

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into between the California Air Resources Board (CARB), with its principal location at 1001 I Street, Sacramento, California 95814; and Walt Disney Parks and Resorts U.S., Inc. (Disney), with its principal location at 1375 Buena Vista Drive, 4th Floor North, Lake Buena Vista, Florida 32830 (collectively, the "Parties," or individually, "Party").

LEGAL BACKGROUND

- (1) Purpose. The California Health and Safety Code mandates the reduction of emission of air pollution from off-road engines. (Health & Saf. Code §§ 43013; 43018.)
- (2) Regulation. CARB adopted the "*Evaporative Emission Requirements for Off-Road Equipment*" Regulation (Cal. Code Regs., tit. 13, §§ 2750-2774) (Evaporative Emissions Regulation) to reduce emissions of, inter alia, oxides of nitrogen (NO_x) and hydrocarbons (HC) from off-road spark-ignited small off-road engines (SORE) rated at equal to or less than 19 kilowatts, and equipment utilizing such engines.
- (3) Regulatory Provisions. The Evaporative Emissions Regulation requires all SORE engines that are manufactured for sale or leased for use or operation in California; sold, leased for use, or operation in California; or delivered or imported into California for introduction into commerce in California to be equipped with an evaporative emissions control system that is certified according to the certification requirements and procedures; meets the diurnal emission and design standards, fuel cap performance standards, and carbon canister size requirements, is properly tested following all required test procedures; is properly labeled; and meets all warranty requirements. (Cal. Code Regs., tit. 13, §§ 2750-2774.)
- (4) Penalty Provisions. Failure to comply with the regulatory requirements is a violation of state law that may result in penalties up to six hundred thirty-two dollars (\$632.00 USD) (adjusted for inflation from \$500.00 USD) for each strict liability violation of the Evaporative Emissions Regulation, respectively, for each noncompliant SORE engine, equipment, fuel line, fuel tank, carbon canister, or equipment. (Cal. Code Regs., tit. 13, § 2772; Health & Saf. Code § 43016.)

CASE BACKGROUND

- (5) Corporate Entity. At all relevant times, Disney was organized under the laws of Florida as a corporation and conducted business in California.
- (6) Allegations. CARB alleges that Disney violated the Evaporative Emissions Regulation by delivering or importing into California for introduction into

commerce in California, SORE equipment that were not, in all material respects, the same as equipment certified under Disney's Executive Order U-U-217-004, resulting in the violations as outlined in Notice of Violation #2024-EPES-C00762. CARB alleges that if paragraphs 1 through 6 were proven, civil penalties could be imposed against Disney for each and every SORE equipment involved in the violations.

- (7) Acknowledgment. Disney admits to the facts in paragraphs 1 through 5, but denies any liability resulting from said allegations.
- (8) Consideration. In consideration of the foregoing, and of the promises and facts set forth herein, and without admitting any of the facts or allegations contained herein except as provided in Paragraph 7 above, the Parties desire to settle and resolve all claims, disputes, and obligations relating to the above-listed alleged violations and voluntarily agree to resolve this matter by means of this Settlement Agreement. In order to resolve the violations described herein, Disney has taken, or agrees to take, the actions enumerated below within the Terms and Conditions. Further, CARB accepts this Settlement Agreement in termination and full settlement of this matter.

TERMS AND CONDITIONS

In consideration of CARB not filing a legal action against Disney for the alleged violations referred to above in the Legal Background and Case Background, and Disney's agreement to complete all terms and conditions set forth below, CARB and Disney agree as follows:

- (9) Settlement Amount. Disney shall pay a civil penalty of twenty-eight thousand one hundred twenty-five dollars (\$28,125.00 USD), and agrees to fund a Supplemental Environmental Project (SEP) entitled Cleaner Air Greener Schools in the amount of twenty-eight thousand one hundred twenty-five dollars (\$28,125.00 USD), consistent with CARB's SEP Policy, for a total settlement of fifty-six thousand two hundred fifty dollars (\$56,250.00 USD). Disney shall make all payments within thirty (30) calendar days from the Notification Date.
- (10) Notification Date. The "Notification Date" is herein defined as the earlier of (a) the date upon which CARB notifies Disney, according to Paragraph 17 (Notices), that the Settlement Agreement is fully executed, or (b) the date on which Disney receives the fully executed Settlement Agreement from CARB.
- (11) Civil Penalty Payment Method. Disney shall pay the civil penalty by check, credit card, wire transfer, or portal, payable to the "California Air Resources Board," using instructions provided separately by CARB in a Payment Transmittal Form. Disney is responsible for all payment processing fees. Payments shall be

accompanied by the Payment Transmittal Form to ensure proper application. CARB shall deposit the civil penalty amount into the Air Pollution Control Fund for the purpose of carrying out CARB's duties and functions to ensure the integrity of its air pollution control programs. Should payment instructions change, CARB will provide notice to Disney in accordance with Paragraph 17 (Notices).

- (12) SEP Payment Method(s). Disney shall fund the SEP by wire transfer or check, payable to the SEP Recipient/Administrator, U.S. Green Building Council-Los Angeles, using instructions provided separately by CARB in a SEP Payment Transmittal Form. Disney is responsible for all payment processing fees. Payments shall be accompanied by the SEP Payment Transmittal Form to ensure proper application. Should payment instructions change, CARB will provide notice to Disney in accordance with Paragraph 17 (Notices).
- (13) Prohibition Against Financial Benefit. Disney has agreed that by funding the SEP entitled Cleaner Air Greener Schools, Disney will not receive any direct or indirect financial benefit. Should Disney publicly refer to the SEP or results of the SEP, Disney will state that the SEP is part of the settlement of a CARB enforcement action.
- (14) Assignment of Rights. In the event the SEP Recipient/Administrator does not fully implement or complete the SEP in accordance with the terms of the SEP Agreement, CARB shall be entitled to recover the full amount of the SEP from the SEP Recipient/Administrator, less any amount expended on the timely and successful completion of any previously agreed upon interim milestone(s). CARB will deposit any such recovery into the Air Pollution Control Fund. In the event the SEP Recipient/Administrator does not fully implement or complete the SEP in accordance with the terms of the SEP Agreement, Disney assigns any and all rights against the SEP Recipient/Administrator with respect to this failure to fully implement or complete the SEP to CARB.
- (15) Compliance Plan. Disney shall submit to CARB and implement a Compliance Plan to ensure that Disney complies with all provisions of the laws and regulations outlined in the Legal Background and where applicable, Compliance Schedule, the provisions of which are incorporated by reference herein.
- (16) Documents. Disney shall promptly email or mail the signed and dated Settlement Agreement to the address or email in Paragraph 17 (Notices).
- (17) Notices. Unless otherwise specified in this Settlement Agreement, whenever notifications, submissions, or communications are required by this Settlement Agreement, they shall be submitted in writing to the address or email below:

As to CARB:

California Air Resources Board
Enforcement Division / Settlement Agreements
Vehicle, Parts, Consumer Products Enforcement Branch / Engine and
Parts Enforcement Section
P.O. Box 2815
Sacramento, California 95812-2815
Settlement_Agreement@arb.ca.gov

As to Disney:

Donna Baker
Director, Environmental Affairs
TDA 229D1
Anaheim, California 92802
Donna.Baker@disney.com

As to Disney's Legal Representation:

Michael S. McDonough
725 South Figueroa Street, 36th Floor
Los Angeles, California 90017-5524
Michael.Mcdonough@pillsburylaw.com

Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above. Notices submitted pursuant to this section shall be deemed submitted upon emailing or mailing.

- (18) Recovery of Costs. If the Attorney General files and prevails in a civil action to enforce this Settlement Agreement, Disney shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorneys' fees, and costs.
- (19) Repeat Violations. Disney agrees to comply with all regulatory requirements and acknowledges that repeat violations could result in increased penalties in the future.
- (20) Entirety. This Settlement Agreement constitutes the entire agreement and understanding between the Parties concerning the Case Background and supersedes and replaces any and all prior negotiations and agreements of any kind, whether written or oral, between the Parties concerning the Case Background hereof. This Settlement Agreement consists of 8 pages and 38 numbered paragraphs.
- (21) Binding Effect. This Settlement Agreement binds Disney, and any principals, officers, receivers, trustees, successors and assignees, subsidiary and parent

corporations and CARB and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Settlement Agreement.

- (22) Effective Date. The effective date shall be the date upon which this Settlement Agreement is fully executed, deemed to occur on the date of the last party signature to the Agreement.
- (23) Modification and Termination. No agreement to modify, amend, extend, supersede, terminate, or discharge this Settlement Agreement, or any portion thereof, is valid or enforceable unless it is in writing and signed by all Parties to this Settlement Agreement.
- (24) Severability. Each provision of this Settlement Agreement is severable, and in the event that any provision of this Settlement Agreement is held to be illegal, invalid or unenforceable in any jurisdiction, the remainder of this Settlement Agreement remains in full force and effect.
- (25) Choice of Law. This Settlement Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without regard to California's choice-of-law rules.
- (26) Non-Discharge. It is further agreed that the penalties described in this Settlement Agreement are non-dischargeable under United States Code, title 11, section 523(a)(7), which provides an exception from discharge for any debt to the extent such debt is for a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit.
- (27) Rules of Construction. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Settlement Agreement.
- (28) Non-Waiver. The failure to enforce any provision of this Settlement Agreement shall not be construed as a waiver of any such provision, nor prevent such Party thereafter from enforcing such provision or any other provision of this Settlement Agreement. The rights and remedies granted to all Parties herein are cumulative and the election of one right or remedy by a Party shall not constitute a waiver of such Party's right to assert all other legal remedies available under this Settlement Agreement or otherwise provided by law.
- (29) Intent to be Bound. The Parties represent that: They have participated fully in the review and drafting of this Settlement Agreement; understand and accept all terms; enter into this Settlement Agreement freely and voluntarily; have had an opportunity to consult with legal counsel; are fully informed of the terms and effect of this Settlement Agreement; have agreed to this Settlement Agreement after independent investigation and agree it was not arrived at through fraud,

duress, or undue influence; and knowingly and voluntarily intend to be legally bound by this Settlement Agreement.

- (30) Venue. The Superior Court of California, located in the County of Sacramento, shall hear any dispute between the Parties arising from this Settlement Agreement.
- (31) Counterparts and Electronic Signatures. This Settlement Agreement may be executed in counterparts. Electronic, facsimile or photocopied signatures shall be considered as valid signatures.
- (32) Release. In consideration of full payment of the civil penalty and SEP payment, and all other undertakings above, CARB hereby releases Disney and its principals, officers, receivers, trustees, successors and assignees, subsidiary and parent corporations, from any claims CARB may have based on the circumstances described in Paragraph 6 (Allegations) above.
- (33) Authority. The undersigned represents that he or she has full authority to enter into this Settlement Agreement.

PENALTY BASIS

- (34) Per Unit Penalty. The per unit penalty in this case is a maximum of six hundred thirty-two dollars (\$632.00 USD) (adjusted for inflation from \$500.00 USD) per action under Health and Safety Code section 43016, for violations of the Evaporative Emissions Regulation. (Cal. Code Regs., tit. 13, § 2772; Health & Saf. Code § 43016.) The penalty of \$56,250.00 is for 125 violations. The per unit penalty in this case is four hundred fifty dollars (\$450.00 USD) per violation.
- (35) Emissions. The provisions cited in Paragraph 6 (Allegations) above do not prohibit emissions above a specified level. Without information on usage and emission rates, it is not practicable to quantify the excess emissions.
- (36) Aggravating and Mitigating Factors. The penalties in this matter were determined in consideration of all relevant circumstances, including statutory factors as described in CARB's Enforcement Policy. CARB considered whether the violator came into compliance quickly and cooperated with the investigation; the extent of harm to public health, safety and welfare; nature and persistence of the violation, including the magnitude of the excess emissions; compliance history; preventative efforts taken; innovative nature and the magnitude of the effort required to comply, and the accuracy, reproducibility, and repeatability of the available test methods; efforts to attain, or provide for, compliance prior to violation; action taken to mitigate the violation; financial burden to the violator; and voluntary disclosure. The penalties are set at levels sufficient to deter violations, to remove any economic benefit or unfair

advantage from noncompliance, to obtain swift compliance, and the potential costs, risks, and uncertainty associated with litigation. Penalties in future cases might be smaller or larger depending on the unique circumstances of the case.

- (37) Confidential Business Information. CARB may have based this penalty in part on confidential business information provided by Disney or confidential settlement communications.
- (38) Effect of Settlement/Reservation of Rights. The following shall apply:
- (a) This Settlement Agreement resolves the civil claims of CARB for the violations alleged in this Settlement Agreement.
 - (b) CARB reserves, and this Settlement Agreement is without prejudice to, all claims, rights, and remedies against Disney with respect to all matters not expressly resolved in this Settlement Agreement. Notwithstanding any other provision of the Settlement Agreement, CARB reserves all claims, rights, and remedies, whether in law or equity, against Disney with respect to:
 - (i) Noncompliance with or enforcement of any provision of this Settlement Agreement.
 - (ii) Facts that were not disclosed by Disney to CARB.
 - (iii) Violation of the California Health and Safety Code and its implementing regulations, or other State laws, regulations, or permit condition(s) not expressly resolved in this Settlement Agreement.
 - (iv) Any imminent and substantial endangerment to the public health, welfare, or the environment in California, whether related to the violations addressed in this Settlement Agreement or otherwise.
 - (v) Any criminal liability.
 - (vi) Any claim(s) of any officer or agency of the United States or California, other than CARB.
 - (c) In any subsequent administrative or judicial proceeding initiated by CARB for injunctive relief, civil penalties, or other appropriate relief relating to enforcement of the Settlement Agreement, Disney shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised

by CARB in the subsequent proceeding were or should have been brought in the instant case.

(d) This Settlement Agreement does not limit or affect the rights of Disney or of CARB against any third parties not covered by this Settlement Agreement, nor does it limit the rights of third parties not covered by this Settlement Agreement against Disney, except as otherwise provided by law. This Settlement Agreement shall not be construed to create rights in, or grant any cause of action to, any third party not covered by this Settlement Agreement.

(e) This Settlement Agreement is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Disney is responsible for achieving and maintaining compliance with all applicable federal, State, and local laws, regulations, and permits; Disney's compliance with this Settlement Agreement shall not be a defense to any action commenced pursuant to any such laws, regulations, or permits, except as otherwise described herein. CARB does not, by its execution of this Settlement Agreement, warrant or aver in any manner that Disney's compliance with any aspect of this Settlement Agreement will result in compliance with any provisions of federal, State, or local laws, regulations, or permits.

ACKNOWLEDGED AND ACCEPTED BY:

California Air Resources Board

Signature: /S/

Name: Heather L. Quiros

Title: Chief, Enforcement Division

Date: August 1, 2024

Walt Disney Parks and Resorts U.S., Inc.

Signature: /S/

Name: Donna Baker

Title: Director, Environmental Affairs

Date: July 23, 2024