

# **KLAMATH PROJECT DROUGHT RESPONSE AGENCY**

## **2023 ASSISTANCE PROGRAM – NO IRRIGATION POLICY**

### **A. Program Summary**

The Klamath Project Drought Response Agency (KPDRA), was formed by an Intergovernmental Cooperation and Joint Exercise of Powers Agreement (Agreement) in 2018 to do all things necessary or incident to the maximization of water supply for the members of the KPDRA and all irrigation water users in the Klamath Reclamation Project (Project), including but not limited to, the design and implementation of conservation and management programs through the coordination, incentives, and compensation indicated in the Recitals of the Agreement to the extent permitted by the laws and regulations governing such operations.

United States Natural Resource Conservation Service and Bureau of Reclamation's forecasts for 2023 indicate that inflows to Upper Klamath Lake, Clear Lake, and Gerber Reservoir will be significantly below normal, resulting in a water supply that will not meet irrigation demands within the Project. The purpose of this 2023 Assistance Program – No Irrigation (Program) is to help align Project water supplies and demand for irrigation water by providing financial assistance to agricultural producers for reducing the demand and use of project water as defined in this Policy.

The KPDRA will administer the Program through which qualifying producers can apply for this financial assistance. Funds for the Program will be provided by a cooperative agreement with the United States Department of Interior, Bureau of Reclamation, pursuant to the Klamath Basin Water Supply Enhancement Act of 2000, P.L. 106-498, as amended by P.L. 115-270 and P.L. 116-191. The purpose of this Policy is to describe the requirements for agricultural producers to be eligible for financial assistance under the Program. The KPDRA Board of Directors has determined these requirements to be reasonable and fair. The availability of funding for qualifying applicants under the KPDRA Program described in this policy will encourage irrigators to refrain from the use of both surface water and groundwater which would normally be used in conjunction with agricultural activities. Any payment provided by this Program is not intended to compensate for the value of lost crop or the value of the use of the water which was lost by the participant.

The Program provided for herein shall set forth two tiers of compensation for applicable parcels. Eligible parcels which are unirrigated from November 1, 2022 to October 31, 2023 may receive Full Season payments. Otherwise, eligible parcels which are irrigated between November 1, 2022 and February 28, 2023, but unirrigated from March 1, 2023 to October 31, 2023 may receive Partial Season payments, which will be 50% of the amount per acre paid for Full Season eligible parcels.

### **B. Eligibility**

To qualify for this Program, the parcel or parcels of land designated by the Applicant with the Application form must meet all of the following criteria:

1. The parcel or parcels must be four or more contiguous acres of irrigable land in size and must have clear boundaries separating it from adjoining and adjacent irrigated land so that the district that provides irrigation water to the parcel and/or KPDRA can readily confirm the size of the parcel and that it did not receive irrigation water during the applicable time period;
2. The area of the parcel subject to payment must have been irrigated with surface water and produced a crop in 2020, 2021 or 2022, or participated in the 2020, 2021 or 2022 KPDRA Programs;
3. The Applicant must have paid any applicable annual charges or assessments of the irrigation, drainage, or other district in which the land is located;
4. The Applicant must warrant to KPDRA that the Applicant is legally authorized to apply for and receive funds under this Program; and
5. The parcel must be identified as having a water right in the Klamath Project according to the Klamath River Adjudication Amended and Corrected Findings of Fact and Final Order of Determination for Claim Numbers 321-6, 321-17, 293 or 323-3, as set forth on the official maps generated by the Oregon Water Resources Department identifying those lands, or an exception filed thereto, and included in the map attached hereto.

The Applicant may be asked to provide proof that they and/or the parcel meet all the eligibility criteria. The following lands are not eligible to participate:

1. Parcels to which water from any source except natural precipitation was applied between November 1, 2022 and October 31, 2023 (“the irrigation season”) are ineligible for Full Season compensation. Parcels irrigated with water from any source between November 1, 2022 and February 28, 2023 may be eligible for Partial Season compensation, provided they meet all other eligibility criteria, and provided that water from any source except natural precipitation is not applied between March 1, 2023 and October 31, 2023;
2. Parcels irrigated using only groundwater, in a year of normal Project water supply;
3. Federally owned lands;
4. Land in walking wetlands or other similar programs where water was applied, and no agricultural crop was produced and harvested in 2022;
5. The parcel is within a District determined by the Bureau of Reclamation to have failed to comply with the 2023 Klamath Project Bureau of Reclamation Operating Plan or other Bureau of Reclamation directive; or
6. Lands in or lands receiving water from Klamath Hills District Improvement Company.

### **C. Application/Qualification Process**

KPDRA will provide notice of its Program and the availability of Applications forms for participation in the Program by posting on its website, news releases to local media, and requests

to districts and Klamath Water Users Association to post notices on their websites and physical notices in their offices. However, KPDRA or its authorized representative may modify this process at any time at its sole discretion.

Applicants shall complete and submit a Program Application. Applicants shall specify if they are applying for Full Season compensation, or Partial Season compensation.

Application forms may be obtained in person from the offices of the Klamath Irrigation District, the Tulelake Irrigation District, Parks and Ratliff, or the Klamath Water Users Association; downloaded from the KPDRA website: [klamathwaterbank.com](http://klamathwaterbank.com); or by calling 541-630-0752; or by emailing [info@klamathwaterbank.com](mailto:info@klamathwaterbank.com). All information requested on the Application form must be completed and all documentation required by the Application form must be provided with the Application. Incomplete Applications may be rejected. A complete "Application" shall include:

1. The fully completed Application form;
2. A map showing the land to be entered into this Program. The map must clearly show the boundaries of the parcel. Separate, noncontiguous parcels require separate applications. If any water from any source except natural precipitation is applied to any portion of the parcel during the irrigation season, the entire parcel will be disqualified from participating in this Program. A Google map or aerial photo showing the parcel to be entered in this Program clearly outlined is preferred; and
3. An IRS form W-9 completed and signed by the person or entity to whom KPDRA will make the Program payment.

The Application must be received by KPDRA on or before 5 p.m., June 16, 2023. Applications may be submitted:

1. In person to the office of Parks and Ratliff, PC., 620 Main Street, Klamath Falls, Oregon;
2. By emailing the application to [info@klamathwaterbank.com](mailto:info@klamathwaterbank.com); or
3. By mailing the application to KPDRA, PO Box 1944, Klamath Falls, OR 97601 (must be received or postmarked by the deadline).

The qualified acreage will be determined by KPDRA using Geographic Information Systems mapping of the area actually irrigated in the recent past. County tax map records, district assessment records and farm agency mapping acreages often include non-crop acreage (roadways, farm building, canals, and drains) and will not be used to determine the actual area of the parcel included in the Program. Any challenge to a qualified acreage determination must be made within 30 days of written notice to the Applicant of the determination, as further described in Section E, below.

The Application form will be reviewed for completeness and reasonableness. The Applicant may be asked to provide additional information to aid in the processing of the Application. The Applicant will have 10 calendar days to respond and provide the requested information. Failure to respond may result in the Application being rejected.

KPDRA will provide a map showing the location of each proposed parcel to the district that delivers water to the parcel for the district's verification of the following information:

1. That the district delivers water to the parcel;
2. That all charges and assessments owed to the district have been paid in full; and
3. That the boundaries of the parcel are distinct so that the district will be able to periodically observe the parcel during the irrigation season to verify that it received no water except natural precipitation during the applicable time period.

For qualified parcels as identified in the eligibility criteria within Section B above, but not served by a district, the verification process provided in this section and the "Payment" section, below, will be performed by KPDRA consultants or others designated by the Board of Directors.

The KPDRA Board of Directors retains the authority to reject any or all application forms where the Board, in its sole and absolute discretion, finds that the approval of an application would not sufficiently further the goals of this Program.

By submitting an Application, the Applicant is deemed to represent and warrant to KPDRA and its consultants:

- a. That the Applicant has the legal right to claim and receive any proceeds from this Program that may be paid by KPDRA to Applicant for non-irrigation of the parcel described in the Application;
- b. That the information included on the Application is complete and correct, and that the Applicant and the parcel described on this Application form will comply with the criteria set forth in this Policy for participation in this Program;
- c. That the Applicant agrees that neither KPDRA nor its consultants have an obligation to verify the information provided by the Applicant or to otherwise investigate, correct, supplement, or verify the information provided on or with the Application. Applicant waives any claims, counterclaims, other assertions, or defenses Applicant may now have or may hereafter discover that KPDRA or its consultants failed in any manner to independently investigate and determine that the eligibility of the Applicant or the parcel to qualify for participation in this Program; and
- d. That the Applicant agrees and warrants that Applicant shall indemnify and hold harmless KPDRA, its officers, contractors, consultants, advisors, and agents from any loss or damage, including, but not limited to attorney fees and costs of suit, and from any claim or liability arising from Applicant's submittal of the Application and Applicant's participation or non-participation in this Program.

#### **D. Payment**

KPDRA anticipates having available approximately \$9,850,000 in funding for its Program; however, it is possible that the amount received may be more or less than this amount. KPDRA may not know the total amount of funding available until the end of the 2023 irrigation season or even later. KPDRA will use a portion of the funds it has available for the purpose of administering its Program and will allocate the remaining funds across its Program in a fair and

equitable manner, consistent with the Cooperative Agreement with Reclamation, and its discretionary authority, and subject to the per acre payment caps set forth below. Funds allocated to this Program will be distributed, based on the total amount of funds, the number of qualified acres of land enrolled in this Program, and other permissible obligations of the KPDRA, including, but not limited to, amendments to the existing Policy to allocate funding for parcels less than 4 acres in size. As a result, although KPDRA may provide estimates of the timing and payment rates which might be possible under its Programs, KPDRA makes no firm commitment of when payment will be made or how much money, if any, an Applicant may receive.

In November 2023, KPDRA will provide a list of the parcels initially determined to qualify for this Program to its consultants and the district that delivers irrigation water to the parcels listed for verification that no water from any source, except including natural precipitation, was applied to any part of the parcel during the irrigation season. At the time the Board is able to ascertain the number of total acres eligible for payment, the Board will determine an appropriate amount per acre for those parcels eligible for Full Season compensation. The Full Season amount per acre will not exceed \$450 per acre. Those parcels eligible for Partial Seasons compensation shall receive 50% of the amount per acre payable in relation to Full Season parcels.

Following receipt of district verification and determination by the Board of the amount to be paid per acre, if any, KPDRA will process and mail the payments to the person or entity directed in the Application. Any payments issued by the KPDRA in accordance with this Program must be deposited or cashed within 180 days of issuance to the Applicant. Applicants who fail to do so will forfeit any right to payment under this Program notwithstanding the prior approval of the subject Application.

KPDRA is not responsible for the payment of taxes, assessments, irrigation district charges, or any other obligations related to participation in this Program.

If KPDRA discovers that any of the information provided on the Application was not accurate, the land will be disqualified from the program and no payment will be made to the Applicant.

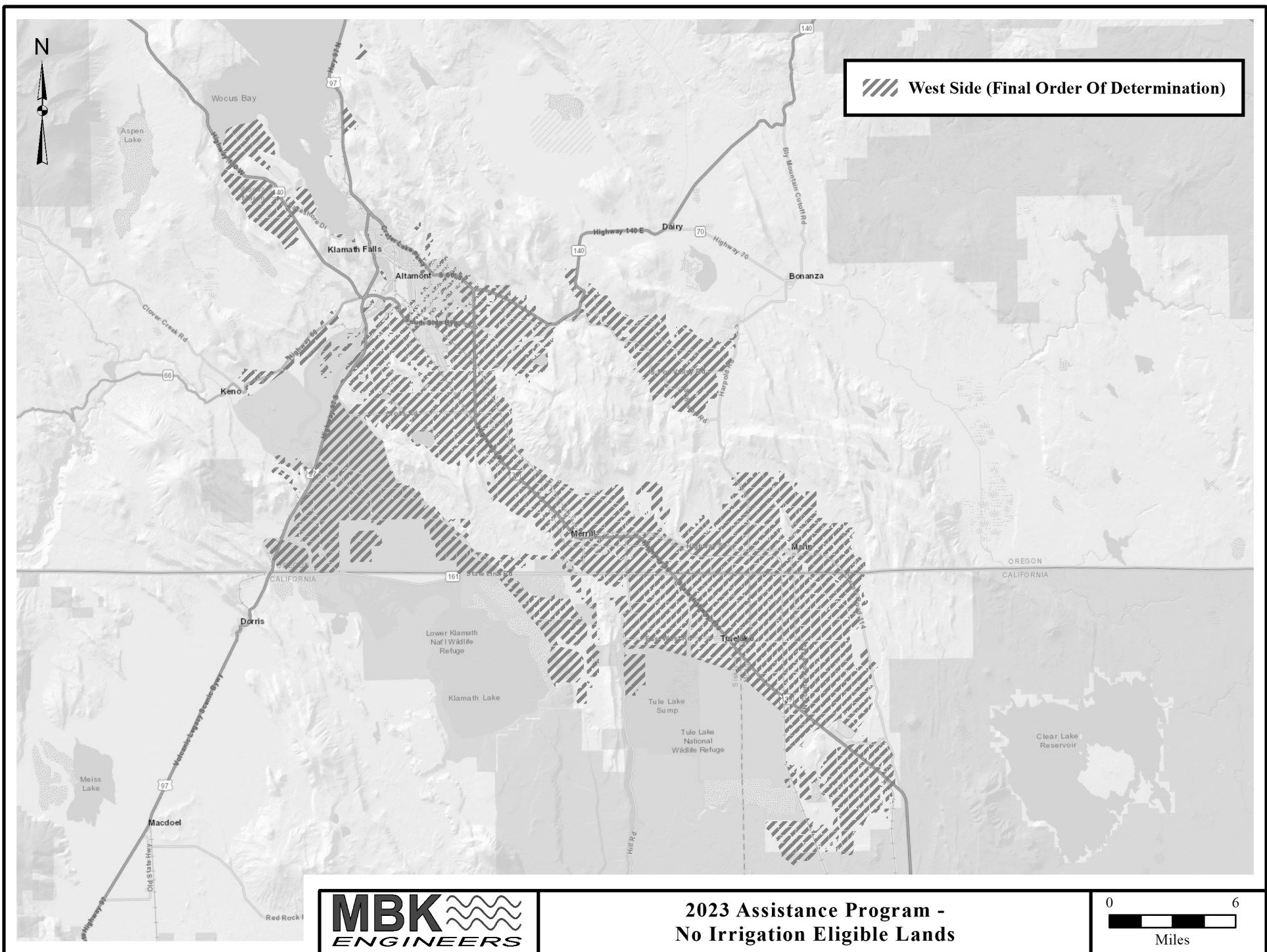
#### **E. Other Provisions**

KPDRA has not yet received funding to make payments under this Program. KPDRA is working diligently with Reclamation to obtain funding for the 2023 Program's fiscal year. However, the receipt of funding is subject to conditions that may not be reasonably attainable or which KPDRA may determine, in its sole discretion, would be detrimental to the water users in the Klamath Project. Therefore, there may be insufficient funds or no funds available to make the payments provided by this Program to landowner who do not receive any irrigation water this year under this Program.

All decisions made by or on behalf of KPDRA will be made by its Board of Directors. Consultants will provide such assistance to the Board of Directors as it may request, however, the consultants are not authorized to make and will not make any decisions in administering the Program.

Any decision made by KPDRA or any action taken by or on behalf of the KPDRA, including, but not limited to the denial or partial approval of an application, or the determination of the number of irrigable acres within a parcel for which compensation is sought, may be appealed to the Board of Directors of KPDRA for reconsideration, which will hear such appeal after due notice at a public meeting. Any Applicant may initiate an appeal for reconsideration by written notice provided to Nathan Ratliff, Parks and Ratliff PC., 620 Main Street, Klamath Falls, Oregon 97601, legal counsel for KPDRA. Any notice shall be delivered or mailed to Counsel at said address. Any notice must be delivered within 30 days of the date of the KPDRA decision or act that is the subject to the appeal. The notice must describe with particularity the decision or action being appealed, provide detailed information describing the impact of the decision on the person appealing the decision, and must include the appellant's contact information including telephone number and mailing address. KPDRA may request additional information and will provide a full copy of the appeal notice and information to the KPDRA Board of Directors.

KPDRA will provide timely notice to the appellant by telephone or United States mail of the date, place, and time of the meeting at which the Board of Directors will consider the appeal for reconsideration. Although it is the intent of KPDRA that any such hearing be informal with a goal of timely resolving the appeal for reconsideration, the person making the appeal may be represented by legal counsel and may provide additional information and witnesses at the appeal hearing. The Board of Directors will consider the information provided, shall plan decide the appeal for reconsideration, and will notify the person making the appeal of its decision.



# KLAMATH PROJECT DROUGHT RESPONSE AGENCY 2023 ASSISTANCE PROGRAM – NO IRRIGATION APPLICATION

**Deadline to Submit: June 16, 2023 5:00 PM PST**

**PLEASE PROVIDE MAP AND W9 WITH COMPLETED APPLICATION**

Submit via Mail (received or postmarked June 16, 2023):  KPDRA PO Box 1944 Klamath Falls, OR 97601	Submit Electronically to: <a href="mailto:info@klamathwaterbank.com">info@klamathwaterbank.com</a>  Note: If you do not receive a verification email within 48 hours, or if you have any questions please call (541) 630-0752.	Submit in person at:  Parks & Ratliff 620 Main Street Klamath Falls, Oregon
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## APPLICANT CONTACT INFORMATION

Applicant: \_\_\_\_\_

(If applicant is not the owner, must provide authorization to represent owner.)

Mailing Address:

City:	State:	ZIP Code:
Phone:	Cell:	Email:

## LEGAL OWNER OF PROPERTY / CONTACT INFORMATION

Owner (If other than applicant):

Mailing address:

City:	State:	ZIP Code:
Phone:	Cell:	E-mail:

## PROPERTY INFORMATION

1. Number of irrigable acres not irrigated: \_\_\_\_\_ (required)
2. Period that the irrigable acres were not irrigated (Check **ONE**):  

<input type="checkbox"/> <b>Full Season</b> Nov. 1, 2022 thru Oct. 31, 2023	<b>OR</b>	<input type="checkbox"/> <b>Partial Season</b> Mar. 1, 2023 thru Oct. 31, 2023 (required)
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3. Tax lot ID, or TID number: \_\_\_\_\_ (required)
4. In which of the last three years was the parcel of land shown on the map submitted with this Application ("parcel") irrigated with surface water and produced an irrigated crop? (Check All That Apply)  

<input type="checkbox"/> 2020	<input type="checkbox"/> 2021	<input type="checkbox"/> 2022
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5. Was the parcel enrolled in the 2020 - 2022 KPDRA Program? ☐ Yes ☐ No (required)  
If yes, provide Application Number: \_\_\_\_\_ (Ex: D0098, S0098, CA0098, or KDR220125)
6. Name of District(s) providing irrigation water to the parcel: \_\_\_\_\_ (required)



## WARRANTIES AND REPRESENTATIONS

By completing and submitting this Application, Applicant represents and warrants to the Klamath Project Drought Response Agency ("KPDRA"):

1. That the Applicant has the legal right to claim and receive any proceeds from this program that may be paid by KPDRA to Applicant for the parcel;

2. That the information included on this Application and the documents submitted with this Application is complete and correct, and that the Applicant and the parcel comply with all of the criteria set forth in the Klamath Project Drought Response Agency 2023 Assistance Program – No Irrigation Policy for participation in this Program;

3. Applicant agrees that neither KPDRA nor MBK Engineers has an obligation to verify the information provided by the Applicant or to otherwise investigate, correct, supplement, or verify the information provided on or with this Application form. Applicant waives any claims, counterclaims, other assertions, or defenses Applicant may now have or may hereafter discover that KPDRA or MBK Engineers failed in any manner to independently investigate and determine that the Applicant or the land qualify for participation in this Program;

4. Applicant agrees and warrants that Applicant shall indemnify and hold harmless KPDRA, its officers, contractors, consultants, advisors, and agents from any loss or damage, including, but not limited to attorney fees and costs of suit, and from any claim or liability arising from Applicant's submittal of the Application and Applicant's participation or non-participation in this program; and

5. Applicant is not subject to backup withholding and Applicant certifies that its social security number or tax identification number is: \_\_\_\_\_.

(Required)

\_\_\_\_\_  
Applicant's signature

\_\_\_\_\_  
Date

### Application Checklist

**Make sure you have submitted:**

☐ Application due by 5p.m. on June 16, 2023

☐ Map CLEARLY marked with an outline of the parcel(s) for which you are applying. (Google Earth Map, County Tax Lot Map)

☐ IRS W-9 Form completed and signed by the entity to whom KPRA will issue payment

**Please submit a separate application for each non-contiguous parcel you desire to enter in this Program.**

# Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

► Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.  <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ <b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) ► _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  Exempt payee code (if any) _____  Exemption from FATCA reporting code (if any) _____  <i>(Applies to accounts maintained outside the U.S.)</i>
	5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number									
				-				-	
or									
Employer identification number									
				-					

## Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ►	Date ►
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## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*