

CARL MOYER PROGRAM GRANT AGREEMENT
BETWEEN
THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT
AND
[GRANTEE NAME]

[PROJECT#]

This Carl Moyer Program grant agreement (“Agreement”) is made and entered into between [GRANTEE NAME], hereinafter referred to as “Grantee,” and the Bay Area Air Quality Management District, hereinafter referred to as the “Grantor” or “Air District,” hereinafter collectively referred to as the “Parties.”

RECITALS

- 1) The Carl Moyer Memorial Air Quality Standards Attainment Program, California Health and Safety Code section 44275 et seq. (“Program”), is an incentive program to provide grants in order to reduce emissions of oxides of nitrogen, particulate matter (PM10), and reactive organic compounds in the State from sources of air pollution, such as heavy-duty and light-duty diesel vehicles, off-road construction equipment, marine vessels, and agricultural sources of pollution, by measures such as replacement of engines with cleaner-than-required engines or installation of emission reduction equipment.
- 2) The California Air Resources Board (“CARB”), which oversees and administers the Program, has adopted guidelines and criteria for the Program’s implementation entitled *The Carl Moyer Program Guidelines, Approved Revision 2017* and subsequent CARB advisories issued for Program implementation (together the “CARB Program Guidelines”). The Air District implements the Program in the San Francisco Bay Area air basin in accordance with the CARB Program Guidelines and the criteria and guidelines of the Air District.
- 3) Based on the information provided in the Grantee’s project application, the Air District determined that the Grantee proposed a project (“Project”, the details of which are presented in Attachment A) to replace or install equipment that is eligible for Program funding and meets the CARB Program Guidelines and the Air District’s criteria and guidelines, including cost-effectiveness requirements. In entering into this Agreement, the Air District has relied upon the representations in Grantee's project application.
- 4) This Agreement is made pursuant to and in accordance with the requirements of the Program, established by the California State Legislature and implemented by CARB. All equipment funded under the terms of this Agreement (“Project Equipment”) must meet the applicable requirements set forth in the CARB Program Guidelines. Any questions or disputes the Parties may have regarding the implementation of this Agreement shall be resolved in accordance with the CARB Program Guidelines.
- 5) On April 6, 2022, the Board of Directors of the Air District authorized the Air District's Executive Officer/APCO to execute Grant Agreements for projects meeting all of the CARB Program Guidelines and Air District criteria with total individual grant amounts up to \$500,000.

SECTION I

GRANTEE AGREES:

- 1) To implement the Project in accordance with the terms and conditions of this Agreement and all attachments hereto and the CARB Program Guidelines, which are incorporated herein by reference. Failure to comply with the terms and conditions of this Agreement, including requirements in attachments hereto and in the CARB Program Guidelines will be deemed a breach of this Agreement, and upon any such breach the Air District may pursue any remedies available under law, including requiring repayment of any funds awarded under this Agreement and/or terminating this Agreement pursuant to the termination

provisions herein. A breach of this Agreement may also disqualify Grantee from participating in future Air District incentive programs, at the discretion of the Air District.

- 2) To maintain each piece of Project Equipment according to the manufacturer's specifications throughout each respective Project Equipment Operational Period, as defined in Section III.1 below. No tampering or modification of the Project Equipment is allowed.
- 3) To complete the Project in accordance with the payment and reporting conditions identified in Attachment A. The Air District's funding obligation under this Agreement is limited to reimbursement of a percentage of Eligible Costs, as detailed herein, and reimbursement shall not exceed the Total Grant Funds Available, as specified in Attachment A, Paragraph 4. Any Project cost overruns are the sole responsibility of the Grantee.
- 4) To allow the staff and third-party representatives of the Air District and CARB to inspect the Project Equipment and to conduct financial and performance audits of the Project. Grantee agrees that the Air District, CARB, the CA Department of General Services, CA Department of Finance, the CA Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Project. Grantee further agrees to cooperate fully with such inspections and audits, including providing on a timely basis copies of any Project records related to performance of this Agreement requested by the Air District or CARB.
- 5) To acknowledge the Air District and the Carl Moyer Program as a funding source for the Project in any related media events, articles, news releases, or other publicity materials. Grantee must obtain prior written approval by the Air District in order to disseminate any report or other document describing the Program, the Project, or this Agreement.
- 6) To expend funds received under this Agreement only in accordance with the requirements of the Program, this Agreement, and all applicable provisions of law and regulations.
- 7) To permanently destroy and remove from service any equipment replaced as part of the Project ("Baseline Equipment") and to provide documentation to support destruction of the Baseline Equipment.
- 8) To operate and monitor the operation of each piece of Project Equipment throughout the Project Equipment Operational Period defined in Section III.1 below. Grantee will notify the Air District in writing of any change in registration or operational status of any Project Equipment funded and installed under this Agreement within ten (10) business days of its occurrence. For purposes of this Agreement, a "change in operational status" occurs whenever any Project Equipment is removed from active service, relocated outside the boundaries of the Air District, wrecked, scrapped, sold, assigned, or transferred to another entity, before full completion of the Project Equipment Operational Period.

If Grantee fails to provide the required written notice of a change in operational status on a timely basis, the Grantee is subject to the repayment requirements set forth in Paragraph 15 of Attachment A.

If the Grantee wishes to assign, transfer, or sell the Project Equipment to another entity before its contractual requirements have been satisfied, the new entity must agree to assume all of the outstanding requirements and sign a successor agreement with the Air District. If the new owner does not sign a successor agreement and assume all the outstanding contractual requirements, the original owner (Grantee) is subject to the repayment requirements set forth in Paragraph 15 of Attachment A.

- 9) To neither seek nor accept other private or public financial incentives for the Project without prior written approval from the Air District.
- 10) To obtain and maintain the insurance coverage specified in "Insurance Requirements," Attachment B, and to comply with all insurance requirements set forth therein, including the provision of documentation of said insurance coverage.

- 11) To use the Air District's approved logo on any printed material intended for public consumption associated with the Project and on any signs posted at the site of any construction associated with the Project. The logo provided by the Air District shall be displayed on the Project Equipment identified in Attachment A, Paragraph 5.
- 12) To maintain and retain the Project records for at least three years after Agreement Term ends.
- 13) To comply with all "Special Conditions," set forth in Attachment A.
- 14) To comply with the following nondiscrimination and compliance provisions: During the performance of this Agreement, the Grantee and its contractors shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of sex, race, religious creed, color, national origin, ancestry, physical disability (including HIV and AIDS), mental disability, sexual orientation, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (over 40), sexual orientation, or veteran or military status, or allow denial of family-care leave, medical-care leave, or pregnancy-disability leave. The Grantee and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. The Grantee and its contractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, title 2, section 11000 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a-f), set forth in Chapter 5 of Division 4.1 of title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. The Grantee and its contractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. Grantee shall include the nondiscrimination and compliance provisions of this clause in all agreements with contractors to perform work funded by this Agreement.
- 15) To be bound by and meet the requirements of all applicable provisions of State Labor Code Section 1720-1861 regarding prevailing wages paid to workers employed on public works and labor compliance and to provide confirmation of compliance if requested.
- 16) To accept tax liability associated with accepting grant funds.
- 17) To ensure that work products submitted to CARB, uploaded, or otherwise provided to CARB by the Grantee and/or its subcontractors under this Agreement comply with Web Content Accessibility Guidelines 2.0, levels A and AA, and otherwise meet the accessibility requirements set forth in California Government Code Sections 7405 and 11135, Section 202 of the federal Americans with Disabilities Act (42 U.S.C. § 12132), and Section 508 of the federal Rehabilitation Act (29 U.S.C. § 794d) and the regulations promulgated thereunder (36 C.F.R. Parts 1193 and 1194). For any work product provided to CARB in PDF format, the Grantee shall also provide an electronic version in the original electronic format (for example, Microsoft Word or Adobe InDesign).

SECTION II

AIR DISTRICT AGREES:

- 1) To reimburse Grantee for a percentage of Eligible Costs in an amount not to exceed the "Total Grant Funds Available," set forth in Attachment A.
- 2) To endeavor to pay a percentage of the undisputed invoiced amount of the Eligible Costs incurred, and as adjusted for any Cost Reductions and/or in the case that Grantee has received funding from an Air District approved co-funding incentive source, within thirty (30) calendar days of receipt of the invoice.

- 3) To deliver the payment following the Air District's verification that Grantee has completed the Project. Verification by Air District will include physical inspection of any Project Equipment specified in Attachment A, confirmation that the Project Equipment is operational and in service, and review of evidence of the permanent destruction of any Baseline Equipment replaced as part of the Project.
- 4) To provide reasonable notice to Grantee prior to Air District or CARB inspection or audit of the Project. What constitutes "reasonable notice" may be based in part upon any prior notice from CARB received by the Air District of such CARB audit or inspection.
- 5) CARB is an intended third-party beneficiary of this Agreement and shall have the right to enforce the terms of the Agreement to ensure emission reductions are obtained.
- 6) Availability of Funds: Air District's obligations under this Agreement are contingent upon the availability of funds. In the event such funds are not available, Air District will have no liability to pay any funds to the Grantee or to furnish any other consideration under this Agreement.

SECTION III

AIR DISTRICT AND GRANTEE AGREE:

- 1) Agreement Term, Project Equipment Operational Period, and Project Term: The term of this Agreement ("Agreement Term") begins on the Effective Date and shall remain in effect until the conclusion of all Project Equipment Operational Periods, as set forth in Attachment A unless this Agreement is terminated earlier. A Project Equipment Operational Period begins when the piece of Project Equipment has been successfully inspected by the Air District and concludes upon the satisfaction of the usage requirement and project life requirement for that piece of Project Equipment. The Project Term begins at the start of the earliest Project Equipment Operational Period and ends at the conclusion of all Project Equipment Operational Periods. The Project Equipment Operational Period for each piece of Project Equipment is set forth in Table 1 of Attachment A. In no event shall Grantee operate a piece of Project Equipment for less than the minimum project term specified in the CARB Program Guidelines.
- 2) Termination:
 - a) Either Party may terminate this Agreement at will and without specifying any reason at any time prior to the Air District's transfer of Project funds by notifying the other Party in writing. The notice of termination shall specify the effective date of termination, which shall be no less than thirty (30) calendar days from the date of delivery of such notice. Notice shall be delivered in accordance with the Notice provisions set forth in Paragraph 5 below.
 - b) The Air District may terminate this Agreement for breach of the Agreement by Grantee by giving Grantee a minimum of ten (10) business days written notice of such breach and the opportunity to cure the breach within that period of time. The notice will specify the amount of Project Grant Funds to be reimbursed to the Air District, if any, which Grantee shall reimburse within thirty (30) days of the effective date of termination. The Air District shall calculate the reimbursement based on the repayment formula set forth in Paragraph 15 of Attachment A.
 - c) The Air District shall not pay any Project Grant Funds in the event that this Agreement is terminated, and no funds have been expended by Grantee. If the Project has been completed and the Air District has paid the grant funds to Grantee, Grantee may not terminate this Agreement pursuant to subparagraph 2(a), unless it reimburses the Air District the amount of Project Grant Funds due based on the repayment formula set forth in Paragraph 15 of Attachment A.
- 3) Additional Acts and Documents: Each Party agrees to do all such things and take all such actions, and to make, execute, and deliver such other documents and instruments that are reasonably required to carry out the provisions, intent, and purpose of this Agreement. All attachments to this Agreement are expressly incorporated herein by this reference and made a part hereof as though fully set forth.

- 4) Indemnification: Grantee shall indemnify and hold harmless CARB, the Air District, its officers, employees, agents, representatives, and successors-in-interest from and against any and all liability, loss, expense, including reasonable attorneys' fees, or claims for injury or damages arising out of the performance by Grantee of its duties and obligations under this Agreement, and arising out of the operation of the engine and vehicle, vessel, locomotive, or other equipment that is the subject of this Agreement by the Grantee or its officers, agents, employees, representatives, and successors in interest.
- 5) Notices: All notices that are required under this Agreement shall be provided in the manner set forth herein, unless specified otherwise. Notice to a party shall be delivered to the attention of the person at the address listed below, or to such other person or persons as may hereafter be designated by that party in writing. Notice shall be in writing sent by e-mail OR delivered in person. Notices shall be deemed to have been received on the date of such transmission, provided such date was a business day and delivered prior to 4:00 p.m. PST/PDT. Otherwise, receipt of notices shall be deemed to have occurred on the following business day.

| | |
|---------------|---|
| AIR DISTRICT: | Bay Area Air Quality Management District 375 Beale Street, Suite 600 San Francisco, CA 94105 Attn: Director of Strategic Incentives Project #: [PROJECT#] grants@baaqmd.gov |
| GRANTEE: | [company or individual name] [street address] [city, state, zip] Attn: [company contact] Project #: [PROJECT#] [e-mail] |

- 6) Contacts: The Contact for the Grantee shall be the person named in the Project application, which shall also list the Contact's address, telephone number, fax number, and email address. The Contact shall be the liaison to the Air District pertaining to implementation of this Agreement and shall be the contact for information about the Project. The Grantee shall notify the Air District of a change of the Contact's name or contact information in writing no later than ten (10) business days from the date of any change.
- 7) Project Number: All correspondence shall reference this Agreement number, which is the same as the Project Number or Project Application Number.
- 8) Integration of Agreement: This Agreement represents the final, complete, and exclusive statement of the agreement between the Grantee and the Air District and supersedes all prior and contemporaneous understandings and agreements of the Parties. No Party has been induced to enter into this Agreement nor is any Party relying upon any representation or warranty outside those expressly set forth herein.
- 9) Amendment: This Agreement may not be modified except in writing, signed by both Parties hereto, and any attempt to modify this Agreement orally shall be void and of no effect. Any change in Project scope shall constitute an amendment under this Agreement.
- 10) Independent Contractor: Grantee is an independent contractor. None of Grantee's officers, employees, agents, contractors, subcontractors, or vendors are, nor shall they be considered, officers, employees, agents, contractors, subcontractors, or vendors of the Air District.
- 11) Assignment: Grantee may not assign, sell, transfer, license, or subcontract or otherwise transfer any rights or obligations under this Agreement without the prior written consent of the Air District.
- 12) Waiver: No waiver of a breach, of failure of any condition, or of any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party

waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, regardless of similarity, nor shall any waiver constitute a continuing waiver unless the writing so specifies. Further, the failure of a party to enforce performance by the other party of any term, covenant, or condition of this Agreement and the failure of a party to exercise any rights or remedies hereunder shall not be deemed a waiver or relinquishment by that party to enforce future performance of any such terms, covenants or conditions, or to exercise any future rights or remedies.

- 13) Severability: If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid, in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions thereof shall not be affected.
- 14) Effective Date: The effective date of this Agreement is the date the Air District's Executive Officer/Air Pollution Control Officer executes this Agreement.
- 15) Eligible Costs: Only the Project costs, estimated in Attachment A, Paragraph 5, Table 1, that are incurred after the Effective Date and prior to termination of the Agreement or upon Air District's verification that Grantee has completed the Project, whichever occurs first, are eligible for reimbursement with Program Grant funds. "Eligible Costs" shall be defined as Project costs that the District determines are eligible based on this paragraph, and also based on the CARB Program Guidelines.
- 16) Cost Reduction: In the event that the Eligible Costs incurred are less than the Estimated Eligible Costs listed in Attachment A, Paragraph 5, Table 1, the Air District will recalculate its contribution to the Project in accordance with the provisions of Paragraph 4 of Attachment A.
- 17) Force Majeure: Neither CARB, the Air District, nor Grantee shall be liable for or deemed to be in default for any delay or failure in performance under this Agreement or interruption of services resulting, directly or indirectly, from acts of God, enemy or hostile governmental action, civil commotion, strikes, lockouts, labor disputes, fire or other casualty, judicial orders, governmental controls, regulations or restrictions, or inability to obtain labor or materials or reasonable substitutes for labor or materials necessary for performance of the services, or other causes, except financial, that are beyond the reasonable control of CARB, the Air District or Grantee, for a period of time equal to the period of such force majeure event, provided that the party failing to perform notifies the other party within ten (10) business days of discovery of the force majeure event, and provided further that that party takes all reasonable action to mitigate the damages resulting from the failure to perform. Notwithstanding the above, if the cause of the force majeure event is due to party's own action or inaction, then such cause shall not excuse that party from performance under this Contract. Notwithstanding the above, fire or casualty loss to Project Equipment shall not excuse Grantee's obligation to perform under this Agreement. Grantee shall be responsible to repair or replace Project Equipment or to reimburse the Air District in accordance with Attachment A, Paragraph 15.
- 18) Governing Law: Any dispute that arises under or relates to this Agreement shall be governed by law, including Health & Safety Code section 44280 et seq., its accompanying regulations, and the CARB Program Guidelines, excluding any laws that direct the application of another jurisdiction's laws. Venue for resolution of any dispute that arises under or relates to this Agreement shall be San Francisco, California.
- 19) Emissions Testing: The Air District may conduct emissions testing, at its expense, on any Project Equipment that is purchased or modified as part of the Project, including a vehicle or vessel. Testing for a piece of Project Equipment will be limited to no more than once per calendar year during the Project Equipment Operational Period. Testing will be conducted according to a schedule agreed upon by both Parties.
- 20) Emission Reductions: The Air District retains the exclusive right to claim any emission reduction credits under State or Federal law that might result from emissions reduced by the Project implemented pursuant to this Agreement. The emissions reduced by the Project may not be used by Grantee to comply with any local, State, or Federal air pollution regulation or law, or used to fulfill Grantee's obligations arising out of any order, settlement contract, memorandum of understanding, or other binding legal document.

- 21) Preliminary Inspection: Air District or its designee shall perform a preliminary inspection of the installation site prior to implementation of the Project. Grantee shall facilitate and cooperate with any Air District inspection.
- 22) Post-Project Inspection: Air District or its designee shall perform a post-project inspection of the Project Equipment funded under the terms of this Agreement to verify that the Project has been implemented according to the terms of this Agreement. Grantee shall facilitate the Air District inspection and make the new Project Equipment available for the post-project inspection, which may include a test to verify that the Project Equipment is fully operational and pre-installation interim inspection(s) of engines, tanks, or similar funded components whose tags or labels will not be visible after installation, to document that Project Equipment complies with Program requirements. Grantee must contact the Air District to arrange post-project inspection and should provide at least two business days advanced notice for scheduling.
- 23) Compliance with CARB Program Guidelines: The Grantee agrees to implement the Project in accordance with all requirements of the CARB Program Guidelines. Any questions or disputes the Parties may have regarding the implementation of this Agreement shall be resolved in accordance with the applicable CARB Program Guidelines.
- 24) Enforcement: Both the Air District and CARB have the authority to inspect the Project, enforce the terms of this Agreement, and pursue repayment of grant funds for noncompliance with the terms and conditions of this Agreement, including requirements in attachments hereto and in the CARB Program Guidelines, which are incorporated herein by reference, or applicable state laws or regulations throughout the Agreement Term.
- 25) Public Documents: To the extent not otherwise prohibited by law and to the extent required by the California Public Records Act (Government Code section 6250 et seq.), the Grantee will place in the public domain any software, written document, or other product developed with Program funds as part of the Project.
- 26) Survival of Terms: Any terms of this Agreement that by their nature extend beyond the term (or termination) of this Agreement shall remain in effect until fulfilled and shall apply to both Parties' respective successors and assigns.
- 27) Public Entities Conflict of Interest: The Grantee warrants and represents that its public officials, including its officers and employees in their official capacity, presently have no interest and agrees that its public officials, including its officers and employees in their official capacity, will not acquire any interest which would represent a conflict of interest under California Government Code sections 1090 et seq. and 87100 et seq. during the performance of this Agreement.

IN WITNESS WHEREOF, the Parties to this Agreement have caused this Agreement to be duly executed on their behalf by their authorized representatives.

SIGNATURES:

Bay Area Air Quality Management District

By: _____

Date: _____

Philip M. Fine
Executive Officer/Air Pollution Control Officer
Bay Area Air Quality Management District

Approved as to form:

By: _____

Alexander Crockett
District Counsel
Bay Area Air Quality Management District

Grantee

By: _____

Date: _____

[GRANTEE CONTACT NAME]
[GRANTEE CONTACT TITLE]
[GRANTEE NAME]

ATTACHMENT A - PROJECT SPECIFIC INFORMATION

[Note: The section numbers shown in parenthesis below refer to Sections in the Agreement.]

- 1. **Grantee:** [GRANTEE NAME]
- 2. **Project Number (Section III.7):** [PROJECT#]
- 3. **Air District Approval Date (Section III.14):** The Effective Date of this Agreement
- 4. **Total Grant Funds Available (Sections I.3, II.1, and III.15):** [GRANT AMOUNT]

Total Grant Funds Available are estimated in Paragraph 5, Table 1, below. Actual funds to be paid will be calculated after Agreement execution and upon Grantee submittal of request for payment as defined in Paragraph 13. Actual funds paid will be based on Eligible Costs incurred, as defined in the Agreement at Section III, Paragraphs 15 and 16, multiplied by the Maximum Percentage of Funding, as adjusted by any funds from an Air District approved co-funding incentive source, up to a maximum of the Total Grant Funds Available. In no event shall the grant funds paid under this Agreement exceed the maximum of [GRANT AMOUNT].

- 5. **Cost Breakdown (Sections I.3 and III.15):** A detailed breakdown of estimated project costs and Equipment information is shown in Table 1.

| Table 1: Detailed Project Description | | | | | |
|--|--------------------------|--------------------------------------|--|---|-----------------|
| Project Equipment Description* | Estimated Eligible Costs | Maximum Percentage of Eligible Costs | Total Usage & Project Equipment Operational Period | Location of Operation | Funds Available |
| <p>Infrastructure Description: including new/expansion number of stations/chargers being funded, charger level, and address of installation. And any other relevant info. <i>Example: Purchase and installation of five (5) level 2 (70A) single port pedestal charging stations with associated electrical conduit and infrastructure. Located at 123 Beale Street, San Francisco, CA 94105.</i></p> | \$__ | __% | __ kWh & __ years | __% in CA __ % in Air District Operates in Priority Areas: YES/NO | \$__ |
| Total Grant Funds Available: [GRANT AMOUNT] | | | | | |

* Grantee may propose Equivalent Equipment subject to advanced written approval from the Air District. The Equivalent Equipment must result in the same or better emissions reductions and meet or exceed the operational parameters specified in Attachment A of this Agreement.

The terms in Table 1 above are defined as follows:

Project Equipment Description: Information describing the new equipment including fuel or energy type and other specifications.

Estimated Eligible Costs: The amount of the Project cost determined during the application evaluation eligible to be included in the calculation for reimbursement.

Maximum Percentage of Eligible Costs: The maximum allowable percentage of the actual Eligible Costs that can be reimbursed for Project Equipment, based on the maximum percent allowed for the equipment by the applicable CARB guidelines for the equipment type.

Total Usage & Project Equipment Operational Period: Total Usage refers to the minimum amount Grantee is required to operate the Project Equipment, over the period of time specified and defined as the Project Equipment Operational Period.

Location of Operation: The minimum percentage of time that the Project Equipment must operate within California and/or within the Air District boundaries, as noted, during the Project Equipment Operational Period. Also indicates whether the Project is required to operate within a Priority Area(s), as defined in Attachment C, and in accordance with the requirements of Paragraph 16 (Special Conditions).

Funds Available: The maximum funding that can be paid to Grantee for Project Equipment pursuant to this Agreement.

6. Project Description: _____ Infrastructure

Table 1 provides the details of existing (old) Baseline Equipment (if any) and funded Project Equipment. Any change in Project Equipment specifications or Project Description must receive written approval in advance by the Air District.

- 7. Project Term (Section III.1):** Table 1 lists the required usage and Project Equipment Operational Period for each piece of Project Equipment. The “Total Usage” listed in Table 1 represents the minimum number of hours or miles (as applicable) the Project Equipment is to operate during the Project Equipment Operational Period, which represents the minimum number of years over which the Project Equipment is to operate under this Agreement. The Project Equipment Operational Period begins when the Project Equipment has been successfully inspected by the Air District. The Project Term concludes upon the satisfaction of the usage and Project Equipment Operational Period requirements for each piece of Project Equipment and upon confirmation by the Air District that all Project requirements have been met.
- 8. Operating Parameters:** Air District has awarded this Grant based upon Grantee’s agreement to operate the Project Equipment for the usage identified in Table 1 of this Attachment. In no event shall Grantee operate the Project Equipment less than the minimum project term specified in the CARB Program Guidelines. Pursuant to Paragraph 15 of this Attachment, Grantee may be required to repay Grant funds if unable to satisfy the Project’s usage, project life, and location of operation requirements identified in Table 1.
- 9. Project Schedule:** By no later than [date], the Project must be completed by Grantee and inspected by the Air District, and Grantee must have submitted its request for payment in accordance with Paragraph 13 of this Attachment.
- 10. Estimated Eligible Costs:** Estimated eligible costs are specified and described in Table 1 above, and include (A) Design and engineering, (i.e., labor, site preparation, Americans with Disabilities Act accessibility, signage); (B) Equipment (e.g., charging/fueling units, electrical parts, energy storage equipment); (C) Installation directly related to the construction of the station; (D) Meter/data loggers; (E) On-site power generation system that powers covered sources (i.e., solar and wind power generation equipment); (F) Fees incurred pre-contract execution (i.e., permits, design, engineering, site preparation), license fees, environmental fees, commissioning fees (safety testing), and onsite required safety equipment; (G) Federal, sales, and other taxes; (H) Shipping and delivery costs; (I) Consulting fees associated with the preparation of Environmental Assessment, Environmental Impact Statement, Environmental Impact Report, or other California Environmental Quality Act (CEQA) documents.
- 11. RESERVED.**
- 12. RESERVED.**
- 13. Project Implementation Report and Request for Payment (Section I):** No later than thirty (30) days from completion of the work set forth in the Project Description, Grantee shall submit a Project Implementation Report (PIR), an IRS W-9 form, and a project invoice to request payment for the Eligible Costs of the Project. The Project invoice shall:

- Provide documentation for all Eligible Costs, document the Equipment serial number(s), and include a description of the Equipment purchased.
- Demonstrate the costs are Eligible Costs and have been expended in compliance with the Project Description and the Project Schedule.
- Itemize the total funds requested for this reimbursement, which shall include an itemization of payments to vendors, consultants, and contractors.
- Include copies of invoices that document the goods and services provided by vendors, consultants, and contractors and documentation of the total hours incurred to complete the Project, the hourly rates of any labor charges, the costs of such goods, and any other Eligible Costs.
- Be submitted with a summary sheet that specifies the Project Number. If costs are incurred that are not directly related to the Project as described in Paragraph 5 of this Attachment, all such costs must either be deleted when the Project invoice is prepared or clearly identified as costs that are not eligible for reimbursement by the Air District.
- Include proof of warranty as required by the CARB Program Guidelines for the specific project option and type of Project Equipment described in Table 1 of this attachment.
- For new or converted electric Equipment or hybrid Equipment, provide owner's manual or equivalent documents describing the major components; theory of operation and operating procedures; battery maintenance and use; service intervals and requirements; contact information for the manufacturer and CA servicer(s); instructions about safe operation and battery handling; and emergency procedures and potential safety precautions for use of the Equipment.

The Grantee may seek an interim payment from the Air District. To request an interim payment, the Grantee must submit an updated Project schedule that identifies the anticipated completion date, together with invoices for costs incurred to date, to the Air District. The Air District has the sole discretion to approve an interim payment for Eligible Costs incurred to date.

Upon verification that the Project has been completed according to the terms of this Agreement, the Project Equipment has been installed and is fully operational, and the Baseline Equipment has been removed from service and destroyed for repower, conversion, and replacement projects, the Air District will issue final payment of the Funds Awarded.

14. **Annual Monitoring Reports:** Grantee shall submit an annual monitoring report each calendar year for the Project Term, in a format approved and provided by the Air District. The monitoring report shall provide information regarding annual fuel/energy consumption, annual hours or miles of operation, locations where Project Equipment operated, and proof of insurance. The first annual report shall be submitted by August 1 of the year following execution of the Grant Agreement to cover the period from July 1 through June 30 of the prior year. The first annual report shall include a report on the Grantee's progress in meeting milestones listed in the Project Schedule, as set forth in Paragraph 9 of this Attachment. Subsequent annual reports shall be submitted by August 1st of each succeeding year with the final annual monitoring report due by August 1st in the last year of the Project Term. If Grantee fails to submit annual monitoring reports in a timely fashion, the Air District shall perform a project performance audit.
15. **Repayment of Grant Funds for Failure to Complete Project:** Grantee shall repay the Total Grant Funds Awarded on a prorated basis for selling, assigning, transferring, retiring, scrapping, or removing any piece of Project Equipment from service in the location(s) specified in Table 1 of Attachment A prior to completing its Project Equipment Operational Period. The fraction of funds to be repaid will be determined by subtracting the usage of the Project Equipment at the time of sale, assignment, transfer, retirement, scrapping, or removal from service from total usage, pursuant to Paragraph 7 of this Attachment, and dividing that result by the total

usage. At its sole discretion, the Air District may waive repayment if it determines that Grantee's failure to complete the Project was due to events beyond Grantee's reasonable control per Section III.17.

The Air District may waive repayment if, prior to sale of Project Equipment, the Grantee facilitates transfer of this Agreement by the Air District to the subsequent owner who agrees to assume all obligations under this Agreement and specifically agrees to continue operation of the Project Equipment in order to provide equivalent emission reductions in accordance with CARB Program Guidelines.

16. Special Conditions: [LIST OF POTENTIAL SPECIAL CONDITIONS – NOT APPLICABLE TO ALL EQUIPMENT CATEGORIES (NEW: KEEP 16A AT ALL TIMES)]

- A. Operation in Priority Areas: If indicated in the "Location of Operation" column in Table 1 of Attachment A and in Attachment C, the Grantee shall operate the funded Project Equipment within or benefiting Priority Areas, which are communities disproportionately impacted by air pollution and/or low-income communities. This benefit to Priority Areas is required throughout the Project Equipment Operational Period to ensure that the Project directly reduces emissions in impacted communities and helps to reduce public health risks associated with such air contaminants in the impacted communities. Projects with Operation in Priority Areas specified in Table 1 of Attachment A and in Attachment C must continue to operate in the same location(s) described in the application materials submitted by the Grantee, since the location(s) may have been a factor in determining eligibility and/or the funding level awarded. Attachment C provides maps of Priority Areas. Grantee must demonstrate, as part of the Annual Monitoring Reports, that it has operated in the Priority Area(s) designated in Attachment C for each year of operation.
- B. Operation in Air District: For the duration of the Project Equipment Operational Period, Grantee shall operate the Project Equipment within California and the Air District as specified in the "Location of Operation" column in Table 1 of Attachment A. Grantee must demonstrate, as part of the Annual Monitoring Reports, that the percentages of operation within the Air District boundaries and within California, as identified in Table 1, have been achieved for each year of operation.
- C. At the request of the Grantee, the Air District and Grantee have agreed that the Air District shall pay the total funds to be paid to the equipment vendor designated by the Grantee. This payment will be made as a two-party check to the Grantee and the designated vendor.
- D. As required by the CARB Program Guidelines, Grantee shall ensure that Project Equipment, inclusive of infrastructure Equipment, shall be equipped with a tamper-proof, non-resetting hour meter, energy meter, or odometer (as applicable). If this meter fails during the Project Equipment Operational Period, the Grantee must notify the Air District and take action to repair or replace the meter within thirty (30) days.
- E. For Grantees subject to CARB regulations Project Equipment funded as part of this Agreement:
 1. Must be included when defining the size of the fleet for determining regulatory requirements.

- 2. Must not be used to generate credits or compliance extensions and must be excluded when determining regulatory compliance.

F. Grantee certification:

- 1. I certify that the fleet, engine(s) and Baseline Equipment are in compliance with all applicable Federal, State, and local air quality rules and regulations as of the Effective Date of this Agreement.
- 2. I understand that I must maintain compliance with all applicable Federal, State, and local air quality rules and regulations for the Project Term.
- 3. I have disclosed to the Air District all other private or public financial incentives applied for or used for this Project.
- 4. I will not apply for or receive other private or public financial incentives for the Project without prior approval from the Air District, including any sources that become available after the Effective Date of this Agreement. The receipt of additional public funding for the Project Equipment could result in a reduction of the Total Grant Funds Available.
- 5. I understand that I must own and operate the Project Equipment pursuant to the terms of Table 1 of Attachment A, which include usage and location requirements.
- 6. I will not assign, transfer, or sell the Project Equipment during the Agreement Term without prior written consent of the Air District. Such written consent will not be given unless the terms and obligations of this Agreement are first transferred in full to a new owner/operator.
- 7. I understand that the following requirements apply to additional private or public financial incentives used to support this Project.
 - a. Grantee must meet all criteria associated with each funding source used to fund the Project.
 - b. The total of all incentives for the Project must not exceed the total project costs.
 - c. Grantees that are not public entities must provide at least 15 percent of the Eligible Cost from non-public sources.
 - d. All covered emission reductions (NOx, ROG, and PM) achieved from this project with these funding sources, will be credited as reductions to the Carl Moyer Program. Other emission reductions such as greenhouse gas emissions may be claimed by the other programs used in co-funding this project.

Signature: _____

Name (printed): _____

Title: _____ Date: _____

- G.** Security Interest: Grantee hereby grants the Air District a security interest in the Project Equipment that has been purchased partially or entirely with funding provided by the Air District pursuant to this Agreement and any amendments thereto. Grantee acknowledges and agrees that the Air District shall have all lien rights as a secured creditor on the Project Equipment throughout the Project Equipment Operational Period (Project Term). Grantee agrees and authorizes the Air District to file a Uniform Commercial Code (UCC) financing statement (Form UCC-1) or similar security instrument to secure its interests in the Project Equipment. In the event the Project Equipment is repossessed or Grantee files for dissolution or bankruptcy protection, Grantee shall notify the Air District within ten (10) business days of the repossession or court filing.

- H. *Projects funded by multiple air districts:*** This Project was co-funded by the Air District and the [Name of other Air District(s)]. The [Name of other Air District(s)] provided [\$__] towards the implementation of the Project.
- I.** Projects that include fueling or charging infrastructure Project Equipment:
- Grantee must either own the land on which the Project infrastructure is installed or control the land through a long-term lease, easement, or other legal arrangement for the duration of the Project Term.
 - Grantee must comply with, and ensure any subcontractors comply with, all applicable regulations (e.g., Cal. Code Regs., tit. 13, §§ 2360-2360.5)
 - Infrastructure Equipment and parts must be new. Remanufactured or refurbished equipment and parts are not eligible.
 - The fueling and charging infrastructure Equipment must be in operating condition for the duration of the Project Term.
 - For battery charging stations, the chargers must be certified by a National Recognized Testing Laboratory (e.g., Underwriter's Laboratory, Intertek) located at <https://www.osha.gov/dts/otpc/nrtl/nrtllist.html>.
 - Grantee shall report all battery charging station installations to the Department of Energy Alternative Fuel Data Center located at <http://www.afdc.energy.gov/locator/stations>, pursuant to Cal. Code Regs., tit. 13, §§ 2360-2360.5.
 - Non-publicly accessible infrastructure Equipment must operate without disruption and Grantee shall report any downtime to the Air District within 15 days of Equipment malfunction outlining specified actions to return Project Equipment to service.
 - For charging infrastructure installations:
 - Grantee shall ensure that all charging infrastructure installations are performed in accordance with Public Utilities Code 740.20 and by a contractor with the appropriate license classification, as determined by the Contractors' State License Board, and at least one (1) electrician on each crew, at any given time, who holds an Electric Vehicle Infrastructure Training Program (EVITP) certification. Projects that include installation of a charging port supplying 25 kilowatts or more to a vehicle must have at least 25 percent of the total electricians working on the crew for the project, at any given time, who hold EVITP certification. One (1) member of each crew may be both the contractor and an EVITP certified electrician. The requirements stated in this paragraph do not apply to any of the following:
 - Electric vehicle charging infrastructure installed by employees of an electrical corporation or local publicly owned electric utility.
 - Electric vehicle charging infrastructure funded by moneys derived from credits generated from the Low Carbon Fuel Standard Program (Subarticle 7 (commencing with Section 95480) of Article 4 of Subchapter 10 of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations).
 - Single-family home residential electric vehicle chargers that can use an existing 208/240-volt outlet.
 - Prior to performing any electric vehicle infrastructure or equipment installation work funded or authorized under this Agreement, Grantee shall complete the Certification Form provided by the District in order to:

- Certify that the project will comply with all of the above requirements of Public Utilities Code 740.20, or describe why these requirements do not apply to the project. The Certification Form shall be signed by the Grantee's authorized representative.
- Provide EVITP Certification Numbers of each EVITP certified electrician that will install electric vehicle charging infrastructure or equipment. EVITP Certification Numbers are not required to be submitted if the Public Utilities Code 740.20 requirements do not apply to the project.

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ATTACHMENT B - INSURANCE REQUIREMENTS

Grantee to initial next to each checked box indicating they have read their project insurance requirements.

Verification of Coverage:

Grantee shall provide, and require any subcontractors to provide, the Air District certificates and/or other evidence of the insurance coverage required below. The Air District reserves the right to require Grantee to provide complete, certified copies of any insurance offered in compliance with these specifications. Certificates, policies and other evidence provided shall specify that the Air District shall receive thirty (30) calendar days advanced notice of cancellation from the insurers.

Minimum Scope of Insurance

Throughout the Project Term as defined in Section III of the Agreement of which this Attachment is a part, Grantee shall obtain and maintain in full force and effect the insurance as set forth below, and require any third party to obtain and maintain in full force and effect the insurance as set forth below:

1. Liability Insurance:

Initial

Corporations and Public Entities - a limit of not less than \$1,000,000 per occurrence. Such insurance shall be of the type usual and customary to the business of the Grantee, and to the operation of the vehicles, vessels, engines, or equipment operated by the Grantee.

Single Vehicle Owners - a limit of not less than \$750,000 per occurrence. Such insurance shall be of the type usual and customary to the business of the Grantee, and to the operation of the vehicles, vessels, engines, or equipment operated by the Grantee.

At the time the Grantee submits invoices for payment to the Air District, the Grantee must demonstrate that each piece of Project Equipment purchased under this Agreement, of which this is an Attachment, is covered under the following property insurance, if Grantee has not already demonstrated possession of this insurance to the Air District. The property insurance for each piece of Project Equipment must remain effective from the date of the invoice to the Air District to the end of the Project Equipment Operational Period as defined in Section III of the Agreement.

2. Property Insurance for Repower and Vehicle/Equipment Replacement projects:

Initial

in an amount of not less than the insurable value of Grantee's vehicles, vessels, engines or equipment funded under the Agreement of which this Attachment is a part, and initial covering all risks of loss, damage or destruction of such vehicles, vessels, engines, or equipment.

3. Workers Compensation Insurance as required by California law and employers' liability insurance with a limit not less than \$1 million.

Initial

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII. The Air District may, at its sole discretion, waive or alter this requirement or accept self-insurance in lieu of any required policy of insurance.

ATTACHMENT C – OPERATION OF PROJECT EQUIPMENT WITHIN PRIORITY AREAS

Grantee to initial next to each checked box indicating their agreement to operate the Project Equipment in the Priority Area(s) indicated below throughout the Project Equipment Operational Period. Project Equipment must continue to operate in the same location(s) described in the application materials submitted by Grantee. For infrastructure-only projects, the definition of “operation within” may be based on the vehicles/equipment that use the supporting infrastructure.

- 1. Disadvantaged Communities (“DAC”), an example of which is shown in Figure 1 below, and as identified by the California Climate Investments Priority Populations 4.0 mapping tool at <https://webmaps.arb.ca.gov/PriorityPopulations/>

Initial

- 2. Low Income Communities (“LIC”), an example of which is shown in Figure 1 below, and as identified by the California Climate Investments Priority Populations 4.0 mapping tool at <https://webmaps.arb.ca.gov/PriorityPopulations/>

Initial

- 3. Community Air Risk Evaluation (CARE) communities as developed by the Air District, shown in Figure 2 below.

Initial

Figure 1: Example DAC and LIC Areas

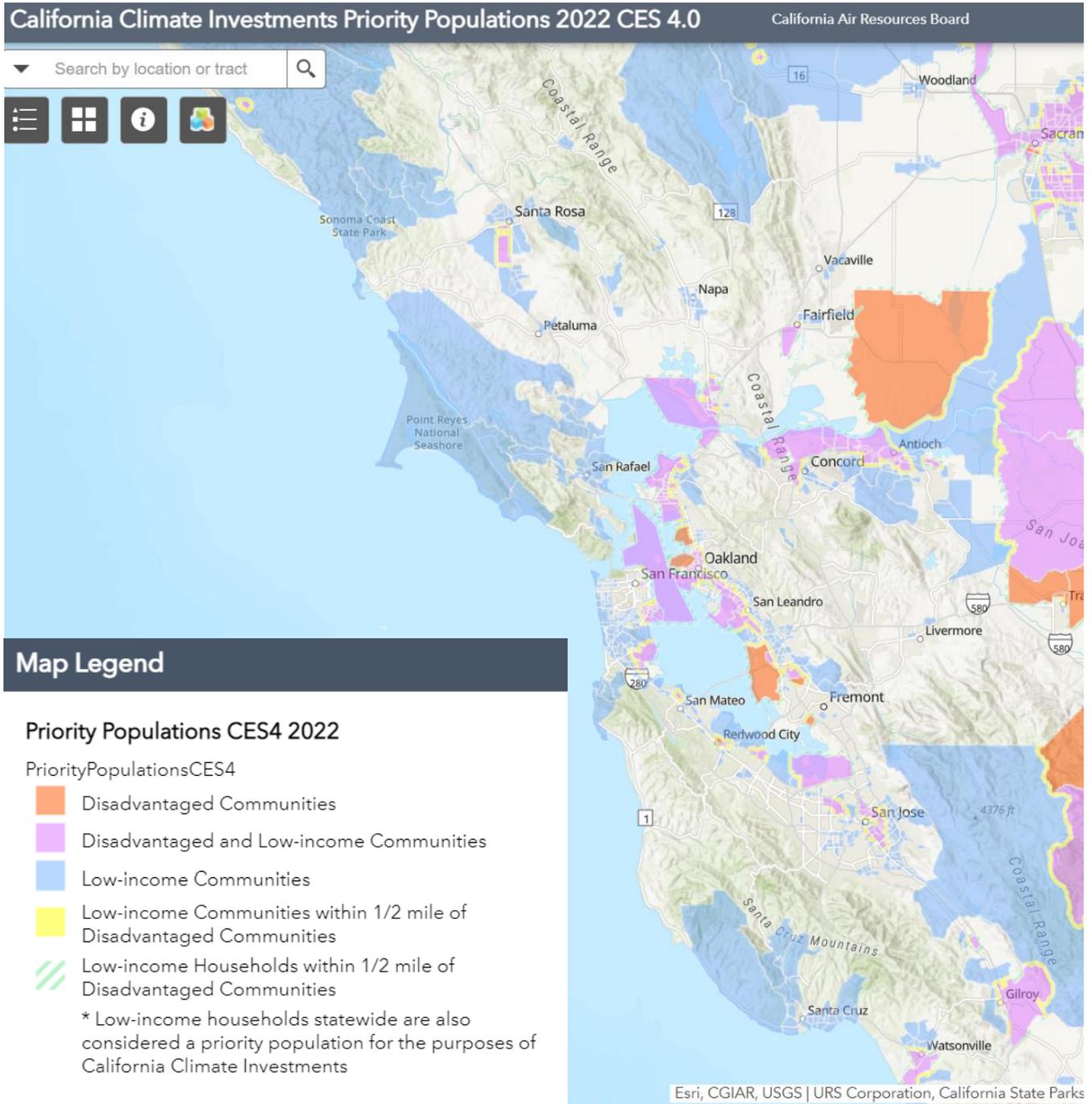


Figure 2: Air District CARE Communities

