

REVISED SETTLEMENT AGREEMENT

This Revised Settlement Agreement is entered into between the California Air Resources Board (CARB), with its principal location at 1001 I Street, Sacramento, California 95814; Tutor Perini Corporation, with its principal location at 1801 Century Park East Suite 500, Los Angeles, California 90067 and O & G Industries, Inc., with its principal location at 112 Wall Street, Torrington, Connecticut 06790, a Joint Venture; and Frontier Kemper Constructors Inc., with its principal location at 15900 Olden Street, Sylmar, California 91342 and Tutor Perini Corporation, with its principal location at 1801 Century Park East Suite 500, Los Angeles, California 90067, a Joint Venture (collectively, the "Companies"). (CARB and the Companies are collectively referenced as the "Parties," or individually, a "Party.")

LEGAL BACKGROUND

- (1) Purpose. The California Health and Safety Code mandates the reduction of the emission of toxic air contaminants (TAC), oxides of nitrogen (NO_x), and diesel particulate matter (PM). (Health & Saf. Code, §§ 39002 et seq., 39650-39675.) In-use off-road diesel fueled vehicles are powered by diesel fueled engines that emit toxic PM.
- (2) Regulation. CARB adopted the *In-Use Off-Road Diesel-Fueled Fleet Regulation* (Off-Road Regulation) to reduce NO_x, diesel PM, and criteria pollutant emissions from in-use off-road diesel-fueled vehicles. (Cal. Code Regs., tit.13, § 2449 et seq.)
- (3) Regulatory Provisions. Any person, business, or government agency who owns or operates an off-road vehicle with a diesel-fueled or alternative diesel-fueled off-road compression-ignition engine with a maximum power of 25 horsepower or greater or other specified off-road equipment in California must meet the requirements of the Off-Road Regulation. (Cal. Code Regs., tit.13, § 2449, subd. (a).) These requirements include prohibiting large fleets from adding any vehicle with a Tier 0 engine beginning on January 1, 2014, Tier 1 engine by 2014 and Tier 2 engine by 2018. (Cal. Code Regs., tit.13, § 2449, subd. (d).) A large fleet is defined as a "fleet with a total max hp greater than 5,000." (Cal. Code Regs., tit.13, § 2449, subd. (c)(24)(A).)
- (4) Penalty Provisions. Failure to comply with the Off-Road Regulation's requirements is a violation of State law that may result in penalties of up to forty-two thousand four hundred fifty dollars (\$42,450.00 USD) per violation for strict liability violations for each noncompliant off-road diesel-fueled vehicle(s). (Cal. Code Regs., tit.13, § 2449; Health & Saf. Code §§ 39674, 39675, 42400 et seq., 42402 et seq., 42410, and 43016; Cal. Code Regs., tit.13, § 2449.)

CASE BACKGROUND

- (5) Corporate Entity. At all relevant times, the Companies collectively and individually, each conducted, and still conduct business in the State of California, and collectively have a large fleet under the Off-Road Regulation. Each of them is jointly and severally responsible for each of the terms of this Settlement Agreement.
- (6) Ongoing Violations. On or about May 14, 2018, Tutor Perini Corporation and O & G Industries, Inc., a Joint Venture, violated the Off-Road Regulation, by adding 9 pieces of banned equipment to its fleet, identified by the following Equipment Identification Numbers (EIN): MD7E89, YU4P48, BB4V96, BJ6J84, EC7A55, FG3D76, GV5Y59, HF4A65, and LN7U59. On or about March 18, 2020, the Companies violated the Off-Road Regulation by adding 10 pieces of banned and altered equipment to its fleet, identified by the following EINs: NU3B85, NP9G58, NV7D89, BN3T56, UG5F89, HK4D35, YC5K57, GC9F58, UR3A43, and WY3T37. On or about November 20, 2020, the Companies informed CARB that they violated the Off-Road Regulation. On or about January 22, 2021, the Companies confirmed that, to safely complete the Project, described in paragraph 10a (Unique Circumstances), they violated the Off-Road Regulation, by adding five pieces of banned or altered equipment to their fleet, identified by the following EINs: TG3V63, ML4A87, FH5T64, MW8M64, and SL5U43.
- (7) Additional Violations. On or about October 19, 2021, the Companies informed CARB that they will violate the Off-Road Regulation, by adding one piece of banned or altered equipment to its fleet, identified by the following EIN: SN5A59. On or about November 2, 2021, the Companies informed CARB that they will violate the Off-Road Regulation, by adding another piece of banned or altered equipment to its fleet, identified by the following EIN: DX3T35. On or about February 21, 2023, the Companies informed CARB that they will violate the Off-Road Regulation, by adding one piece of banned or altered equipment to its fleet, identified by the following EIN: HR3C37. On April 6, 2023, the Companies informed CARB that HR3C37 was purchased to replace DX3T35. DX3T35 broke down and cannot be repaired. DX3T35 has been permanently taken out of service.
- (8) Allegations. CARB alleges that if the allegations described in paragraphs 1 through 7 were proven, civil penalties could be imposed against the Companies for each and every off-road or vehicle in violation of CARB regulations, for each day of the violation, according to paragraph 4 (Penalty Provisions), above.

Revised Settlement Agreement
Tutor Perini Corporation and O & G Industries, Inc., a Joint Venture; and
Frontier Kemper Constructors Inc. and Tutor Perini Corporation, a Joint Venture

- (9) Acknowledgment. The Companies each admit to the facts in paragraphs 1 through 7 and agree that they would be subject to penalties as set out in paragraphs 4 (Penalty Provisions) and 8 (Allegations) if any of the companies do not comply with this Revised Settlement Agreement.
- (10) Unique Circumstances. This Revised Settlement Agreement does not affect CARB's ability to take enforcement action against, or to impose penalties on Tutor Perini Corporation, O & G Industries, Inc., and Frontier Kemper Constructors Inc. for any violations other than those set out in paragraphs 6 and 7. Tutor Perini has a prior Settlement Agreement that was fully executed in June 2021, for prior violations of the In-Use Off-Road Regulation. In this case, the Companies promptly and fully cooperated with CARB, notified CARB in advance, and sought help complying with the Off-Road Regulation. Further, the circumstances of the violations here were unique, as described hereafter:
- a. The equipment would be performing work under the Purple Line Extension Section 2 Project – Design/Build LACMTA Contract No. C71493000C1120, Purple Line Extension Section 3 Tunnels Project – Design/Build LACMTA Contract No. C40403C1151, and Purple Line Extension Section 3 Stations Project - Design/Build LACMTA Contract No. C45161C1152 (collectively, "Project").
 - b. The tunnels and stations of the Project were classified as "gassy" by the California Department of Industrial Relations Division of Occupational Safety and Health (CAL/OSHA), in accordance with California Code of Regulations, title 8, section 8422 (tunnel classifications), Underground Classification Numbers C114-037-16T. The Companies submitted evidence that the "gassy" classification makes it unsafe to operate compliant off-road equipment on the Project, making it necessary for Tutor Perini to add approximately 27 pieces of banned and altered equipment to its fleet, in violation of the Off-Road Regulation, to meet the equipment operation requirements in California Code of Regulations, title 8, section 8425, and be able to complete the Project.
 - c. The Companies submitted evidence that the equipment needs could not be supplied with unaltered or unbanned Tier 2, 3, or 4 engines, and that failure to institute these modifications would have resulted in a serious safety hazard.
 - d. The altered and banned engines the Companies need to use in their fleet, as described in paragraphs 6 and 7, for this Project were the cleanest Mine Safety and Health Administration (MSHA)-approved engines available or technically feasible for use in the equipment needed for the Project.

Revised Settlement Agreement
Tutor Perini Corporation and O & G Industries, Inc., a Joint Venture; and
Frontier Kemper Constructors Inc. and Tutor Perini Corporation, a Joint Venture

- (11) Consideration. In consideration of the foregoing, and of the promises and facts set forth herein, the Parties desire to settle and resolve all claims, disputes, and obligations relating to the above-listed violations, and voluntarily agree to resolve this matter by means of this Revised Settlement Agreement. In order to resolve the violations described herein, the Companies have taken, or agree to take, the actions enumerated below within the Terms and Conditions. Further, CARB accepts this Revised Settlement Agreement in termination and full settlement of this matter.

TERMS AND CONDITIONS

In consideration of CARB not filing a legal action against the Companies for the violations referred to in paragraphs 6 and 7 of the Case Background section of this Revised Settlement Agreement, and of the Companies each completing all terms and conditions set forth below, the Parties agree as follows:

- (12) Stipulated Suspended Settlement Amount. The Parties agree to a penalty of \$26,000 for these alleged violations that is suspended. If the Companies fail to comply with any obligations or terms of this Settlement Agreement, as determined by CARB, the penalty amount of \$26,000 for the violations shall become due and payable by the Companies, jointly and severally, within 30 days of notification by CARB, for deposit into CARB's Air Pollution Control Fund for the purpose of carrying out its functions and duties.
- (13) Mitigation Plan. As a condition of this Revised Settlement Agreement, the Companies shall each do the following:
- a. Offset and/or mitigate all oxides of nitrogen (NOx) and particulate matter (PM) emissions associated with use of the equipment with the following EINs, which are equipped with banned Tier 0/1/2 engines or an altered Tier 3 engine: HF4A65, BJ6J84, MD7E89, GV5Y59, NU3B85, NP9G58, NV7D89, BN3T56, UG5F89, HK4D35, BB4V96, FG3D76, LN7U59, YC5K57, GC9F58, YU4P48, EC7A55, UR3A43, WY3T37, TG3V63, ML4A87, FH5T64, MW8M64, SL5U43, DX3T35, SN5A59 and HR3C37. CARB will provide the Companies with an estimate of these emissions within 60 calendar days of executing this Revised Settlement Agreement. The Companies shall perform the mitigation measures it submitted to CARB in its Mitigation Plan, identified as Attachment A to this Revised Settlement Agreement, by June 30, 2023, which will mitigate all excess NOx emissions CARB calculates. These mitigation measures and their implementation must be surplus to requirements of any federal, State, or local law, rule, or regulation; may not be used to receive credit under any federal, State, or local law, rule, or regulation; and may not violate any federal,

Revised Settlement Agreement
Tutor Perini Corporation and O & G Industries, Inc., a Joint Venture; and
Frontier Kemper Constructors Inc. and Tutor Perini Corporation, a Joint Venture

State, or local law, rule, or regulation. The Companies shall not implement mitigation measures other than those listed in Attachment A, without advance written CARB approval. Once the Companies receive written CARB approval of any mitigation measure, it shall begin implementing it immediately, unless CARB agrees otherwise in writing;

- b. Except as otherwise allowed by this Revised Settlement Agreement, comply with all requirements of the Off-Road Regulation, including for the equipment listed in Table 1, below, including but not limited to: annual reporting, reporting changes to the fleet, and submittal of the Responsible Official Affirmations of Reporting (ROAR) form;
- c. Not add to and/or operate in their fleet any banned equipment other than those listed in Table 1, below;
- d. Not add, operate, or modify any off-road equipment, including in this fleet, other than those pieces of equipment listed in Table 1, below, unless it meets the requirements of the Off-Road Regulation. If any changes to Table 1, below, are necessary, the Companies shall notify CARB of any proposed changes to this Revised Settlement Agreement, including adding, removing or changing any of the equipment listed in Table 1, below, in writing no later than 10 calendar days after discovering that any such modification is necessary, and show the need for each such modification, including safety issues, if such modification is not instituted and the unavailability of any other equipment to do the work needed; and shall not make any such changes, including bringing or modifying any equipment other than that in Table 1 into the State, including by adding vehicles to the fleet, or operating such equipment without CARB's prior written approval and implementing CARB's associated direction;
- e. Make the proper modifications to upgrade the equipment and/or engines used on the Project to cleaner equipment and/or engines, or make modifications to the equipment and/or engines used on the Project that result in cleaner operation of the equipment, as soon as practicable after the Companies, CARB, or any other relevant agency, including, but not limited to, MSHA or CAL/OSHA, at any time identifies cleaner equipment that can be used for the project identified; and keep CARB informed of available modifications and progress toward making any required modifications, as applicable;

Revised Settlement Agreement
Tutor Perini Corporation and O & G Industries, Inc., a Joint Venture; and
Frontier Kemper Constructors Inc. and Tutor Perini Corporation, a Joint Venture

- f. Immediately, upon completion of the Project, or removal of the Project's "gassy" designation of the Project, take the following actions with regard to all equipment in Table 1, below:
 - i. Remove it from operation and move it out of the State of California, or return it to the equipment's original specifications, except that the equipment with the following EINs must immediately be moved out of the State of California after Project completion or removal of the Project's "gassy" designation: HF4A65, BJ6J84, MD7E89, GV5Y59, NU3B85, NP9G58, NV7D89, BN3T56, UG5F89, HK4D35, BB4V96, FG3D76, LN7U59, YC5K57, GC9F58, YU4P48, EC7A55, UR3A43, WY3T37, TG3V63, ML4A87, FH5T64, MW8M64, SL5U43, DX3T35, SN5A59, and HR3C37;
 - ii. The Companies may not receive any credit under the Off-Road Regulation or any other federal, State, or local law, rule, or regulation for the removal, repower, or modification of the equipment in Table 1, below, from the modified specifications allowed under this Revised Settlement Agreement; and
 - iii. In lieu of removing the equipment in Table 1, below, from operation and moving it out of the State of California, or returning it to the equipment's original specifications, upon completion or re-designation as not "gassy" of the Project, the Companies may consider selling some or all of the equipment in Table 1, but only to another entity working on another section of the Purple Line Extension, if it is still classified as "gassy," but shall first notify CARB of their intent to sell in writing and in advance, and shall not proceed with the sale of any Table 1 equipment without CARB's advance written approval and completion of any CARB requirements as to the sale, such as complete reporting, consistent with CARB regulation; and the fleet to which they sell must be in compliance or be brought into compliance before the sale takes place;
- g. Notify CARB within 10 calendar days of a CAL/OSHA designation of Underground Classification Numbers C114-037-16T to a classification other than "gassy;" and
- h. If a designation of Underground Classification Numbers C114-037-16T, in whole or in part, to a classification other than "gassy" occurs prior to completion of the, the Companies must follow the

Revised Settlement Agreement
Tutor Perini Corporation and O & G Industries, Inc., a Joint Venture; and
Frontier Kemper Constructors Inc. and Tutor Perini Corporation, a Joint Venture

requirements in paragraph 14 (Mitigation Plan), subparagraphs f and g, of the Terms and Conditions of this Revised Settlement Agreement, and compliant, un-modified equipment must be used to complete that portion of the contract, unless evidence is presented to CARB that satisfies CARB that it is not safe to do so.

Table 1: Banned and/or Modified In-Use Off-Road Equipment

Fleet Name	Fleet ID	Equipment Identification Number (EIN)
Tutor Perini O&G JV	135204	HF4A65
Tutor Perini O&G JV	135204	BJ6J84
Tutor Perini O&G JV	135204	MD7E89
Tutor Perini O&G JV	135204	GV5Y59
Tutor Perini O&G JV	135204	NU3B85
Tutor Perini O&G JV	135204	NP9G58
Tutor Perini O&G JV	135204	NV7D89
Tutor Perini O&G JV	135204	HK4D35
Tutor Perini O&G JV	135204	BN3T56
Tutor Perini O&G JV	135204	UG5F89
Tutor Perini O&G JV	135204	BB4V96
Tutor Perini O&G JV	135204	FG3D76
Tutor Perini O&G JV	135204	LN7U59
Tutor Perini O&G JV	135204	YC5K57
Tutor Perini O&G JV	135204	GC9F58
Tutor Perini O&G JV	135204	YU4P48
Tutor Perini O&G JV	135204	EC7A55
Tutor Perini O&G JV	135204	UR3A43
Tutor Perini O&G JV	135204	WY3T37

Revised Settlement Agreement
Tutor Perini Corporation and O & G Industries, Inc., a Joint Venture; and
Frontier Kemper Constructors Inc. and Tutor Perini Corporation, a Joint Venture

Fleet Name	Fleet ID	Equipment Identification Number (EIN)
Tutor Perini O&G JV	135204	TG3V63
Tutor Perini O&G JV	135204	ML4A87
Tutor Perini O&G JV	135204	FH5T64
Tutor Perini O&G JV	135204	MW8M64
Tutor Perini O&G JV	135204	SL5U43
Tutor Perini O&G JV	135204	DX3T35
Tutor Perini O&G JV	135204	SN5A59
Tutor Perini O&G JV	135204	HR3C37

- (14) Agreement Period. The Companies agree that this Revised Settlement Agreement shall be in effect at all times when at least one of the Parties is working on the Project, the Underground Classification Numbers C114-037-16T is designated as "gassy," and CARB has not been notified of any designation change to one other than "gassy" that no longer requires the use of the equipment in Table 1, above; and shall remain in effect for 30 days after completion of work on the Project, or designation of the Underground Classification Numbers C114-037-16T as "non-gassy" and compliance with paragraphs 13 (Mitigation Plan), subparagraphs f and g, of the Terms and Conditions of this Revised Settlement Agreement, whichever is later. This shall be known as the Agreement Period.
- (15) Civil Penalty and Mitigation Payment Method. The Companies shall pay any civil penalty and mitigation due by check, credit card, wire transfer, or portal, payable to California Air Resources Board, using instructions provided separately by CARB in a Payment Transmittal Form. The Companies are 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 and mitigation 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 the Companies in accordance with paragraph 18 (Notices).
- (16) Compliance. The Companies shall continue to comply with the Off-Road Regulation at all times during the Agreement Period, other than as allowed under this Revised Settlement Agreement. If the Companies become noncompliant with the Off-Road Regulation, other than as allowed under this Revised Settlement Agreement, at any time during the Agreement Period, they must submit and, if

Revised Settlement Agreement
Tutor Perini Corporation and O & G Industries, Inc., a Joint Venture; and
Frontier Kemper Constructors Inc. and Tutor Perini Corporation, a Joint Venture

approved by CARB, implement a compliance plan within 30 calendar days of becoming noncompliant to ensure that the Companies comply with all provisions of the Off-Road Regulation.

- (17) Documents. The Companies shall each promptly sign, date, and email the signed and dated Revised Settlement Agreement, and any signed and dated Compliance Plan, if applicable, for CARB approval directly to the CARB Investigator handling the Revised Settlement Agreement, or to the email in paragraph 18 (Notices). Alternatively, the Companies may mail the signed and dated Compliance Plan, if applicable, to the address in paragraph 18 (Notices). If a violation of this Revised Settlement Agreement occurs and payment becomes due under paragraph 15 (Civil Penalty and Mitigation Payment Method), the Companies shall email proof of payment of the penalty with a copy of the Payment Transmittal Form provided by the CARB Investigator to CARB, at the email address in paragraph 18 (Notices).
- (18) Notices. Unless otherwise specified in this Revised Settlement Agreement, any notification, submission, or other communication required by this Revised Settlement Agreement shall be submitted in writing to the address or email below, as applicable:

As to CARB:

California Air Resources Board
Enforcement Division / Settlement Agreements
Diesel Programs Enforcement Branch / Specialized Fleet Enforcement Section
P.O. Box 2815
Sacramento, California 95812-2815
Settlement_Agreement@arb.ca.gov

As to Tutor Perini Corporation and O & G Industries, Inc., a Joint Venture, and Frontier Kemper Constructors Inc. and Tutor Perini Corporation, a Joint Venture:

mbuck@associatesenviromental.com

Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above. Each Party is responsible for ensuring that all Parties have its current notice recipient and notice address. Notices submitted pursuant to this section shall be deemed submitted upon emailing or mailing, and if mailed, shall become effective within 5 business days after being mailed.

- (19) Recovery of Costs. If the Attorney General files a civil action to enforce this Settlement Agreement, the Companies shall be jointly and severally liable for, and

Revised Settlement Agreement
Tutor Perini Corporation and O & G Industries, Inc., a Joint Venture; and
Frontier Kemper Constructors Inc. and Tutor Perini Corporation, a Joint Venture

shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorneys' fees, and costs.

- (20) Repeat Violations. The Companies each agree to comply with all CARB regulatory requirements, and acknowledge that repeat violations of CARB regulations could result in increased penalties in the future.
- (21) Entirety. This Revised 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 Revised Settlement Agreement also fully supersedes the Settlement Agreement between the Parties that was fully executed on April 13, 2022. This Revised Settlement Agreement consists of 18 pages and 41 paragraphs, including Attachment A, entitled Mitigation Plan.
- (22) Binding Effect. This Revised Settlement Agreement binds the Companies and their 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 Revised Settlement Agreement.
- (23) Effective Date. The effective date shall be the date upon which this Revised Settlement Agreement is fully executed.
- (24) Modification and Termination. No agreement to modify, amend, extend, supersede, terminate, or discharge this Revised Settlement Agreement, or any portion thereof, is valid or enforceable unless it is in writing and signed by all Parties to this Revised Settlement Agreement.
- (25) Severability. Each provision of this Revised Settlement Agreement is severable, and in the event that any provision of this Revised Settlement Agreement is held to be illegal, invalid, or unenforceable in any jurisdiction, the remainder of this Revised Settlement Agreement remains in full force and effect.
- (26) Joint and Several Liability. The Companies are jointly and severally liable for all the provisions of this Settlement Agreement, including the required mitigation actions and penalty in paragraphs 12 (Stipulated Suspended Penalty Amount) and 13 (Mitigation Plan) of the Terms and Conditions of this Revised Settlement Agreement.

Revised Settlement Agreement
Tutor Perini Corporation and O & G Industries, Inc., a Joint Venture; and
Frontier Kemper Constructors Inc. and Tutor Perini Corporation, a Joint Venture

- (27) 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.
- (28) Non-Discharge. It is further agreed that the penalties described in this Revised 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.
- (29) Not Tax Deductible. For purposes of this Revised Settlement Agreement, the Companies shall not deduct any monies spent to comply with any provision of this Revised Settlement Agreement in calculating and submitting its federal, State, or local income tax.
- (30) 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 Revised Settlement Agreement.
- (31) Non-Waiver. The failure to enforce any provision of this Revised 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 Revised Settlement Agreement. The rights and remedies granted 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 Revised Settlement Agreement, or otherwise provided by law.
- (32) Intent to be Bound. The Parties represent that they have participated fully in the review and drafting of this Revised Settlement Agreement; understand and accept all terms; enter into this Revised Settlement Agreement freely and voluntarily; have had an opportunity to consult with legal counsel; are fully informed of the terms and effect of this Revised Settlement Agreement; have agreed to this Revised 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 Revised Settlement Agreement.
- (33) Venue. The Superior Court of California, located in the County of Sacramento, shall hear any dispute between the Parties arising from this Revised Settlement Agreement.
- (34) Counterparts and Electronic Signatures. This Revised Settlement Agreement may be executed in counterparts. Electronic, facsimile or photocopied signatures shall be considered valid, legally binding signatures.

- (35) Release. In consideration of the full completion of mitigation and all other undertakings above within the Agreement Period, CARB hereby releases the Companies and their principals, officers, receivers, trustees, successors and assignees, subsidiary and parent corporations, from any claims CARB may have based on the circumstances described in all paragraphs contained in the Case Background above.
- (36) Authority. The undersigned represents that he or she has full authority to enter into this Revised Settlement Agreement.

PENALTY BASIS

- (37) Per Unit Penalty. The per unit or per vehicle penalty in this case is a maximum of forty-two thousand four hundred fifty dollars (\$42,450.00 USD) per violation for strict liability violations per day under Health and Safety Code section 43016 for violations of the Off-Road Regulation. (Cal. Code Regs., tit.13, § 2449 et seq.) The penalty of \$26,000 is for 26 pieces of equipment over an unspecified number of days of violation. The Companies, which collectively have a large fleet, added banned Tier 0 vehicles to its fleet after January 1, 2014, added banned Tier 1 vehicles to its fleet after January 1, 2014, and added banned Tier 2 vehicles to its fleet after January 1, 2018. The per unit penalty in this case is approximately \$1,000 per violation. The penalty was reduced because the Parties were fully cooperative with the investigation, because they self-reported to and consulted with CARB on how to come back into compliance with the Off-Road Regulation, and because of the unique circumstances.
- (38) Emissions. The provisions cited above do prohibit emissions above a specified level. In most cases, including this case, it is not practicable to quantify these emissions because the information necessary to do so, such as emission rates and time of use, is not available. Excess emissions were estimated in this case for the purposes of mitigation only, based on emission rates and average time of use for similar equipment.
- (39) Aggravating and Mitigating Factors. The penalties in this matter were determined in consideration of all relevant circumstances, including statutory factors and CARB's Enforcement Policy. CARB considered whether the violators came into compliance quickly and cooperated with the investigation; the extent of harm to public health, safety and welfare; the nature and persistence of the violation, including the magnitude of the excess emissions; the violators' compliance histories; preventative efforts taken by the violators, including action taken to mitigate the violations; the innovative nature and 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; financial burden to the violators; and whether the violators voluntarily disclosed the

violations. 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 in consideration of 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.

(40) Confidential Business Information. CARB based this penalty in part on confidential business information provided by the Companies and on confidential settlement communications, neither of which are retained by CARB in the ordinary course of business.

(41) 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 the Companies 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 the Companies with respect to:
 - (i) Noncompliance with or enforcement of any provision of this Settlement Agreement.
 - (ii) Facts that were not disclosed by the Companies 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, the Companies shall not assert, and may not maintain, any defense or claim based upon the principles of

Revised Settlement Agreement
Tutor Perini Corporation and O & G Industries, Inc., a Joint Venture; and
Frontier Kemper Constructors Inc. and Tutor Perini Corporation, a Joint Venture

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 the Companies 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 the Companies, 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. The Companies are responsible for achieving and maintaining compliance with all applicable federal, State, and local laws, regulations, and permits; the Companies' compliance with this Settlement Agreement shall not be a defense to any action commenced pursuant to any such laws, regulations, or permits. CARB does not, by its execution of this Settlement Agreement, warrant or aver in any manner that the Companies' 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: Ellen M. Peter

Title: Chief Counsel

Date: August 2, 2023

Revised Settlement Agreement
Tutor Perini Corporation and O & G Industries, Inc., a Joint Venture; and
Frontier Kemper Constructors Inc. and Tutor Perini Corporation, a Joint Venture

Tutor Perini Corporation and O & G Industries, a Joint Venture

Signature: /S/

Name: Dan Louis

Title: Project Manager

Date: June 2, 2023

Tutor Perini Corporation and O & G Industries, a Joint Venture

Signature: /S/

Name: William Jensen

Title: Senior Vice President – Operations

Date: June 21, 2023

Frontier Kemper Constructors Inc. and Tutor Perini Corporation, a Joint Venture

Signature: /S/

Name: Steve Redmond

Title: Project Manager

Date: June 2, 2023

Revised Settlement Agreement
Tutor Perini Corporation and O & G Industries, Inc., a Joint Venture; and
Frontier Kemper Constructors Inc. and Tutor Perini Corporation, a Joint Venture

ATTACHMENT A

MITIGATION PLAN

				Tier 1 Emission Factors (g/bhp-hr)		Tier 3 Emission Factors (g/bhp-hr)		Excess Emissions (lbs)	
				horsepower	hours of use	load factor	NOx	PM	NOx
VMS25	165	37,440.0	0.4	6.9	0.60	2.6	0.22	23,404.1	2,068.3
800R/320CL	185	11,334.4	0.38	6.9	0.40	2.6	0.15	7,546.9	438.8
973C	230	25,000.0	0.38	6.9	0.40	2.6	0.15	20,694.9	1,203.2
JLG	63	324.0	0.42	6.9	1.09	4.9	0.30	37.8	14.9
Xtreme Forklift	124	270.0	0.4	6.9	0.60	2.6	0.22	126.8	11.2
CAT 325	210	5,000.0	0.38	6.9	0.40	2.6	0.15	3,779.1	219.7
Gradall XL4200	185	480.0	0.38	6.9	0.60	2.6	0.15	319.6	33.4
Xtreme XR1045	120	2,106.0	0.4	6.9	0.60	2.6	0.22	957.4	84.6
CAT 325	210	5,000.0	0.38	6.9	0.40	2.6	0.15	3,779.1	219.7
CAT XP 259B	69	7,800.0	0.42	6.9	1.09	4.9	0.30	995.8	393.3
							Pounds	61,641.5	4,687.2
							Tons	30.8	2.3

SETTLEMENT AGREEMENT AND RELEASE

Tutor Perini Corporation and O & G Industries, Inc., a Joint Venture, and Frontier Kemper Constructors Inc. and Tutor Perini Corporation, a Joint Venture

Mitigation #1: Electrify Compressors										
					Emission Factor NOx	Emission Factor PM	NOx Emissions (lbs)	NOx Emissions (tons)	PM Emissions (lbs)	PM Emissions (tons)
Equipment Type	Number	HP	Hours of Use	Load Factor	(g/bhp-hr)	(g/bhp-hr)				
Portable Air Compressors	9	3000	62,400	0.48	2.6	0.15	514,593.83	257.30	29,688.11	14.84
Note: Although 9 Air Compressors will be on site at PL2 and PL3, only six will typically operate at a time. The other three will be cycled in to support maintenance on one or two compressors at any given time.										
Note: Hours of use is based on six compressors of nine operating at a time. Actual hours may be higher.										
	Mitigation Comparison									
		Required	Proposed	Sufficient?						
	NOx (lbs)	61,641.51	514,593.83	Yes						
	PM (lbs)	4,687.18	29,688.11	Yes						