

# **GRANT AGREEMENT**

**between**

**The Santa Barbara County Air Pollution Control District and  
GRANTEE [APXXXXXX]**

This Grant Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the Santa Barbara County Air Pollution Control District, hereinafter referred to as "DISTRICT," and Grantee Name, hereinafter referred to as "GRANTEE".

## **RECITALS**

WHEREAS, DISTRICT is a county air pollution control agency with the primary responsibility to prepare and implement air quality attainment plans and measures to achieve and maintain state and federal ambient air quality standards in Santa Barbara County as mandated by the California Clean Air Act and Federal Clean Air Act;

WHEREAS, Santa Barbara County is designated as nonattainment for the state ambient air quality standard for particulate matter less than 10 microns in diameter ("PM<sub>10</sub>") and, effective January 1, 2024, Santa Barbara County is designated as nonattainment-transitional for the state ambient air quality standard for ozone;

WHEREAS, oxides of nitrogen ("NO<sub>x</sub>") and reactive organic compounds ("ROC") are precursors to the formation of ozone, and PM<sub>10</sub> from diesel-fueled engines has been classified as a Toxic Air Contaminant, and the generation of NO<sub>x</sub>, ROC, and PM<sub>10</sub> from internal combustion engines used in on-road and off-road motor vehicles and other equipment are a significant contributor to Santa Barbara County's total emissions of these pollutants;

WHEREAS, DISTRICT has grant funds provided by the California Air Resources Board (CARB) and the California Department of Motor Vehicles (DMV) vehicle registration fee surcharge program, and decided to utilize a portion of these grant funds to achieve emission reductions through a District Board-approved grant program;

WHEREAS, CARB is an intended third-party beneficiary for the purposes of this Grant Agreement and, as such, CARB reserves the right to enforce the terms of this Grant Agreement to ensure emission reductions are obtained;

WHEREAS, DISTRICT is interested in encouraging the demonstration and implementation of low-emission, near-zero-emission, and zero-emission programs under cooperative agreements with government, industry, and local businesses;

WHEREAS, GRANTEE has submitted a proposal to [insert proposed Clean Air Project language], which meets the requirements of the applicable CARB Guidelines and, therefore, is eligible to receive grant funds from DISTRICT for this [insert type of Clean Air Project] project;

WHEREAS, GRANTEE represents itself as highly qualified and experienced in its professional field, with the ability to perform the activities described in the Grant Agreement's Attachment A (Scope of Work), and will not commence these activities until this Grant Agreement is fully executed by the Air Pollution Control Officer;

WHEREAS, DISTRICT or its agents has reviewed and decided to fund GRANTEE's proposal at an amount determined by the Air Pollution Control Officer; and

WHEREAS, DISTRICT Board of Directors has delegated authority to the Air Pollution Control Officer to execute certain grant agreements and make certain modifications and this Grant Agreement falls within that delegation authority.

NOW, THEREFORE, in consideration of the mutual promises and conditions listed below, it is hereby agreed between DISTRICT and GRANTEE as follows:

## **GRANT TERMS AND CONDITIONS**

### **1. Obligations to be Performed Under this Grant Agreement.**

Within the time specified in Section 2 (Time of Performance), GRANTEE shall perform all obligations described in this Grant Agreement and set forth in the Scope of Work, which is attached hereto as Attachment A and incorporated herein by this reference.

GRANTEE agrees to furnish all labor, materials, equipment, required licenses, permits, fees, and other appropriate legal authorization from all applicable federal, state, and local jurisdictions necessary to perform and complete, per schedule and in a professional manner, the obligations described herein.

### **2. Time of Performance.**

- a) Project Completion: This Grant Agreement shall commence on the date of signing by GRANTEE and DISTRICT (either the Board of Directors or the Air Pollution Control Officer). GRANTEE shall have the [insert project detail] (hereinafter "Clean Air Project") as described in Attachment A (Scope of Work), purchased, installed, operational, and inspected by DISTRICT within 365 days of the effective date of this Grant Agreement. The date for project completion may be extended, in writing, by the Air Pollution Control Officer for good cause.
- b) Project Implementation: The project life for this Grant Agreement shall commence on the date of DISTRICT inspection of the completed Clean Air Project and shall continue for at least [insert number, e.g., three (3)] years, unless terminated sooner in accordance with Section 15 (Termination).

### **3. Grant Funds.**

DISTRICT hereby agrees to provide grant funds to GRANTEE in the amount not to exceed [insert grant amount] toward the purchase of the Clean Air Project. GRANTEE shall invoice DISTRICT in accordance with the schedule specified in Attachment B (Grant Invoice Payment). GRANTEE shall provide DISTRICT any information necessary to verify the accuracy of the invoice and specify all eligible and ineligible costs. DISTRICT will pay GRANTEE within thirty (30) days of receipt of GRANTEE's invoice once all required documentation has been submitted. All invoices or other payment documents must include the assigned DISTRICT Grant Agreement number. Failure to properly reference this contract number may result in a delay of payment.

### **4. Match Funds.**

If required by DISTRICT, GRANTEE shall provide match funds, as specified in Attachment A (Scope of Work), as a condition to receive grant funds from DISTRICT. The match funds are

to cover all purchase and installation costs not covered in Section 3 (Grant Funds). Failure to provide match funds shall be, at the discretion of the Air Pollution Control Officer, grounds for termination of this Grant Agreement, and be subject to reimbursement of grant funds per Section 15 (Termination).

5. Non-Partnership.

This Grant Agreement is not intended by the parties to constitute or create a joint venture, pooling arrangement, or formal business organization of any kind. The rights and obligations of the parties shall be only those expressly set forth herein.

6. Status of GRANTEE.

GRANTEE and GRANTEE's subcontractors shall perform all services under this Grant Agreement as independent contractors and not as employees, officers or agents of DISTRICT.

7. Records.

GRANTEE shall keep, and provide to DISTRICT or its agents and CARB or its agents, upon request, accurate financial records (including invoices and published price lists on which this Grant Agreement was based) as necessary to enable DISTRICT and CARB to review GRANTEE's performance of this Grant Agreement. These records shall demonstrate that the grant funds have been used for the purchase of the Clean Air Project described in Attachment A (Scope of Work). GRANTEE shall maintain all such records for at least three (3) years after the termination of this Grant Agreement.

8. Grant Reporting.

GRANTEE shall submit report(s) to DISTRICT in accordance with the schedule and format specified in Attachment C (Grant Narrative Reports Format). Should GRANTEE fail to submit these reports to DISTRICT, GRANTEE shall make the Clean Air Project available for an audit inspection by DISTRICT or CARB for the term of the Grant Agreement. An audit inspection shall not relieve GRANTEE of its obligation to submit all required reports.

9. Audit and Review.

DISTRICT or its agents and CARB or its agents shall have the right to audit the Clean Air Project and review the associated records identified in Section 7 (Records), maintained by GRANTEE pursuant to the terms of this Grant Agreement, to the extent necessary to verify that the grant funds have been used in accordance with the terms of this Grant Agreement. Any such audit and review will be conducted by DISTRICT, or its agents, or CARB auditors or, at GRANTEE's option and expense, by a mutually acceptable third-party accounting firm.

10. Indemnification.

GRANTEE shall defend, indemnify and save harmless DISTRICT, and CARB, their officers, agents and employees from any and all claims, demands, damages, costs, expenses (including reasonable attorney's fees), judgments or liabilities arising out of this Grant Agreement or occasioned by the performance or attempted performance of the provisions hereof; including, but not limited to, any act or omission to act on the part of GRANTEE or their agents or employees or other independent contractors directly responsible to them; except those claims, demands, damages, costs, expenses (including reasonable attorney's fees), judgments or liabilities resulting solely from the negligence or willful misconduct of DISTRICT.

11. Nondiscrimination Clause.

GRANTEE shall abide by the Unlawful Discrimination Ordinance, Article XIII of Chapter 2 of the Santa Barbara County Code, which is attached hereto as Attachment D (County of Santa Barbara Unlawful Discrimination Ordinance) and incorporated herein by this reference, and any subsequent amendments to the Unlawful Discrimination Ordinance.

12. Title to Clean Air Project.

Title to, and risk of loss, of the Clean Air Project shall always vest in and with GRANTEE. GRANTEE acknowledges that DISTRICT did not supply, design or manufacture the Clean Air Project or any of its components. This Clean Air Project is commercially manufactured and sold by a manufacturer determined by GRANTEE. If the Clean Air Project includes funds for services, the contractor for services was determined by GRANTEE in a manner consistent with the applicable grant fund guidelines. DISTRICT specifically disclaims all warranties, express and implied, including the implied warranties of merchantability and fitness for the intended purpose, as to the Clean Air Project, any test equipment, field tests, or services rendered by contractor(s). In no event shall DISTRICT be liable to GRANTEE or any third party for any direct, indirect, consequential, special, incidental, or punitive damages for the design, manufacture, operation, maintenance, performance, or demonstration of the Clean Air Project under any theory, including but not limited to, tort, contract, breach of warranty, or strict liability.

13. Rights to Emission Reductions.

GRANTEE affirmatively certifies to DISTRICT that the project described in Attachment A (Scope of Work) is not required by any local, state and/or federal rule, regulation or Memorandum of Understanding currently in effect. GRANTEE transfers and conveys to DISTRICT all rights and claim to ownership of the emission reductions achieved through the installation and operation of the Clean Air Project funded by the Grant Agreement. GRANTEE shall not use or attempt to use the emission reductions achieved by the Clean Air Project as emission reduction credits. GRANTEE hereby fully and completely relinquishes such rights for the useful life of the Clean Air Project.

14. Disposal of Replaced Engine, Equipment, or Vehicle.

If the applicable grant fund guidelines require destruction of existing engine(s), equipment, or vehicle(s). GRANTEE shall not use, or allow the use of, the existing engine, equipment, or vehicle being replaced with the Clean Air Project. In addition, GRANTEE shall not sell, gift, or otherwise transfer ownership of the replaced engine, equipment, or vehicle to another party for operation. If requested by DISTRICT, GRANTEE shall dispose of the replaced engine, equipment, or vehicle according to the applicable grant fund guidelines, currently within 60 days after completion of the Clean Air Project. If requested by DISTRICT, GRANTEE shall within 10 days of disposal provide written notice to DISTRICT stating the engine, equipment, or vehicle's serial number, the date of disposal, the location of the engine, and the method by which the engine was rendered unusable. If GRANTEE fails to properly dispose of the replaced engine(s), equipment, or vehicle(s), GRANTEE shall return the grant funds provided by DISTRICT for the Clean Air Project per Section 15.c. (Termination). GRANTEE shall notify DISTRICT if they remove and retain ownership of parts from the replaced engine, equipment, or vehicle, however, the engine, drive train and frame from the replaced project must be disposed of as described herein.

## 15. Termination.

- a) DISTRICT. DISTRICT may, in its sole discretion, terminate this Grant Agreement for convenience by giving thirty (30) days prior written notice to GRANTEE. During the thirty (30) day period, GRANTEE shall not incur any unnecessary expenses or costs that are reimbursable under this Grant Agreement, except those necessary to close out all activities related to the Grant Agreement. Any other charges incurred by GRANTEE during this thirty (30) day period will not be compensated by DISTRICT unless approved in writing by the Air Pollution Control Officer.

DISTRICT may also terminate this Grant Agreement for cause should GRANTEE default in the performance of this Grant Agreement or materially breach any of its provisions. Such termination shall be by written notice and shall be effective upon receipt by GRANTEE. DISTRICT may seek whatever legal, equitable, and other remedies available under State law for GRANTEE's failure to comply and fully perform under the Grant Agreement, including reimbursement of grant funds specified in Section 3 (Grant Funds) to DISTRICT per Section 15.c.

- b) GRANTEE. GRANTEE may terminate its obligation to operate the Clean Air Project funded under this Grant Agreement for good cause provided that the termination includes reimbursement of grant funds to District per Section 15.c., if requested by the Air Pollution Control Officer.
- c) GRANTEE shall reimburse DISTRICT for the grant funds specified in Section 3 (Grant Funds), as follows:

<u>Termination Date</u>	<u>Reimbursement Due to DISTRICT</u>
Prior to operation	100 percent of grant funds
Operation to 20% of project life expended	90 percent of grant funds
21% to 40% of project life expended	70 percent of grant funds
41% to 60% of project life expended	50 percent of grant funds
61% to 80% of project life expended	30 percent of grant funds
81% to 100% of project life expended	10 percent of grant funds
After 100% of project life expended	0 percent of grant funds

The project life starts the day of Project Completion and is determined by the Project Implementation year value referenced in Section 2 (Time of Performance). GRANTEE'S notice of termination shall be in writing and shall be effective upon completion of the terms of Section 15 (Termination). Such notice shall terminate GRANTEE's obligation under Section 1 (Obligations to be Performed Under this Grant Agreement) and Section 2 (Time of Performance) of this Grant Agreement.

## 16. Conflict of Interest.

GRANTEE understands and acknowledges that the grant funds awarded under this Grant Agreement may only be awarded to GRANTEE in compliance with the requirements of the California Political Reform Act ("PRA"), California Government Code Section 87100 *et seq.* GRANTEE understands and acknowledges that the PRA prohibits any public official from participating in any governmental decision in which the public official knows they have a financial interest.

For the purposes of this provision, a "public official" is any person employed at DISTRICT or any other public official of DISTRICT or County of Santa Barbara who participated in the

negotiation or making of this Grant Agreement.

For the purposes of this provision, “GRANTEE” includes GRANTEE and GRANTEE’s subcontractors and employees, business associates and business partners (including all personnel named in GRANTEE’S proposal) who will receive a financial benefit from this Grant Agreement as defined in the PRA.

GRANTEE represents and warrants that a “conflict of interest” as defined in the PRA did not exist during the process that led to the award of this Grant Agreement.

GRANTEE shall disclose any conflict of interest to DISTRICT in writing prior to execution of this Grant Agreement. The DISTRICT may, in its sole discretion, decline to award or may terminate the grant to GRANTEE if a conflict of interest existed prior to the full execution of this Grant Agreement. Failure of GRANTEE to comply with this provision shall be a material breach of this Grant Agreement and shall, at the DISTRICT’s discretion, result in a total forfeiture of all Grant funds received under this Grant Agreement. GRANTEE shall also be liable to DISTRICT for treble damages of the amount of the Grant and DISTRICT’s reasonable attorney’s fees in any litigation necessary to enforce this provision.

17. Taxes.

GRANTEE shall be responsible for payment of all taxes due as a result of the Grant Agreement. GRANTEE shall provide DISTRICT with their Federal Tax Identification Number or Social Security Number prior to DISTRICT payment of grant funds.

18. Program Information and Logos.

At the option of DISTRICT or its agents, GRANTEE shall allow the placement of a DISTRICT logo on project facilities, engine(s), infrastructure, vehicle or equipment. The placement design, style and color will be determined by DISTRICT or its agents.

19. Public Education.

GRANTEE, upon request of DISTRICT or its agents, will participate in and assist with a one-day public education and demonstration concerning GRANTEE's project. GRANTEE will allow reasonable access by DISTRICT or its agents, and the public, to project facilities, engine(s), infrastructure, vehicle or equipment during this demonstration.

20. Remedies Not Exclusive.

No remedy herein conferred upon or reserved to DISTRICT is intended to be exclusive of any other remedy or remedies and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

21. Publication.

DISTRICT or its agents shall have the right of prior written approval of any document that shall be disseminated to the public by GRANTEE in which GRANTEE utilized information obtained from DISTRICT in connection with performance under this Grant Agreement.

Information, data, documents, or reports developed by GRANTEE for DISTRICT, pursuant to the Grant Agreement, shall be part of DISTRICT's public record. GRANTEE may use or publish, at its own expense, such information provided to DISTRICT. The following acknowledgment of support and disclaimer must appear in each document disseminated, whether copyrighted or not,

and based upon the work performed under this Grant Agreement.

"This report was prepared as a result of work sponsored by the Santa Barbara County Air Pollution Control District (SBCAPCD). The opinions, findings, conclusions, and recommendations are those of the author and do not necessarily represent the views of SBCAPCD. SBCAPCD, its officers, employees, contractors, and subcontractors make no warranty, expressed or implied, and assume no legal liability for the information in this report. SBCAPCD has not approved or disapproved this report, nor has SBCAPCD passed upon the accuracy or adequacy of the information contained herein."

GRANTEE shall inform its officers, employees, and subcontractors involved in the performance of this Grant Agreement of the restrictions contained herein and require compliance with the above publication terms.

22. Waivers.

The waiver by either party to this Grant Agreement of any term, covenant, or condition of this Grant Agreement or of any provision, ordinance, or law, shall not be deemed to be a continuing waiver of such term, covenant, condition, or law, or of any subsequent breach or violation of the same, or of any other term, covenant, ordinance of law.

23. Amendment.

This Grant Agreement may only be amended in writing executed by DISTRICT Board and GRANTEE or, where authorized by the DISTRICT Board, by the Air Pollution Control Officer and GRANTEE.

24. California Law to Apply.

This Grant Agreement shall be construed under and in accordance with the laws of the State of California. All obligations created under this Grant Agreement are performable in California.

25. Non-Assignment.

This Grant Agreement shall not be assigned by GRANTEE without the prior written consent of the Air Pollution Control Officer. In the event GRANTEE desires to sell, lease, or otherwise transfer the Clean Air Project, GRANTEE shall promptly notify DISTRICT and shall provide the potential buyer or other transferee with a copy of this Grant Agreement. The buyer or other transferee must agree in writing to abide by the terms of this Grant Agreement prior to GRANTEE closing any such sale, lease or other transfer.

26. Grant Agreement Integrated.

This Grant Agreement represents the entire and integrated Grant Agreement between the DISTRICT and GRANTEE and supersedes any and all other negotiations, representations, and/or agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement or promise relating to the subject matter of this Grant Agreement that is not contained herein shall be valid or binding.

27. Conflicts Between Grant Agreement and Incorporated Attachments.

With the exception of Attachment D (County of Santa Barbara 's Unlawful Discrimination Ordinance), to the extent that any provisions in any of the other attachment(s) that are incorporated into this Grant Agreement by reference, conflict with any provision contained in this Grant Agreement, the provision of this Grant Agreement shall take precedence and govern.

28. Provisions Required by Law Deemed Inserted.

Each and every provision of law and clause required by law to be inserted in this Grant 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 correctly inserted, then upon application of either party, this Grant Agreement shall forthwith be physically amended to make such insertion or correction.

29. Unusual Circumstances.

The parties shall be excused from performing their respective obligations under this Grant Agreement in the event they are prevented from performing so by reason of circumstances beyond their control, including, but not limited to, strikes and other labor disputes, wars, civil commotion, natural calamity, pandemic, fire, equipment breakdown or failures. In the event of any delay described above, the time for performance may be extended by mutual agreement for a period equal to the length of the delay.

30. California Air Resources Board as Third-Party Beneficiary.

GRANTEE acknowledges that CARB grant funds or California DMV vehicle registration fee surcharge program grant funds have been provided for this Grant Agreement by the State of California through the administration and oversight of CARB. CARB shall be a third-party beneficiary for the purposes of this Grant Agreement and, as such, CARB shall have the right to enforce the terms of this Grant Agreement, including seeking whatever legal, equitable and other remedies are available under State law for GRANTEE's failure to fully perform under this Grant Agreement.

31. Point of Contact.

All notices referenced in this Grant Agreement shall be in writing and shall be given by first-class mail and/or via email and shall be addressed as follows, or at such other address or to such person that the parties may from time to time designate in writing:

**GRANTEE**

[Grantee name]  
[Grantee address]  
[Grantee city/CA/zip code]  
Attn: [Grant signing authority]  
[title]  
[Email]  
[Phone number]

**DISTRICT**

Santa Barbara County Air Pollution Control District  
[District Address]  
[District city/CA/zip code]  
Attn: [District staff name]  
[District staff title]  
[District staff Email]  
[District staff phone number]

32. Clean Air Project Installation and Maintenance.

For engine repower projects, the installation of the engine must be completed in a manner such that it does not void the engine warranty provided by the manufacturer and any remaining warranty provided by the equipment or vehicle manufacturer.

GRANTEE will maintain and operate the engine(s), infrastructure, vehicle, or equipment funded by the Clean Air Project according to manufacturer's specifications for the duration of the project life. GRANTEE will not modify or alter the equipment funded by the Clean Air Project in such a manner that would cause an increase in air pollution from the level in which the Clean Air Project



equipment was configured from the manufacturer. If applicable, GRANTEE shall maintain a working hour meter or odometer as a means of calculating emission reductions and cost-effectiveness. If the hour meter or odometer fails, GRANTEE shall immediately notify DISTRICT and remains responsible for validating any hours or mileage not recorded by the hour meter or odometer. GRANTEE must either repair or replace the non-operating hour meter or odometer or provide other documentation of project operating hours or mileage acceptable to DISTRICT.

33. Clean Air Project Operating Area.

GRANTEE shall operate the Clean Air Project equipment in routine service within Santa Barbara County or California Coastal Waters adjacent to Santa Barbara, Ventura or San Luis Obispo counties, unless otherwise specified by the Air Pollution Control Officer.

34. On-Site Inspections and Audits.

GRANTEE shall allow DISTRICT, or its agents, and CARB or its agents to inspect the Clean Air Project equipment and associated records during the project implementation period (Section 2.b.). GRANTEE shall maintain and retain the project records for at least two (2) years after expiration of this Grant Agreement or three (3) years after final project payment, whichever is later.

35. Funds from Other Sources

GRANTEE must certify that they have disclosed all fund sources that they have applied for or received for the Clean Air Project and will notify DISTRICT of additional sources of funds received for the total cost of the project, including any sources that become available after contract execution.

Clean Air Projects co-funded by GRANTEE must meet all criteria associated with each fund source used to fund the Clean Air Project.

If GRANTEE is not a public entity, GRANTEE must provide at least 15 percent of the Clean Air Project's eligible costs from non-public sources. This Grant Agreement prohibits GRANTEE from receiving grants and other funds that exceed the total cost of the Clean Air Project.

GRANTEE may receive funds from multiple entities for the same Clean Air Project if these entities are coordinating to jointly fund portions of the project and the list of entities involved and funds provided are included in Attachment A (Scope of Work).

36. Compliance with Air Quality Regulations

GRANTEE certifies that their fleet, engine(s), equipment, or vehicle is in compliance with all applicable federal, state, and local air quality rules and regulations at time of contract execution. GRANTEE must maintain compliance with all applicable federal, state, and local air quality rules and regulations for the full term of the Grant Agreement.

37. Repercussions for Nonperformance

GRANTEE understands and agrees to operate the Clean Air Project engine(s), infrastructure, vehicle(s), or equipment, , according to the terms of the Grant Agreement and to cooperate with DISTRICT and CARB in implementation, monitoring, enforcement, and other efforts to ensure that the emission benefits are real, quantifiable, surplus, enforceable.

Non-compliance with the Grant Agreement will subject GRANTEE to repercussions, including but not limited to, termination of the Grant Agreement and recapture of project funds according to Section 15 (Termination).

DISTRICT and CARB have the authority to seek any remedies available under the law for non-compliance with grant fund program requirements and non-performance with the Grant Agreement.

38. Debarment and Suspension

GRANTEE certifies to DISTRICT that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for participation in federal, state, or county government contracts. GRANTEE certifies that it shall not contract with a subcontractor that is so debarred or suspended.

39. Execution of Counterparts

This Grant Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

40. Prevailing Wage and Labor Compliance

GRANTEE agrees to comply with all of the applicable provisions of the California Labor Code pertaining to Public Works projects (Labor Code Sections 1720-1861) including those provisions requiring the payment of not less than the specified prevailing rates of wages as determined by the Director of the Department of Industrial Relations to workers employed in the performance of this Grant Agreement that are lawfully subject to the referenced Labor Code.

41. Severability

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Grant Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein

42. Time is of the Essence

Time is of the essence in this Grant Agreement and each covenant and term is a condition herein.

43. Survival

All provisions of this Grant Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

44. Immaterial Amendments

DISTRICT and GRANTEE agree that immaterial changes to the Agreement such as updating the Point of Contact, addresses for notices, or other clerical error corrections which will not result in a material change to the Agreement, Statement of Work, or total Grant Agreement amount may be

authorized in writing by GRANTEE's Executive Director, or designee, and the Air Pollution Control Officer, or designee.

45. Insurance

Each party shall maintain its own insurance coverage, through commercial insurance, self-insurance or a combination thereof, against any claim, expense, cost, damage, or liability arising out of the performance of its responsibilities pursuant to this Grant Agreement.

46. Section Headings

The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

47. Limitation of Liability

- a) In no event shall DISTRICT be liable to GRANTEE or any third party for any direct, indirect, consequential, special, incidental, or punitive damages for the design, manufacture, operation, maintenance, performance, or demonstration of the Clean Air Project under any theory, including but not limited to, tort, contract, breach of warranty, or strict liability.
- b) In no event shall any party or any party's officers, directors, employees, or agents be liable to the other Party or a Third Party for consequential, special, indirect, incidental, punitive or exemplary loss, damage, or expense relating to this Grant Agreement under any theory, including but not limited to, tort, contract, breach of warranty, or strict liability.
- c) The parties agree that no party, nor their party's officers, directors, employees or agents shall be liable to the other party for any claims, liabilities, or expenses relating to this Agreement for an aggregate amount in excess of the Grant Funding amount stated in Section 3 of this Grant Agreement.
- d) The above limitations upon the types of damages and amounts of liability shall not apply to: (i) indemnification obligations; (ii) losses or claims arising from willful misconduct, fraud, or gross negligence; and (iii) losses arising from any breach of obligation to comply with laws.

This Grant Agreement between Santa Barbara County Air Pollution Control District and [Insert Grantee Name] was executed in Santa Barbara County and is effective on the day and year first written above.

SANTA BARBARA COUNTY  
AIR POLLUTION CONTROL DISTRICT,  
STATE OF CALIFORNIA

ATTEST:

AERON ARLIN GENET  
CLERK OF THE BOARD

By \_\_\_\_\_  
Aeron Arlin Genet  
Air Pollution Control Officer

By \_\_\_\_\_  
Deputy

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

APPROVED AS TO FORM  
RACHEL VAN MULLEM  
COUNTY COUNSEL

GRANTEE: [Insert grantee name]

By \_\_\_\_\_  
District Counsel

By \_\_\_\_\_  
[Insert person with grant signing authority]  
[insert title]

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

APPROVED AS TO FORM:  
GREG MILLIGAN, ARM, RISK  
MANAGER

By \_\_\_\_\_  
Risk Manager

APPROVED AS TO ACCOUNTING FORM:  
BETSY M. SCHAFFER, CPA  
AUDITOR-CONTROLLER

By \_\_\_\_\_  
Deputy

ATTACHMENT A

SCOPE OF WORK

[To be completed by GRANTEE]

ATTACHMENT B  
GRANT INVOICE PAYMENT

GRANTEE shall invoice DISTRICT as follows:

1. Not-to-exceed (NTE) total of [insert grant amount] upon delivery, installation, and demonstrated satisfactory operation of the Clean Air Project, as specified above in Attachment A (Scope of Work). DISTRICT will pay the lower of the grant agreement amount or the final invoice amount of eligible expenses.
2. Provide proof of destruction of replaced Clean Air Project engine(s), infrastructure, vehicle(s), or equipment consistent with Section 14 (Disposal of Replaced Engine, Equipment, or Vehicle), if requested by DISTRICT.
3. Attach a copy of vendors' invoice to GRANTEE with proof of payment of the final invoice amount for the specified Clean Air Project, and include make, model number, model year, serial number, and itemized breakdown of all items purchased, and services rendered related to the Clean Air Project.
4. Attach a copy of Clean Air Project engine(s), infrastructure, vehicle, or equipment manufacturers proof of warranty.
5. If requested by DISTRICT, attach proof of completing California Secretary of State Uniform Commercial Code form (UCC-1).
6. GRANTEE shall invoice DISTRICT for the project as specified above. GRANTEE shall attach the invoice information to a cover letter with GRANTEE's letterhead and include a reference to Grant Agreement APXXXXXX [insert grant number]. Invoice shall be submitted to DISTRICT staff listed in Section 31 (Point of Contact).

ATTACHMENT C  
GRANT NARRATIVE REPORTS FORMAT

GRANTEE shall submit an annual narrative report to DISTRICT commencing no later than 18 months after post-inspection of the Clean Air Project and each subsequent year for the duration of the Grant Agreement identified in Section 2 (Time of Performance), as required by CARB. The purpose of these reports is to provide DISTRICT with feedback as to GRANTEE's experience with the Clean Air Project, to ensure the project is operational, and that the Clean Air Project's emission reductions and other benefits are realized. The reports shall include the following items:

1. Name, address, email, and telephone number of GRANTEE;
2. Make and model and location of project purchased;
3. Operating hours or mileage for the Clean Air Project for the most recent 12 months of operation;
4. Provide the estimated percentage change in operating expenses associated with the Clean Air Project;
5. Discussion of condition of Clean Air Project including any repairs, problems, or benefit with the Clean Air Project;
6. Any conditions (e.g., weather, permits) that significantly affected the annual usage of Clean Air Project from routine service;

ATTACHMENT D  
COUNTY OF SANTA BARBARA UNLAWFUL DISCRIMINATION ORDINANCE

**Sec. 2-94. - Exceptions.**

The provisions of this article shall not apply to contracts or agreements for the acquisition, exchange or disposition of real property or interests therein, nor to contracts or agreements with the State of California, or its political subdivisions, or with the United States of America. (Ord. No. 2946, § 1)

**Sec. 2-95. - Prohibition of unlawful discrimination in employment practices.**

The County of Santa Barbara reserves the right to terminate forthwith each and every written contract and agreement (except purchase orders) respecting real property, goods and/or services entered into by the County of Santa Barbara including but not limited to concessions, franchises, construction agreements, leases, whether now in effect or hereinafter made if the county finds that the contractor is discriminating or has discriminated against any person in violation of any applicable state or federal laws, rules or regulations which may now or hereafter specifically prohibit such discrimination on such grounds as race, religion, sex, color, national origin, physical or mental disability, Vietnam era veteran/disabled, age, medical condition, marital status, ancestry, sexual orientation, or other legally protected status. This right of termination extends to contracts entered into by the County of Santa Barbara or by its joint powers, agencies or agents so long as the county obtains the consent of those parties.

Such finding may only be made after contractor has had a full and fair hearing on notice of thirty days before an impartial hearing officer at which hearing contractor may introduce evidence, produce witnesses and have the opportunity to cross-examine witnesses produced by the county. Further, any finding of discrimination must be fully supported by the facts developed at such hearing and set forth in a written opinion; and in addition, contractor may move in the appropriate court of law for damages and/or to compel specific performance of a contractor or agreement if any of the above procedures are not afforded to the contractor. If contractor is not found to have engaged in unlawful discriminatory practices, county shall pay all costs and expenses of such hearing, including reasonable attorneys' fees, to contractor in accordance with current Santa Barbara County Superior Court schedule of attorneys' fees for civil trials. If contractor is found to have engaged in such unlawful discriminatory employment practices, contractor shall pay all such costs, expenses and attorneys' fees.

Whether or not a contract or agreement is still in existence at the time of final determination of such unlawful discrimination, the contractor shall forthwith reimburse the county for all damages directly stemming from such discrimination; however, those damages shall not exceed and are not reimbursable in an amount which exceeds amounts paid to contractor under the terms of the contract or agreement.

Nothing in this section 2-95 shall directly or by interpretation give a private cause of action to any third party (not a signatory to the contract or agreement) including employees past or present, or applicants for employment to contractor, it being the sole purpose of this clause to administratively assure compliance with the nondiscrimination clauses contained herein.

With respect to employment discrimination, employment practices shall include, but are not limited to, employment, promotion, demotion, transfer, recruitment and advertising for recruitment, layoff or other termination, rate of pay, employee benefits and all other forms of compensation or selection for training and apprenticeship and probationary periods.



Contractor shall permit access at all reasonable times and places to all of its records of employment, advertising, application forms, tests and all other pertinent employment data and records, to the County of Santa Barbara, its officers, employees and agents for the purpose of investigation to ascertain if any unlawful discrimination as described herein has occurred or is being practiced, provided that such records are relevant to a complaint of an unlawful discriminatory practice which has been forwarded to contractor reasonably prior to the time contractor is asked to make such records available. In addition, all such records shall be deemed "Confidential" by the officers, employees and agents of the county. No records or copies of such records may be removed from the premises of contractor, and no disclosure, oral or written, of such record may be made to third parties except as provided within the agreement. Provided, however, that in the event of a hearing to determine whether or not contractor is engaging in unlawful discrimination in employment practices as defined herein, the board of supervisors of Santa Barbara County may issue subpoenas to require that certified copies of such records be made available to the hearing.

Failure to fully comply with any of the foregoing provisions shall be deemed to be a material breach of any contract or agreement with the County of Santa Barbara. All persons contracting with or who have contracts for goods or services with the county shall be notified that this chapter applies to their contract or agreement with the County of Santa Barbara. (Ord. No. 2946, § 1; Ord. No. 2993, § 1; Ord. No. 3018, § 1; Ord. No. 4413, § 1)

#### **Sec. 2-95.5. - Exceptions.**

Notwithstanding any other provisions in this article, any party contracting with the County of Santa Barbara having an affirmative action program which has been approved within twelve months from the date of the contract by an agency of the federal government shall be deemed to be in compliance with the provisions of this article upon furnishing documentary evidence of such approval satisfactory to the county affirmative action officer. Loss of such approval shall be immediately reported by such party to the county affirmative action officer.

#### **Sec. 2-96. - Purchase orders.**

Purchase orders shall contain the following clause as grounds for termination of such purchase order. "If complaint is made that seller is engaging in discriminatory employment practices made unlawful by applicable state and federal laws, rules or regulations, and the State Fair Employment Practice Commission or the Federal Equal Employment Opportunities Commission determines that such unlawful discrimination exists, then the County of Santa Barbara may forthwith terminate this order." (Ord. No. 2946, § 1)

#### **Sec. 2-97. - Affirmative action officer.**

At the discretion of the county affirmative action officer, he or she shall promptly and thoroughly investigate, or cause to be investigated reports and complaints from whatever source, that any party contracting with the County of Santa Barbara is engaging, or during the term of a contract or agreement with the County of Santa Barbara has engaged, in any unlawful discriminatory employment practices as described in section 2-95 of this Code. If the investigation discloses reason to believe such unlawful discrimination does exist or has existed and the conditions giving rise thereto have not been changed so as to prevent further such unlawful discrimination, and the said party shall not forthwith terminate such unlawful discrimination, take all appropriate steps to prevent a recurrence of such or other unlawful practices, and compensate the person or persons unlawfully discriminated against for any and all loss incurred by reason of such unlawful discrimination, all to the satisfaction of the

affirmative action officer, then the affirmative action officer shall cause the matter to be presented for action to the State Fair Employment Practices Commission or the Federal Equal Employment Opportunities Commission, or both, and to any other concerned state or federal agencies or officers.

If and when it has been finally determined by the affirmative action officer, county counsel, or state or federal regulatory agencies that such unlawful discriminatory employment practice has in fact so occurred or are being carried on, then the affirmative action officer shall forthwith present the entire matter to the board of supervisors of the county, together with all damages, costs and expenses related thereto and incurred by county, for appropriate action by the board of supervisors in accord with the intent and purposes of this article and of the affirmative action program of the County of Santa Barbara. (Ord. No. 2946, § 1)

**Sec. 2-98. - Youth group anti-discrimination.**

(a) Neither the County of Santa Barbara, nor any of its agencies, departments, affiliates, or political subdivisions over which it exercises jurisdiction, shall:

- (1) Deny any youth group equal access to, or fair opportunity to conduct meetings or other events at, or otherwise utilize any public facility;
- (2) Deny any youth group use permits or licenses regarding, or otherwise withhold from any youth group permission to use, any public facility; or
- (3) Otherwise discriminate against any youth group; on the basis of the membership or leadership criteria of such youth group.

(b) For purposes of this section, a public facility shall include any public forum, limited public forum, public property, or public area including any public building, park, beach, campground, or any other area controlled or operated by the County of Santa Barbara.

(c) For purposes of this section, a youth group means any group or organization intended to serve young people under the age of twenty-one. (Ord. No. 4434, § 1).