) years? Yes \_\_\_\_ No ☒ If the answer is "Yes," provide name of school district and details. \_\_\_\_\_

- (9) Are you currently under contract with any school district? Yes ☒ No \_\_\_\_ If the answer is "Yes," please provide the following information:

(a) Name of School District: Placentia-Yorba Linda USD  
Describe the Contract: All districts fuel bid

(b) Name of School District: Newport-Mesa USD  
Describe the Contract: All districts fuel bid

(c) Name of School District: Anaheim Elementary School District  
Describe the Contract: All districts fuel bid

- (10) Supplier must have fuel storage, loading terminal, metered pumps, etc., within Southern California and have access to a fleet of tanker trucks. Do you have all of these requirements? Yes ☒ No \_\_\_\_

If the answer is "No", please list the missing requirements:

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CONFIDENTIAL

- (11) List of References – Please provide references of school districts and/or any public agencies that you have contracted with to supply fuel. Districts have discretion to require more than five (5) references.

1. Name: State of California  
 Address and Telephone: 707 3rd Street 2<sup>nd</sup> Floor, 02-211  
West Sacramento, CA 95605 P: 916-375-4492  
 Contact Person: Denelle Scott  
 Description of Work: Bulk gasoline, diesel, dyed diesel, & E85  
delivery and supply
2. Name: Placentia Yorba Linda School District  
 Address and Telephone: 1301 E Orangethorpe Ave, Placentia,  
CA 92870 P: 714-985-8491  
 Contact Person: William (Bill) Johnston  
 Description of Work: Bulk gasoline and diesel delivery and  
supply.
3. Name: Los Angeles County Metropolitan Transportation Authority  
 Address and Telephone: One Gateway Plaza, Los Angeles, CA  
90012 P: 213-922-1066  
 Contact Person: Judene Close  
 Description of Work: Bulk gasoline delivery and supply
4. Name: Torrance Unified School District  
 Address and Telephone: 2334 Plaza Del Amo, Torrance  
CA 90501 P: 310-972-6312  
 Contact Person: Garrick Cato  
 Description of Work: Bulk gasoline and diesel delivery  
and supply
5. Name: Antelope Valley Transit Authority  
 Address and Telephone: 42210 6<sup>th</sup> Street West, Lancaster  
CA 93534 P: 661-729-2288  
 Contact Person: Lyle Block  
 Description of Work: Bulk gasoline and dyed diesel delivery  
and supply as well as inventory management.



I certify and declare under penalty of perjury under the laws of the State of California that the foregoing responses to the Information Required of Bidder are true and correct.

Signature \_\_\_\_\_  
Liz McKinley  
Print Name \_\_\_\_\_  
President  
Title \_\_\_\_\_  
6/3/19  
Date \_\_\_\_\_

## AGREEMENT

THIS AGREEMENT, dated the 1 day of August, 2019, in the County of Orange, State of California, is by and between **Anaheim Elementary School District, Anaheim Union High School District, Capistrano Unified School District, Fullerton School District, Fullerton Joint Union High School District, Garden Grove Unified School District, Huntington Beach Union High School District, Irvine Unified School District, Newport-Mesa Unified School District, Orange Unified School District, Placentia-Yorba Linda Unified School District and Westminster School District**, (hereinafter referred to as "Districts"), and Pinnacle Petroleum, Inc., (hereinafter referred to as "Supplier").

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3. Districts shall pay to the Supplier, as full consideration for the faithful performance of this Agreement, subject to any additions or deductions as agreed to in writing, the sum of Dollars (\$\_\_\_\_\_).

4. The term of this Agreement shall be three (3) years commencing August 1, 2019 and ending July 31, 2022.

5. **Time is of the essence.**

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a. Cease operations as it applies to the District in the notice;



- b. Take any actions necessary, or that District may direct, for the protection and preservation of the work; and
- c. Not terminate any insurance provisions required by the bid documents.

In case of such termination for a District's convenience, Supplier shall be entitled to receive payment from that District for fuel and services satisfactorily received and accepted prior to the effective date of the termination. The foregoing provisions are in addition to and not in limitation of any other rights or remedies available to the Districts.

7. The Supplier agrees to and does hereby indemnify and hold harmless the Districts, Governing Boards, officers, agents, and employees from every claim or demand made, and every liability, loss, damage, or expense, of any nature whatsoever, which may be incurred by reason of:

- a. Any injury to or death of any person(s) or damage to, loss or theft of any property sustained by the Supplier or any person, firm or corporation employed by the Supplier, either directly or by independent contract, upon or in connection with the work called for in this Agreement, except for liability resulting from the sole active negligence, or willful misconduct of the Districts.
- (c) Any injury to or death of any person(s), or damage, loss or theft of any property caused by any act, neglect, default or omission of the Supplier, or any person, firm, or corporation employed by the Supplier, either directly or by independent contract, arising out of, or in any way connected with the work covered by this Agreement, whether said injury or damage occurs either on or off Districts' property, if the liability arose due to the negligence or willful misconduct of anyone employed by the Supplier, either directly or by independent contract.

The Supplier, at Supplier's own expense, cost, and risk shall defend any and all actions, suits, or other proceedings that may be brought or instituted against the Districts, Governing Boards, officers, agents or employees, on any such claim, demand or liability, and shall pay or satisfy any judgment that may be rendered against the Districts, Governing Boards, officers, agents or employees in any action, suit or other proceedings as a result thereof.

8. Supplier shall, at Supplier's sole cost and expense, provide for and maintain in force and effect, from the commencement of services until expiration of this Agreement, a policy or policies of insurance covering Supplier's services, and furnish to Districts a certificate of insurance evidencing all coverages and endorsements required hereunder. Supplier shall require all subcontractors, if any, to take out and maintain the same insurance coverages set forth below.



Comprehensive General Liability  
Insurance for injuries including  
accidental death, to any one  
person in an amount not less than  
and

\$ 2,000,000.00

Subject to the same limit for  
each person on account of one  
accident, in an amount not  
less than

\$ 1,000,000.00

Broad Form Property Damage  
Insurance in an amount not  
less than

\$ 1,000,000.00

Contractual Liability Insurance  
in an amount not less than

\$ 1,000,000.00

Comprehensive Automobile  
Liability Insurance covering the  
use of all owned, non-owned and  
hired vehicles with combined  
bodily injury and property damage  
in an amount not less than

\$ 1,000,000.00

Product & Completed Operations  
Liability

\$ 1,000,000.00

Statutory Workers' Compensation  
Insurance in accordance with  
Sections 3700 and 3800 of the Labor  
Code of the State of California

An endorsement to said policy(s)  
naming Districts as additional  
insureds while rendering services  
under this Agreement

Thirty (30) days written notice to Districts of cancellation or reduction in coverage.

9. If Supplier is a corporation, the undersigned hereby represents and warrants that the corporation is duly incorporated and in good standing in the State of California, and that Liz McKinley, whose title is President, is authorized to act for and bind the corporation.

10. The failure of the Districts in any one or more instances to insist upon strict performance of any of the terms of this Agreement or to exercise any option herein conferred shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option in the future.

11. The Supplier shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement or of its rights, title or interest in or to the same or any part thereof. If the Supplier shall assign, transfer, convey, sublet or otherwise dispose of the Agreement or its right, title or interest therein, or any part thereof, such attempted or purported assignment, transfer, conveyance, sublease or other disposition shall be null, void and of no legal effect whatsoever; and the Agreement may, at the option of the Districts, be terminated, revoked and annulled, and the Districts shall thereupon be relieved and discharged from any and all liability and obligations growing out of the same to the Supplier, and to its purported assignee or transferee.

12. Any notice from one party to the other or otherwise under the Agreement shall be in writing and shall be dated and signed by party giving such notice or by a duly authorized representative of such party. Any such notice shall not be effective for any purpose whatsoever unless served in one of the following manners:

- (1) If notice is given to Districts, by personal delivery thereof to Districts, or by depositing same in United States mail, enclosed in a sealed envelope addressed to Districts, and sent by registered or certified mail with postage prepaid;
- (2) If notice is given to Supplier, by personal delivery thereof to said, or by depositing same in United States mail, enclosed in a sealed envelope addressed to said Supplier at its regular place of business or at such address as may have been established for the conduct of work under this Agreement, and sent by registered or certified mail with postage prepaid;

13. Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either party the Agreement shall forthwith be physically amended to make such insertion or correction. The Agreement and bid documents are complementary, and what is called for by any one shall be as binding as if called for by all. Supplier warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, laws, rules, regulations and orders of the United States, and of any state or political subdivision thereof, including laws and regulations pertaining to labor, wages, hours, and other conditions of employment, and applicable price ceilings if any. The Supplier shall indemnify, hold harmless and defend the Districts against any and all actions, proceedings, penalties or claims arising out of the failure to comply strictly with the IRCA. Failure of the Districts to insist on the strict performance of the terms, conditions, and agreements of this Agreement shall not constitute or be construed as a waiver or relinquishment of the Districts' rights thereafter to enforce strict compliance with any such terms, conditions or agreements but the same shall continue in full force and effect.





14. This Agreement constitutes the entire agreement of the parties. No other agreements, oral or written, pertaining to the work to be performed, exists between the parties. This Agreement can be modified only by an amendment in writing, signed by both parties and pursuant to action of the Governing Boards of the Districts. This Agreement shall be governed by the laws of the State of California.

15. The laws of the State of California and County of Orange shall govern the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed.

DISTRICT  
(NAME OF DISTRICT)

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

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

SUPPLIER

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

Liz McKinley  
Print Name

President  
Title

\_\_\_\_\_  
Supplier's License No.

33-0619703  
Tax ID No.

(CORPORATE SEAL OF SUPPLIER,  
if corporation)



**NONCOLLUSION DECLARATION TO BE EXECUTED BY**  
**BIDDER AND SUBMITTED WITH BID**  
(Public Contract Code section 7106)

The undersigned declares:

I am the President of Pinnacle Petroleum, Inc., the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on 6/3/19 [date], at Huntington Beach [city], California [state].

Signature

Print Name





# CALIFORNIA CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of Orange )

On June 3, 2019 before me, J. Cruz Notary Public  
(here insert name and title of the officer)

personally appeared Liz McKinley, President of Pinnacle Petroleum, Inc.

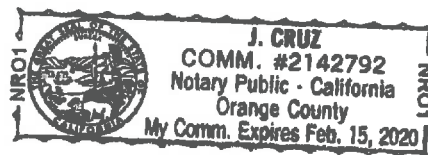
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

J. Cruz



(Seal)

## Optional Information

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

### Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Noncollusion declaration

containing 1 pages, and dated 6/3/19

The signer(s) capacity or authority is/are as:

☐ Individual(s)

☐ Attorney-in-Fact

☒ Corporate Officer(s)

President

Title(s)

☐ Guardian/Conservator

☐ Partner - Limited/General

☐ Trustee(s)

☐ Other:

representing:

Name(s) of Person(s) or Entity(ies) Signer is Representing

### Additional Information

#### Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☒ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # 70 Entry # 4

Notary contact: J. Cruz

#### Other

☐ Additional Signer(s)

☐ Signer(s) Thumbprint(s)

☐



**Pinnacle Petroleum, Inc**  
16651 Gemini Lane  
Huntington Beach, Ca 92647

## **NOTICE REGARDING CRIMINAL RECORDS CHECK**

### **Education Code Section 45125.1**

Education Code section 45125.1 provides that if the employees of any entity that has a contract with a school district may have any contact with pupils, those employees shall submit or have submitted their fingerprints in a manner authorized by the Department of Justice together with a fee determined by the Department of Justice to be sufficient to reimburse the Department for its costs incurred in processing the application.

The Department of Justice shall ascertain whether the individual whose fingerprints were submitted to it has been arrested or convicted of any crime insofar as that fact can be ascertained from information available to the Department. When the Department of Justice ascertains that an individual whose fingerprints were submitted to it has a pending criminal proceeding for a violent felony listed in Penal Code section 1192.7(c), or has been convicted of such a felony, the Department shall notify the employer designated by the individual of the criminal information pertaining to the individual. The notification shall be delivered by telephone and shall be confirmed in writing and delivered to the employer by first-class mail.

**The Supplier shall not permit an employee to come in contact with pupils until the Department of Justice has ascertained that the employee has not been convicted of a violent or serious felony. The Supplier shall certify in writing to the governing board of the school district that none of its employees who may come in contact with pupils have been convicted of a violent or serious felony.**

Penal Code section 667.5(c) lists the following "violent" felonies: murder; voluntary manslaughter; mayhem; rape; sodomy by force; oral copulation by force; lewd acts on a child under the age of 14 years; any felony punishable by death or imprisonment in the state prison for life; any felony in which the defendant inflicts great bodily injury on another; any robbery perpetrated in an inhabited dwelling; arson; penetration of a person's genital or anal openings by foreign or unknown objects against the victim's will; attempted murder; explosion or attempt to explode or ignite a destructive device or explosive with the intent to commit murder; kidnapping; continuous sexual abuse of a child; and carjacking.

Penal Code section 1192.7 lists the following "serious" felonies: murder; voluntary manslaughter; mayhem; rape; sodomy by force; oral copulation by force; a lewd or lascivious act on a child under the age of 14 years; any felony punishable by death or imprisonment in the state prison for life; any felony in which the defendant personally inflicts great bodily injury on another, or in which the defendant personally uses a firearm; attempted murder; assault with intent to commit rape or robbery; assault with a deadly weapon on a peace officer; assault by a life prisoner on a noninmate; assault with a deadly weapon by an inmate; arson; exploding a destructive device with intent to injure or to murder, or explosion causing great bodily injury or mayhem; burglary of an inhabited dwelling; robbery or bank robbery; kidnapping; holding of a hostage by a person confined in a state prison;



attempt to commit a felony punishable by death or imprisonment in the state prison for life; any felony in which the defendant personally uses a dangerous or deadly weapon; selling or furnishing specified controlled substances to a minor; penetration of genital or anal openings by foreign objects against the victim's will; grand theft involving a firearm; carjacking; and a conspiracy to commit specified controlled substances offenses.



**Bid No. 220-02**  
**Fuel (Gasoline and Diesel)**  
**CERTIFICATION BY SUPPLIER**  
**CRIMINAL RECORDS CHECK**

To the Governing Boards of the Districts:

I, Pinnacle Petroleum, Inc. certify that:  
Name of Supplier

1. I have carefully read and understand the Notice Regarding Criminal Records Check (Education Code section 45125.1).
2. Due to the nature of the work that will be performed for the Districts, my employees may have contact with students of the Districts.
3. None of the employees who will be performing the work have been convicted of a violent or serious felony as defined in the Notice and in Penal Code section 1192.7 and this determination was made by a fingerprint check through the Department of Justice.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Huntington Beach, California on 6/3/19.  
Date

Signature

Liz McKinley  
Typed or printed name

President  
Title

16651 Gemini Lane Huntington Beach,  
Address CA 92647

714-841-8877  
Telephone



## WORKERS' COMPENSATION CERTIFICATE

Labor Code Section 3700.

"Every employer except the state shall secure the payment of compensation in one or more of the following ways:

(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.

(c) For any county, city, city and county, municipal corporation, public district, public agency or any political subdivision of the state, including each member of a pooling arrangement under a joint exercise of powers agreement (but not the state itself), by securing from the Director of Industrial Relations a certificate of consent to self-insure against workers' compensation claims, which certificate may be given upon furnishing proof satisfactory to the director of ability to administer workers' compensation claims properly, and to pay workers' compensation claims that may become due to its employees. On or before March 31, 1979, a political subdivision of the state which, on December 31, 1978, was uninsured for its liability to pay compensation, shall file a properly completed and executed application for a certificate of consent to self-insure against workers' compensation claims. The certificate shall be issued and be subject to the provisions of Section 3702."

I am aware of the provisions of Labor Code Section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

Pinnacle Petroleum, Inc.  
Name of Supplier  
By: \_\_\_\_\_  
Signature  
Liz McKinley  
Print Name  
President  
Title  
6/3/19  
Date

(In accordance with Article 5 [commencing at Section 1860], Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under the contract.)



## **DRUG-FREE WORKPLACE CERTIFICATION**

This Drug-Free Workplace Certification is required pursuant to Government Code Sections 8350, et seq., the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract for the procurement of any property or services from any State agency must certify that it will provide a drug-free workplace by doing certain specified acts. In addition, the Act provides that each contract awarded by a State agency may be subject to suspension of payments or termination of the contract, and the contractor may be subject to debarment from future contracting, if the state agency determines that specified acts have occurred.

Pursuant to Government Code Section 8355, every person or organization awarded a contract from a State agency shall certify that it will provide a drug-free workplace by doing all of the following:

a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the person's or organization's workplace and specifying actions which will be taken against employees for violations of the prohibition;

b) Establishing a drug-free awareness program to inform employees about all of the following:

- 1) The dangers of drug abuse in the workplace;
- 2) The person's or organization's policy of maintaining a drug-free workplace;
- 3) The availability of drug counseling, rehabilitation and employee-assistance programs;
- 4) The penalties that may be imposed upon employees for drug abuse violations;

c) Requiring that each employee engaged in the performance of the contract be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code Section 8355 listed above and will publish a statement notifying employees concerning (a) the prohibition of controlled substance at the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the contract be given a copy of the statement required by Section 8355(a) and requiring that the employee agree to abide by the terms of that statement.

I also understand that if the District determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of Section 8355, that the contract awarded herein is subject to suspension of payments, termination, or both. I



further understand that, should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of Section 8350, et seq.

I acknowledge that I am aware of the provisions of Government Code Section 8350, et seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

Pinnacle Petroleum, Inc.  
NAME OF SUPPLIER

[Signature]  
Signature

Liz McKinley  
Print Name

President  
Title

6/3/19  
Date



## DESIGNATION OF SUBCONTRACTORS

Each bidder shall set forth below: (a) the name and the location of the place of business for each subcontractor who will perform the work or labor or render service to the bidder in or about the work and (b) the portion of the work which will be done by each subcontractor. The bidder shall list only one subcontractor for each such portion as defined by the bidder in this bid.

Type of Trade, labor or service	Name of Subcontractor	Complete Address, City, Zip and Telephone
<u>Fuel hauler</u>	<u>Golden West Petroleum</u>	<u>13892 Pacific Ave Westminster, CA 92683</u>
<u>Fuel hauler</u>	<u>Big Mac Tank Lines</u>	<u>7809 Pioneer Blvd Whittier, CA 90606</u>
<u>Fuel hauler</u>	<u>Xtreme Fuel Transport</u>	<u>1145 W. Rosewood Street Pico, CA 92376</u>

Bidder agrees that within twenty-four (24) hours of the bid opening, bidder shall provide the Districts with the complete address and telephone numbers of each listed subcontractor if such information is not available at the time of the bid opening.

Dated: 6/3/19

Pinnacle Petroleum, Inc.  
Name of Bidder

By: [Signature]  
(Signature of Bidder)

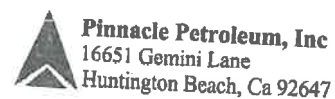
Print Name: Liz McKinley

Address: 16651 Gemini Lane

Huntington Beach, CA 92647

Telephone: 714-841-0877

Email: lmckinley@pinnaclepetroleum.com







hereby grants

## to

**Pinnacle Petroleum, Inc.**

who has successfully met WBENC's standards as a Women's Business Enterprise (WBE). This certification affirms the business is woman-owned, operated and controlled; and is valid through the date herein.

WBENC National WBE Certification was processed and validated by Women's Business Enterprise Council - West, a WBENC Regional Partner Organization.

**Certification Granted: March 10, 2003**

Expiration Date: March 31, 2020

WBENC National Certification Number: 240301

Pamela Williams Ph.D.

Authorized by Pamela Williamson, President & CEO  
Women's Business Enterprise Council - West



NAICS: 424720, 324110, 324191, 424710  
UNSPSC: 15000000, 15101505, 15101506, 15101513, 15101801, 25121501, 25121503, 78102101



**Pinnacle Petroleum, Inc**  
16651 Gemini Lane  
Huntington Beach, Ca 92647



California Environmental Protection Agency  
**AIR RESOURCES BOARD**

***Motor Vehicle Fuel Distributor Certificate of Compliance***

The company or individual named below has complied with Health and Safety Code Section 43026 and is registered with the Air Resources Board as a motor vehicle fuel distributor in California.

**Issued to:** Pinnacle Petroleum, Inc.  
16651 Gemini Lane  
Huntington Beach, CA 92647  
Attn: Liz McKinley

**Certificate #: 27578**

**Expires: June 30, 2019**

For inquiries: P. O. Box 2815, Sacramento, CA 95812

Tony Doan (916) 229-0401





**PLACENTIA-YORBA LINDA  
UNIFIED SCHOOL DISTRICT**

1301 E. Orangethorpe Avenue  
Placentia, CA 92870  
www.pyusd.org

Greg Plutko, Ed.D.  
Superintendent

Board Of Education  
Judi Carmona  
Carrie Buck  
Carol Downey  
Karin Freeman  
Eric Padgett

May 16, 2019

**BID NUMBER 220-02  
ALL DISTRICTS FUEL BID**

**ADDENDUM NUMBER ONE (1)**

**Notice to Bidders**

The following changes, omissions, and/or additions/deletions to the bid documents, specifications, terms and conditions, and forms of the bid shall apply to the bid. All parties interested shall take careful note of the addendum so that bidders submit accurate bids.

Bidder shall acknowledge receipt of this addendum in the bid documents and submit this document with their bid. In case of conflict, bid documents and the addendum shall govern.

1. Incorporate the attached Designation of Subcontractors list in the bid.
2. Each District participating in this bid will receive a separate Certificate of Insurance naming the District as the loss payee.

Donald Rosales  
Director of Purchasing

*Ensuring Every Student For Success Now and in The Future*

