

Appendix B

Draft Grant Agreement

**(Selected Grantee NAME HERE): Third Party Administrator for California
Satellite Methane Community Engagement Project**



This Draft Grant Agreement is provided as an illustration of the terms that may be included in a Grant Agreement with CARB and is subject to change at CARB's sole discretion. Grant Applicants shall not change any of these terms or conditions.

Exhibit A

Grant Agreement Terms And Conditions By And Between The California Air Resources Board And [Insert Grantee Name Here]

1. Parties

This Grant Agreement ("Grant", "Grant Agreement", "Agreement") is entered into by and between the State of California acting by and through the California Air Resources Board (hereinafter referred to as "CARB", the "Grantor", the "State" or the "Board") and the [] (hereinafter referred to as the "Grantee"). Grantor and Grantee are each a "Party" and together the "Parties" to this Grant Agreement. The Grant Agreement includes the Grant Cover Sheet and all exhibits attached thereto.

As referenced in this Grant Agreement, "Grantee" includes, individually and collectively, Grantee's employees, officers, directors, members (of a limited liability company (LLC) form of entity), partners (of a partnership form of entity), agents, representatives, or assigns.

A "Subgrant" means a grant or award provided by the Grantee pursuant to this Grant Agreement to a "Subgrantee" that is used to support a project that the Subgrantee carries out in support of their own program. The Subgrantee has responsibility for some programmatic implementation and does not profit from the subgrant or otherwise receive reimbursement in excess of its actual costs. In contrast, the Grantee hires a "Contractor" or "Subcontractor" under a contract to provide goods and services for items the Grantee itself needs to carry out this Grant. A Contractor or Subcontractor does not make programmatic decisions but simply provides the goods and services to the Grantee according to the terms of its agreement with the Grantee.

"Resource Entity" or "Resource Entities" means and includes, individually and collectively, Grantee's Contractors, Subcontractors, and consultants.

"Grant Recipient" or "Grant Recipients" means and includes, individually and collectively, Subgrantees, voucher recipients, awardees, sub-awardees, or any other individual or entity that receives any Grant Funds other than the Grantee or Resource Entities.

The Parties agree as follows:

2. Purpose and Incorporation

- a. CARB shall provide funding pursuant to the California Satellite Methane Project ("Program") to Grantee to establish and administer the California

Satellite Methane Program Community Engagement Project ("Project") as provided in Exhibit B, as referenced below.

- b. In the Order of Precedence set out in the General Provisions below, Grantee agrees to comply with all of the terms, provisions and conditions contained in this Grant Agreement as well as the following Exhibits incorporated into and made a part of this Grant Agreement by this reference:
 - i. Exhibit B: Statement of Work:
 - 1) Attachment I: Budget Summary
 - 2) Attachment II: Project Schedule
 - 3) Attachment III: Key Project Personnel
 - ii. Exhibit C: Fiscal Year(s) 2022 Funding Plan
 - iii. Exhibit D: California Methane Satellite Project Community Engagement Grant Solicitation for which the Grantee's Application was received
 - iv. Exhibit E: 2024 California Climate Investments Funding Guidelines
 - v. Exhibit F: Grantee Application Package
 - 1) Attachment A: Work Plan
 - 2) Attachment B: Budget
 - 3) Attachment C: Schedule

3. Grant Amount

- a. The total Grant fund amount ("Grant Funds") is set out in the Grant Cover Sheet to which this Exhibit A is attached. The Grant Funds are also set out in Exhibit B (Attachment I: Budget Summary).
- b. The administration of Grant Funds is set out in the Fiscal Administration Section, below.

4. Project Liaisons

The Project Liaisons during the Term of this Grant Agreement are as follows:

California Air Resources Board:

The CARB Project Liaison is To Be Determined and correspondence regarding this Grant Agreement or performance shall be directed to:

TBD
TBD, Research Division
P.O. Box 2815
Sacramento, California 95812
Phone: (279) 208-7448
Email: CalSMP@arb.ca.gov

Grantee:

The Grantee Liaison is [___INSERT NAME___], and correspondence regarding this Grant Agreement or performance shall be directed to:

[Name of Project Liaison]

[Title], [Division]

Address

City, CA [Zip]

Phone:

Email:

5. Term, Termination, and Expiration

- a. **Term.** The term of this Grant Agreement ("Term") commences the date this Grant Agreement is executed by authorized representatives of both Parties (the "Effective Date") and terminates on March 15, 2029, unless terminated or canceled sooner per the terms of this Grant Agreement. Grantee's performance of work or other expenses billable to CARB under this Grant Agreement may not commence until after full execution of this Grant Agreement by authorized representatives of both Parties.
- b. **Project Deemed Complete.** Upon completion of the Project, the Grantee shall submit a draft Final Report to the CARB Project Liaison no later than December 31, 2028 pursuant to the Reporting Section of this Grant Agreement. Grantee's performance shall be deemed complete on the date CARB approves the final version of the Final Report. A final request for payment and final version of the Final Report must be received by CARB no later than March 1, 2029. (See the Reporting Section of this Grant Agreement for additional details.)
- c. **Termination and Expiration.**
 - i. **Termination by Mutual Agreement.** This Grant Agreement may be terminated at any time, and for any or no reason, by written mutual agreement which has been fully executed by authorized representatives of both Parties.
 - ii. **Termination Without Cause by Grantor.** This Grant Agreement may be terminated at any time for any or no reason by Grantor upon providing thirty (30) days advance written notice.
 - iii. **Termination for Cause by Grantee.** This Grant Agreement may be terminated by Grantee if Grantor has breached a material provision of the Grant Agreement, Grantee has provided ninety (90) days advance written notice of the termination to Grantor, including details of which provision(s) are claimed to have been breached, and the Grantor has failed to bring itself into compliance within the ninety (90) days of the notice, or any longer time period as agreed by both Parties.
 - iv. **Termination for Cause by Grantor.** This Grant Agreement may be terminated by CARB without advance notice at any time if CARB has determined, in its sole discretion, that the Grantee, or any of their Resource Entities or Grant Recipients, has breached any of the terms or conditions of this Grant Agreement, or has violated or are in violation of any of their respective obligations or responsibilities under

this Grant Agreement or any other agreement where CARB is an intended third party beneficiary.

1) **Non-performance (Breach) Provisions.** The Grantee agrees that the following is a non-exhaustive list of the circumstances that constitute non-performance (breach) under this Grant Agreement. These circumstances will be solely determined by CARB and include, but are not limited to:

- a) Failure to comply with any of the provisions of the Grant Agreement, including Exhibits.
- b) Failure to obligate or expend Grant Funds within established timelines, or failure to show timely interim progress to meet these timelines.
- c) Insufficient performance or widespread deficiencies with Grant Fund or Project oversight, enforcement, recordkeeping, contracting, inspections, or any other duties.
- d) Misuse of Grant Funds.
- e) Funding of ineligible activities or other items.
- f) Exceeding the allowable Grant Fund or Administrative Fee allotment.
- g) Insufficient, incomplete, or faulty documentation.
- h) Failure to provide required documentation or reports requested from CARB, or other State agencies, in a timely manner.
- i) Poor performance as determined by a review or fiscal audit.

2) **Additional Remedies.** In addition to any other requirements and remedies set out elsewhere in this Grant Agreement, upon request by CARB, the Grantee will also perform as follows:

- a) Within fourteen days of any request, timely develop and implement a corrective action plan.
- b) Immediately cease all work and spending, and notify all Grant Recipients and Resource Entities to immediately cease all work and spending.

v. **Transition of Funds, Data, and Property**

Upon termination, issuance of a termination notice by either Party, cancellation, or expiration of this Grant Agreement, whichever occurs sooner, the Grantee shall immediately, and no later than 10 business days prior to the termination, cancellation, or expiration of this Grant Agreement, do all of the following:

- 1) Transfer to CARB all unspent Grant Funds, including any advance payment and any earned interest. Within 45 days of receipt of notice from the Grantor of Grantee non-performance, if any, provide a money transfer confirmation of the returned funds;

- 2) Transfer to CARB all Project Information Resources, as defined in the Data and Intellectual Property Section, and Project Equipment, as defined in the Equipment/Vehicle Ownership Section, owned by, or in the possession or control of, the Grantee;
- 3) Permanently assign to CARB exclusive ownership of all Project Information Resources and Project Equipment, to the extent Grantee has the right to do so; and,
- 4) Provide all reasonable and necessary assistance needed to ensure a smooth transition in accordance with the Project Transfer Plan.

CARB, at its sole discretion, may elect to have any or all of the funding, Project Information Resources, and/or Project Equipment, as well as related ownership rights, transferred to another CARB-selected third-party administrator or designee.

vi. **Cessation of Work and Expenditure**

Unless otherwise directed in writing by CARB, upon termination of this Grant Agreement or upon issuance of the termination notice (whichever occurs sooner) by either Party, Grantee shall immediately cease all work, and cease all expenditure of Grant Funds and Administrative Fees.

vii. **Final Disbursement Request and Report**

Unless otherwise directed in writing by CARB, upon termination of this Grant Agreement or upon issuance of the termination notice (whichever occurs sooner), Grantee shall submit a final Grant Disbursement Request Form and a final Status Report covering activities up to and including the termination date. The final Status Report shall be subject to review and approval by CARB before any final payments are disbursed. Upon receipt of the Grant Disbursement Request Form, and final Status Report, and once all intellectual property and requested data, information and property have been transferred and assigned to CARB, CARB, at its sole discretion, may make a final payment to the Grantee. This payment shall be for all CARB-approved, actually incurred costs that in the opinion of CARB are justified. However, the total amount paid shall not exceed the total authorized amount for the Administrative Fee and, where payments are being requested on behalf of a Grant Recipient, then no payment shall exceed the total authorized amount for the Grant Funds.

- d. **Contingency Provision.** In the event this Grant Agreement is terminated for whatever reason, the CARB Executive Officer or designee reserves the right in their sole discretion to use or make the Grant Funds available in a manner consistent with applicable laws, policies and the applicable Funding Plan(s), which may include but is not limited to allocating the Grant Funds to other

projects or awarding the Grant to the next highest scored applicant and if an agreement cannot be reached, to the next applicant(s) until an agreement is reached.

- e. **CEQA.** CARB retains full discretion to consider all available information relating to California Environmental Quality Act (CEQA) compliance before determining whether to proceed with funding or authorization of any work under this Grant Agreement. No work may be initiated by the Grantee, nor will any funding be disbursed by CARB, until CARB has affirmatively notified the Grantee in writing that this CEQA condition has been satisfied. If CARB decides not to proceed with this Grant Agreement, the Grant Agreement will be terminated immediately by CARB upon written notice to the Grantee.

6. General Duties And Requirements

This section generally sets out the respective duties and requirements of CARB and the Grantee in implementing the Project and Program under this Grant Agreement. More detailed duties and responsibilities are set out in other sections of this Grant Agreement.

a. California Air Resources Board.

CARB is responsible for the following:

- i. Selecting the Grantee.
- ii. Providing policy direction and reviewing/approving proposed drafts of the Implementation Manual in consultation with the Grantee.
- iii. Approving the required or requested plans, policies or procedures, or manuals in a form and with content acceptable to CARB.
- iv. Reviewing and approving work product, including but not limited to solicitations for funding, Grant Recipient agreements, Funding Plan elements, presentations, reports, papers, and other needed work product during the administration of the Project.
- v. Reviewing and approving any subgrantees in consultation with the Grantee.
- vi. Selecting and/or reviewing and approving Resource Entity projects and agreements, upon CARB's request.
- vii. Participating in regular meetings with the Grantee to discuss the Grantee's administrative duties and responsibilities, the Project, and status of Grant Recipient projects.
- viii. Reviewing, approving, denying, or returning all Grant Disbursement Request Forms (e.g., Form MSCD/ISB-90) for Grantee's administrative funding, including Resource Entities costs, and for the Grant Recipient funding.
- ix. Selecting Grant Recipient projects for funding that result from a solicitation, except where Grantee is required to do so per direction from CARB.
- x. Reviewing, approving, or denying Resource Entity and Grant Recipient Disbursement Request Forms (Form MSCD/ISB-90) for Resource Entity or Grant Recipient funding requests from Resource Entities or Grant

Recipients administered or managed by Grantee, except where Grantee is required to do so per direction from CARB.

- xi. Facilitating payments to Grantee after CARB approval of the Grant Disbursement Request Forms (Form MSCD/ISB-90).
- xii. Providing project oversight and holding Grantee accountable (in conjunction with the Grantee).

b. **The Grantee.**

The Grantee shall:

- i. Perform or cause to be performed, in a timely manner, all Project work as described in this Grant Agreement.
- ii. Comply with all applicable requirements of statutes and regulations under federal and California laws.
- iii. Comply with all terms, provisions, and conditions of this Grant Agreement, including all incorporated documents, and fulfill all assurances, declarations, representations, and statements made by Grantee in the Grantee application materials (Exhibit F) and as reflected in the Solicitation (Exhibit D).
- iv. Require Resource Entities and Grant Recipients to meet all the aforementioned requirements, as applicable.
- v. Use best efforts and subject matter expertise in managing, overseeing and implementing the day-to-day administration of the Program, which includes support to the resulting projects that come from all of Grant Recipient's solicitations, the scope of work outlined in said solicitations and overall support to the Program.
- vi. Perform project planning and implementation throughout the Term, and in consultation with CARB, assist with updating and finalizing required or requested plans, policies and procedures manuals in a form and with content acceptable to CARB.
- vii. Coordinate with CARB and project administrators for CARB's other projects, as necessary, to ensure expeditious implementation of all projects in a way that is in the best interest of the Program. This includes, but is not limited to, support disbursement request development, report creation, coordinating outreach efforts, assisting in the development of outreach materials, and event planning.
- viii. Participate in CARB-approved events (e.g., CARB Board hearings, press events, conferences, forums, symposiums, etc.) to represent the Program.
- ix. Manage selection, coordination and support of CBO sub-grantees in consultation with CARB.
- x. Assist CARB in hosting Grant Recipient project review meetings and events that highlight the Project and the Grant Recipient projects.
- xi. Closely communicate with CARB any significant changes to Project implementation that would impact the administration or implementation of the Project as provided by the Statement of Work (Exhibit B).

- xii. Support and help to inform CARB's determination of appropriate technical categories to pursue with future projects.
- xiii. Applying best efforts, and industry best practices and standards, Grantee will manage, oversee and administer quality control and timely delivery of Resource Entity and Grant Recipient deliverables, ensuring that these entities fulfill their obligations and responsibilities under their related agreements.
- xiv. Accomplish all of the other Grantee duties, responsibilities and obligations set out in all other sections of this Grant Agreement.
- xv. Perform Public Outreach and Workforce Development
 - 1) Prepare outreach and educational materials, in consultation with CARB, and work with community-based organizations (CBOs) to conduct public outreach necessary to educate local community members about the benefits of the local projects and about technical training opportunities that may result from such projects.
 - 2) Assist Grant Recipients in implementing technical training components included in their grant and subgrant agreements, and provide CARB assistance in supporting technical training opportunities in and supporting disadvantaged communities.
 - 3) Provide translation services for communities, CARB staff and documents to support the Program.
 - 4) In consultation with CARB, develop a best practices manual for the proper implementation of the Program and the Project.
 - 5) Respond promptly to legislative and public requests regarding the Program in coordination with CARB.
 - 6) Assist CARB in planning public events that showcase the Project, the Program and the Grant Recipient projects.
- xvi. Data Collection and Processing
 - Ensure that data collection, as performed by the Grantee and/or required by each Resource Entity's and each Grant Recipient's agreement, is collected, processed, analyzed, evaluated for compliance, and reported to CARB in a timely manner. This includes but is not limited to:
 - 1) Support Grant Recipients with data collection efforts.
 - 2) Synthesize data across communities.
 - 3) Keep Project data in compliance with all privacy requirements as set forth in this Agreement and applicable laws.
 - 4) Consult with and get CARB approval before the release of any data that has been collected during the course of the Project.
 - 5) Promptly respond to CARB's request for Project data.
 - 6) Promptly notify CARB if there is any request for Project data.
 - 7) Document findings from the Project.
 - 8) Coordinate with other CARB data collectors and processors, as requested by CARB.

xvii. Transition

- 1) Develop and execute a Project Transfer Plan, as part of the Grantee's closeout duties, to ensure, in a form and format acceptable to CARB, a complete and timely transfer of the Project to CARB, or (at CARB's option) to the CARB-selected new Grantee/administrator. The Project Transfer Plan is subject to review, approval and acceptance by CARB, and at CARB's request, Grantee shall promptly amend, modify or update the Project Transfer Plan. The Project Transfer Plan will include, at a minimum, the following tasks:
 - a) Timely transfer ownership and control of all remaining Grant Funds, Project Information Resources, and Project Equipment in accordance with the Transition of Funds, Data, and Property Section, in a form, format and at a time acceptable to CARB.
 - b) Timely provide CARB with a final Status Report that summarizes and evaluates total funds expended (including match, interest earned, and in-kind funds), status of all Grant Recipient projects, quantified benefits to disadvantaged communities, outreach efforts, implementation challenges, recommendations for potential Program and Project improvements, and other items, as requested by CARB.

7. Fiscal Administration

a. **Budget**

i. **Grantee Administrative Fee**

- 1) As an "Administrative Fee", the Grantee may retain up to 33 percent of Grant Funds solely to support implementation and administration of the Project in accordance with the Grant terms and conditions. The dollar amount will depend on the region(s) awarded and the relevant allocated funds. By signing this Grant Agreement, Grantee represents, warrants and certifies, under penalty of perjury, that each and every request for payment is accurate, true and complete, and reflects only those costs that are reimbursable under the express terms or conditions of this Grant Agreement and applicable laws.
- 2) The Administrative Fee shall be used solely to fund Grantee costs for administering and implementing the Project and may include the following Grantee costs:
 - a) Grantee's personnel salaries and employee benefits (e.g. health care, paid sick leave; excluding commissions, bonuses, pensions and 401(k) contributions). Reasonable cost of living increases may be allowed, provided Grantee obtains advance written approval from an authorized representative of CARB.
 - b) Direct operating costs (e.g. supplies and equipment; excluding real property, building and facility improvements, capital expenditures, rent, phones, computers, software or other licenses, furniture, vehicles, aircraft and vessels). If investment in

capital expenditures, software or other licenses, computers, phones, furniture, vehicles, aircraft or vessels are necessary to carry out the Grantee responsibilities for the direct benefit of the Project, then advance written approval from CARB shall be required.

- c) Telecommunications and related utilities (electricity, telephone and internet services).
 - d) Travel expenses and per diem rates set at the rate specified by California Department of Human Resources (CalHR). Travel is limited to inside California, except as otherwise approved in writing by CARB.
 - e) Permits and other jurisdictional approvals required to directly support a CARB-approved project.
 - f) Resource Entity fees (if pre-approved in writing by an authorized representative of CARB).
 - g) Printing, records retention, and mailing.
- 3) **Maintain Documentation of Administrative Fees.** The Grantee must maintain all supporting documentation and accounting of Administrative Fees requested, expended, transferred, held or used, including all of the following:
- a) Personnel records, including but not limited to timesheets and other labor tracking software. Duty statements or other documentation may also be used to verify the number of staff and actual hours, or percent of time staff devoted to Project implementation and administration.
 - b) Resource Entity fees, including but not limited to related contracts and invoices. All such fees must be pre-approved by CARB. Fees expressly identified in the budget as a part of the Grantee Application Package are considered pre-approved by CARB.
 - c) Printing, mailing, and travel expenses, including but not limited to receipts and/or invoices.
 - d) Any reimbursement for necessary travel and per diem shall be at rates not to exceed those amounts paid to the State's represented employees. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from CARB. The State's travel and per diem reimbursement amounts may be found online at <http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>. Reimbursement will be at the State travel and per diem amounts that are current as of the date costs are incurred by the Grantee.
 - e) If any indirect costs are requested, the Grantee must have an official written accounting policy regarding calculation of these costs. The Grantee must maintain documentation for all costs

referenced in the indirect cost calculation formula.

- f) The above documentation, records, and referenced materials must be made available for review during monitoring visits and audits by CARB, or its designee. These records must be retained for a minimum of five years after submittal of the final Program invoice to CARB.
 - g) The above documentation must be provided to CARB upon request, in monthly Status Reports, and in the final Status Report.
 - ii. The maximum amount payable to any Grant Recipients collectively by Grantee and/or CARB shall not exceed the total amount of Grant Funds, minus any Administrative Fees paid to Grantee, including cost of Resource Entities, (Exhibit B–Attachment I: Budget Summary).
 - iii. Under no circumstance will CARB reimburse the Grantee for more than the allowable Administrative Fee. A written amendment pursuant to the General Provisions of this Grant Agreement is required whenever there is a change to the Administrative Fee amount or the Grant Funds.
 - iv. The CARB Executive Officer retains the authority to terminate or reduce the amount of Grant Funds or the Administrative Fee if, by June 1, 2028, seventy-five (75) percent of total Grant Funds have not been expended and accounted for in accordance with the terms and conditions of this Grant Agreement. In the event of such termination, the Term and Termination Section of this Grant Agreement shall apply.
 - v. Where the total disbursed amount of the Administrative Fee is less than the allowable amount, CARB, in its sole discretion, may re-allocate the remaining amount to other Project uses within the Project Schedule and Budget, which may only be accomplished through a written amendment to the Grant Agreement.
 - vi. Line-item shifts in the Budget Summary (Exhibit B) totaling more than ten percent (10%) of the total Grant Funds over the life of the Grant, or that increase or decrease the total Grant Funds, require a formal Amendment to the Grant. Line-item shifts totaling up to and including ten percent (10%) of the total Grant Funds over the life of the Grant may be made with prior written approval from CARB. Line-item shifts may be proposed by either the State or the Grantee. If the Grant is formally amended, all line-item shifts must be included in the Amendment.
- b. **Project Funding**
 - i. **Grant Disbursement Form (Form MSCD/ISB-90)**
 - 1) Requests for payment shall be made with the Grant Disbursement Request Form (Form MSCD/ISB-90) and conform to the instructions identified in the Fiscal Administration Section. Disbursements requesting funds from multiple funding sources shall be submitted individually by funding source.

Grant payments shall be made only for reasonable costs incurred by

the Grantee and only when the Grantee has submitted to CARB a Grant Disbursement Request Form (Form MSCD/ISB-90), a Status Report, demonstration of completion of milestones stipulated in Exhibit B, Attachment II, demonstration that the requirements of this section, Fiscal Administration, have been satisfied, and any other associated deliverables (if applicable). CARB will have the sole discretion to accelerate the allowable timeline for disbursement of Administrative Fees identified in Exhibit B, Attachment II (with the exception of the final disbursement of Administrative Fees), necessary to assure the goals of the Program are met.

- 2) The Grantee shall initially submit an unsigned Grant Disbursement Request to the CARB Project Liaison to complete a Grant Disbursement Request package pre-review.
 - 3) The Grantee shall submit the Grant Disbursement Requests to CARB's Accounting Section at grants@arb.ca.gov, with a CC to the CARB project liaison. The Grantee must submit Grant Disbursement Requests electronically, based on CARB's electronic submission guidance in effect at the time of the request. The Grantee must make all requests for payment by submitting the Grant Disbursement Request Form and all required documentation. Grant disbursement requests must be submitted by the Grantee to CARB no later than May 1 of each CARB fiscal year to ensure adequate time for processing prior to the end of that fiscal year. Grant disbursement requests received after May 1 will be processed in the next fiscal year. The funds specified in this Grant Agreement must be disbursed by June 30, 2029.
 - 4) Grant payments are, in each instance, subject to CARB's advance review and approval, including review and approval of Status Reports and any accompanying deliverables. A payment will not be made if the CARB Project Liaison determines that a milestone has not been accomplished or documented, that a deliverable meeting specification has not been provided, that claimed expenses have not been documented or accomplished or are not valid per the budget or are not reasonable, or that the Grantee has not met other terms or conditions of the Grant.
 - 5) The Chief of the Research Division or designee of CARB may review the CARB Project Liaison's approval or disapproval of a Grant disbursement. No reimbursement will be made for expenses that, in the judgment of the Division Chief of the Research Division, are not reasonable or do not comply with the Grant Agreement.
 - 6) CARB shall disburse funds in accordance with the California Prompt Payment Act, Government Code, Section 927, et seq.
- ii. **Supporting Documentation.**
- 1) For reimbursement, the requesting entity must submit:

- a) Valid, true and correct invoices justifying the amount requested. Invoices must reflect only actual costs incurred by the entity requesting reimbursement.
- b) All documentation demonstrating cost of work completed in the following categories: 1) labor expenses (including total staff time and labor costs); 2) external Resource Entity fees for completed work (where applicable); 3) printing, mailing, travel, and other outreach expenses; and 4) indirect costs.
- c) Any additional documentation requested by CARB.

iii. **Funding of Grant Recipients and Resource Entities.**

- 1) The Grantee is responsible for making payments to the Grant Recipients and Resource Entities upon verifying completion of milestones in the Grant Recipient or Resource Entity agreements. The Grantee shall support, review, validate and finalize all Grant Recipient Grant Disbursement Forms (Form MSCD/ISB-90) and assist the Grant Recipients with submitting any and all needed backup documentation or reports to CARB. Grantee shall then disburse payments directly to the Grant Recipients. Grantee shall disburse payments directly to Resource Entities, as part of its Administrative Fee detailed in the Budget Section above.

c. **Suspension of Payments**

- i. CARB may issue a suspension order (stop work order) at any time for any reason. The suspension order shall remain in effect until the dispute has been resolved, as confirmed in writing by CARB, or the Grant has been terminated. Grantee will not be reimbursed for any expenditure incurred during the suspension. Upon issuance of the suspension order, Grantee shall stop all work, unless otherwise specified in the suspension order. Failure to comply with the terms of the suspension order is a material breach of this agreement and will subject the Grantee to liquidated damages. Grantee shall resume work only upon receipt of written instructions from CARB.

d. **Grantee Match Funding**

- i. Match funding from the Grantee, if applicable, can only be used in two ways:
 - 1) To reduce the cost to the State to implement the Program and,
 - 2) at CARB's discretion, to support active demonstration and CARB-approved projects.
- ii. The above documentation must be provided to CARB in the Status Reports.

- e. **In-Kind Services.** The Grantee is encouraged to contribute in-kind services to improve the Program's effectiveness. "In-kind services," for purposes of the Program, means payments or contributions made in the form of goods and services, rather than direct monetary contributions. Funds expended on in-kind

services must meet all the requirements described in this Grant and must be documented in the Status Reports to CARB.

f. **Advance Payments**

- i. Consistent with the Legislature's direction to expeditiously disburse grants, CARB in its sole discretion may provide advance payments of Grant Funds (including Administrative Fees) in a timely manner to support Program initiation and implementation.
- ii. Grantee agrees that this Grant Agreement and all advance payment requests will comply with Government Code section [11019.3](#) (as applicable), as well as Health and Safety Code section [39603.1](#), and its implementing regulations in title 17 of the California Code of Regulations (C.C.R.).
- iii. Recognizing that appropriate safeguards are needed to ensure Grant monies are used responsibly, CARB has developed the Grant conditions described below to establish control procedures for advance payments.
- iv. Requirements:
For any advance payment request, all of the following requirements apply and must be met:
 - a) Only CARB shall authorize an advance payment, and all such approvals fall within the sole discretion of CARB.
 - b) CARB shall prioritize advance pay to qualifying recipients and projects serving disadvantaged, low-income, and under-resourced communities, or organizations with modest reserves and potential cashflow problems.
 - c) The advance pay shall not exceed 25 percent of the total grant amount or contract awarded to that qualifying recipient or subrecipient. At CARB's sole and absolute discretion, the advance pay may exceed the 25 percent limit if CARB has determined, in writing, that the project requires a larger advance, and the qualifying recipient provides sufficient justification and documentation for that larger advance.
 - d) CARB shall only authorize advance payments up to the minimum immediate cash requirements necessary to carry out the purpose of the approved activity, program, or project, as solely determined by CARB and subject to CARB's advance written approval of the qualifying recipient's workplan and written justification.
 - e) Grantee shall:
 - 1) Complete, and submit to CARB for review and approval, an Advance Payment Request Form, along with each Grant disbursement that is requesting advance payment. The Advance Payment Request Form shall be provided by CARB to the Grantee after the Grant execution.

- 2) Submit a certification to CARB of compliance with subsections 3) through 13) below, for each Advance Payment Request Form.
- 3) Submit documentation, as required by CARB, to support the need for advance payment, which may include, but is not limited to, invoices, contracts, estimates, payroll records, and financial records.
- 4) Use of the advance payment will be limited to the specified activities set forth in the grant agreement.
- 5) Demonstrate that they have no outstanding financial audit findings related to any of the moneys eligible for advance payment; and, (1) are in good standing with the California Franchise Tax Board and United States Internal Revenue Service, or (2) exempt from taxation as a government entity, or, (3) if the entity is a private, non-profit organization, that they are in good standing as an organization exempt from taxation under Section 501 (c)(3) of the Internal Revenue Code.
- 6) Provide an itemized budget for the eligible costs the advanced payment will fund, indirect or other costs needed to operate, and a spending plan, as defined in C.C.R, title 17, section [91041](#), subd. (k), developed in a form and manner specified by CARB.
- 7) Obtain insurance in an amount commensurate with the assessed risk, if required by CARB and stipulated within the grant agreement or contract.
- 8) Deposit any funds received as an advance payment into a federally insured account of the Grantee that provides the ability to track interest earned and withdrawals. Any accumulated interest shall be deemed to be grant or contract moneys, subject to federal and state laws and regulations, and the Grantee shall report interest earned on the advance payment to CARB. The Grantee's account shall be in the Grantee's name, and not in the name of any of its directors, officers, partners of a partnership entity, or members of a limited liability company.
- 9) Establish procedures to minimize the amount of time that elapses between the transfer of funds and the expenditure of those funds by the Grantee or subrecipient. Further advance payments may be made if Grantee is able to demonstrate that a sufficient amount of previously advanced funds has been expended or that a plan is in place to ensure the expenditure of those funds in a timely manner, as determined by the CARB.

- 10) Report any material changes to the spending plan within 30 days.
- 11) Provide progress reports on the expenditure of advanced funds no less than on a quarterly basis, consistent with all provisions of this section, and as otherwise required by CARB.
- 12) Provide a final progress report to CARB following the expenditure of an advance payment that includes a summary of work completed, proof of expenditure, and other associated information as determined by CARB.
- ~~13)~~ Return to CARB any unused portion of the advance payment, including interest earned on the advance payment, no later than 10 business days prior to the termination, cancellation, or expiration of the Grant Agreement.
- 14) Grantee may provide moneys from an advance payment to Grant Recipients as reimbursement, or as advance payment if each Grant Recipient is within the scope of "Recipient Entity," as defined in Health and Safety Code section 39603.1, subd. (b)(2)(A), and is required by Grantee to comply with state statutes, regulations, requirements, and subdivisions 1) through 13) above.
- 15) Assume all legal and financial risk of the advance payment. If Grantee provides any funding from the advance payment to any Grant Recipient, Grantee shall be liable to CARB for any failures by such Grant Recipient to ensure the Grant Funds are used in accordance with state statutes, regulations, requirements, and the relevant terms and conditions of this Grant Agreement.

g. Financial Records and Accounts

- i. Grantee agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit tracing of all Grant Funds and Administrative Fees to a level of expenditure adequate to establish that such funds have not been used in violation of law or this Grant Agreement. Unless otherwise prohibited by law, Grantee further agrees that it will maintain separate Grant Fund (including Administrative Fee) accounts as required to manage and administer the Project, including the use of generally accepted accounting principles.
- ii. Grantee shall not commingle the Grant Fund and the Administrative Fee account with any other accounts, revenues, grants, donations, or funds. Grantee shall maintain all Grant Funds and Administrative Fees in separate bank accounts designated specifically for the purposes of carrying out the obligations of this Grant Agreement. The bank accounts

must be held in the name of the Grantee (the official entity name, and not a dba), and no other person or entity. Grant Funds and Administrative Fees are not the assets of the Grantee and shall not be used, obligated, or relied upon for any purposes other than those purposes and uses set out in this Grant Agreement. Grant Funds and Administrative Fees shall not be used as collateral for or an obligation to any debt, loan or other borrower commitments of the Grantee, Resources Entities, or Grant Recipients. All Grant Fund and Administrative Fee accounts shall adequately and accurately depict all amounts received and expended.

h. Earned Interest

- i. "Earned interest" means any interest generated from any and all Grant Funds (including Administrative Fees) provided to the Grantee and held in an interest-bearing account.
 - 1) Interest earned by Grantee must be reported to CARB. All interest income must be returned to CARB and/or reinvested in the Program in a manner approved by CARB. Grantee is responsible for reporting to CARB everything that is funded with interest earned on Grant Funds (including Administrative Fees).
 - 2) Grantee must maintain accurate and complete accounting records (e.g. general ledger) that tracks interest earned and expended on Grant Funds (including Administrative Fees), as follows:
 - a) The calculation of interest must be based on an average daily balance or some other reasonable and demonstrable method of allocating the proceeds from the interest-generating account back into the Program.
 - b) The methodology for tracking earned interest must ensure that it is separately identifiable from interest earned on non-Grant Funds.
 - c) The methodology for calculating earned interest must be consistent with how it is calculated for the Grantee's other fiscal programs.
 - d) Earned interest must be fully expended by June 30, 2029.
- ii. Documentation of interest earned on the Grant Funds (including Administrative Fees) must be retained for a minimum of five (5) years after it is generated. Documentation of interest expended on CARB-approved projects must be retained for a minimum of five (5) years after the interest has been expended.
- iii. The above documentation must be provided to CARB in the monthly Status Reports and the final Status Report. CARB may, at its sole discretion, request copies of or review any of the above documentation in advance of or after receipt of any Status Reports or the final Status Report, and Grantee shall fully cooperate and comply with all such requests.

i. **Additional Remedies for Non-Compliance**

- i. Without limiting any of its other remedies, CARB may, for Grantee's noncompliance with any term or condition of this Grant Agreement, withhold future payments, demand and be entitled to repayment of past reimbursements or payments, or suspend or terminate this Grant Agreement. All Project Schedule and other tasks are non-severable, and completion of all of them is material to this Grant Agreement. Thus, without limiting its other remedies, CARB is entitled to repayment of all funds paid to Grantee if the Grantee does not timely complete all Project Schedule and other tasks to the reasonable satisfaction of CARB.
- ii. Grantee understands, acknowledges and agrees that failure to comply in whole or in part with this Grant Agreement or with applicable air quality rules, regulations and laws, is, in each instance, a material breach of the Grant Agreement and such breach will result in undue hardship and damages to the State of California some or all of which is impossible to easily calculate. Grantee understands, acknowledges and agrees that Grantee's said compliance is a precondition to the award and distribution of Grant Funds (including Administrative Fees) and a continuing obligation of Grantee during the Term of the Grant Agreement and for the consecutive three (3) years following expiration, cancellation or termination of the Grant Agreement, whichever occurs later.

1) **Liquidated Damages**

- a) If CARB determines, within its sole and absolute discretion, that Grantee is in breach or has breached this Grant Agreement, then Grantee, immediately upon demand, shall pay CARB, as liquidated damages, the full amount of all Grant Funds previously paid to Grantee to date, including but not limited to all Administrative Fees.
- b) The Parties agree that quantifying the losses arising from Grantee's breach is inherently difficult insofar as breach may cause Grantor irreparable, serious, or substantial harm or damage to taxpayers or to the environment. The Parties further stipulate that the agreed upon amount of liquidated damages is not a penalty, but rather a reasonable measure of damages based upon the Parties' experience and given the nature of the losses that may result from said breach. The Parties hereto have computed, estimated, and agreed upon the sum as an attempt to make a reasonable forecast of probable actual loss because of the difficulty of estimating with exactness the damages which will result.
- c) This provision shall apply even if there is a concurrent noncompliance or violation of air quality rules, regulations, or laws caused by any third party.

8. Documentation Of Expenditure Of State Funds

Per the terms and conditions of this Grant Agreement as set out herein above and below, the Grantee must provide CARB with documentation accounting for the proper expenditure of Grant Funds and use of Administrative Fees. The documentation must be provided upon CARB request, and in Status Reports submitted monthly to CARB and in a final Status Report submitted at the completion of the Project prior to the Grantee receiving the last disbursement of funding.

9. Project Monitoring

a. Meetings

- i. Initial meeting: A meeting will be held between key project personnel and CARB staff before work on the project begins. The purpose of the first meeting will be to discuss the overall plan, details of performing the tasks, the project schedule, and any issues that may need to be resolved.
- ii. Review meetings: Meetings to discuss progress must be held at least quarterly beginning three months after the initial meeting. Additional meetings may be scheduled at the sole discretion of the CARB Project Liaison. Such meetings may be conducted in any manner deemed appropriate by the CARB Project Liaison.
- iii. Site visits: Site visits shall be established by the CARB Project Liaison during the Term of this Grant Agreement.

b. Technical Monitoring

- i. Any changes in the scope or schedule for the Project shall require the prior written approval of the authorized representatives of CARB (e.g. CARB Project Liaison) and will require a formal Grant amendment.
- ii. The Grantee shall notify the CARB Project Liaison, immediately in writing, if any circumstances arise (technical, economic, or otherwise), which might place continued operation or completion of the Project in jeopardy. The Grantee shall also make such notification if there is a change in key project personnel (see Exhibit B, Attachment III).
- iii. In addition to Status Reports (see Section 10, Reporting, of this Grant Agreement), the Grantee shall provide information requested by the CARB Project Liaison that is needed to assess progress in completing tasks and meeting the objectives of the Project.
- iv. Any change in budget allocations, re-definition of deliverables, or extension of the Project Schedule must be requested in writing to the CARB Project Liaison and approved by CARB, in its sole discretion, and will require a formal Grant amendment.

10. Reporting

a. Monthly Status Reports

- i. The Grantee shall submit Status Reports on a quarterly basis. The Status

Reports shall be provided in a format agreed upon between CARB Project Liaison and Grantee and meet the requirements specified herein. CARB may specify an electronic format for Status Reports.

- ii. Grantee acknowledges, understands and agrees that any information contained in any Status Reports or other submissions provided by Grantee, or any of its Resource Entities, may be used by CARB or any of its third party representatives to verify compliance with the provisions of this Grant Agreement. Furthermore, Grantee acknowledges, understands and agrees that Status Reports submitted to CARB must include the following certification signed by a person with authority to make such a certification on behalf of the Grantee:

I certify, under penalty of perjury under the laws of the State of California, that I have examined and am familiar with the information in the enclosed Status Report, including all attachments thereto. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements, representations, conclusions and information are true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false statements, claims or information to the State of California, including the possibility of criminal sanctions.

- iii. Grantee must provide Status Reports to CARB detailing Project activity including the status of Grant Recipient projects, status of funds used by Grant Recipients, current issues with administration and with Grant Recipients. Status Reports shall contain, at a minimum:
 - 1) Current status of each of the Grant Recipient projects that are being administered or overseen by the Grantee, including current milestone(s) being achieved, status of Grant Funds, if any match funding has been used by the Grant Recipient, problems encountered and status of the Grant Recipient project timeline.
 - 2) Status of any outreach efforts being planned or completed since the last report.
 - 3) Status of any administrative tasks required by CARB, such as report templates, translation services, or ADA remediation.
 - 4) Status of data collection for each of the Grant Recipient projects, reports on data collected so far for each Grant Recipient project and plans for future data collection efforts.
 - 5) Status of any Grant Funds (including Administrative Fees) being held by the Grantee, including earned interest.
- iv. The Status Report provides a mechanism for the Grantee to validate the use of funding needed to implement the Program. The Status Report must be submitted quarterly, but may additionally be provided on an as-needed basis to justify additional funding from CARB. The first Status

Report must be submitted one month after this Grant Agreement is fully executed or when first requesting disbursement of funds, whichever is sooner.

- v. Every Grant Disbursement Request Form (Form MSCD/ISB-90) shall be accompanied by a Status Report that documents work toward completion of a milestone specified in Exhibit B, Attachment II.
- vi. If the Project is behind schedule, the Status Reports must contain an explanation of reasons for delay, and how the Grantee plans to resume timely completion of milestones and deliverables in the Project Schedule (Exhibit B, Attachment II).

b. Final Report

- i. The Grantee must submit an ADA-compliant draft Final Report to CARB when the Project is complete or no later than 75 days before the expiration of the Term, whichever occurs sooner.
- ii. The draft Final Report must include, at a minimum:
 - 1) Total fund expenditures documentation (including but not limited to administrative fee, match and in-kind funds);
 - 2) Status of any ongoing technical projects;
 - 3) Summary of all technical projects that have been completed;
 - 4) Outreach and educational efforts;
 - 5) Implementation challenges;
 - 6) Recommendations for potential Program improvements; and,
 - 7) Earned interest.
- iii. The draft Final Report must be submitted to CARB in an appropriate format agreed upon between the CARB Project Liaison and the Grantee. The Final Report must meet the requirements specified in this Grant Agreement. Upon approval of the draft Final Report by CARB Project Liaison, the Grantee shall submit to CARB an original executed (signed) final version of the Final Report (inclusive of all supporting documentation), plus an electronic version of same, no later than 30 days before the expiration of the Term.
- iv. The Final Report must also contain the same signed certification statement set out in the Monthly Status Report section above.

11. Oversight And Accountability

- a. The Grantee shall comply with all oversight responsibilities identified in this Grant Agreement.
- b. CARB or its designee may recoup Grant Funds and Administrative Fees due to misinformation, misrepresentation or fraud. CARB also reserves the right to prohibit any entity from participating in existing or future CARB programs, projects or grants due to non-compliance with Grant Agreement or Program requirements, or due to misinformation, misrepresentation or fraud.
- c. Grantee shall, for each occurrence, document and immediately report to CARB any and all suspected or known substandard work; suspected or actual

Resource Entity or Grant Recipient breach of their related agreements, fraud, misrepresentations or abuse of funds; suspected or known violations of any Grant terms or conditions; and all misrepresentations and fraud carried out by any third parties including but not limited to any of Grantee's Resource Entities or other agents. Grantee shall fully cooperate and work with CARB to investigate, resolve and take appropriate action to enforce the terms and conditions of this Grant Agreement and all related sub-agreements, including appropriately prosecuting or litigating any civil or criminal claims as determined necessary by CARB or its representative.

12. Project Record Maintenance

- a. Grantee shall establish and maintain records of the Project. As further described below, by way of example but not limitation, Project records include Grantee, Resource Entity, and Grant Recipient financial and Program records ("Project Records").
- b. Grantee shall:
 - i. Utilize best practices to store all records in a safe and secure storage facility that maintains confidentiality and provides fire and natural disaster protection. Files shall be retained during the Term of the Grant Agreement plus five years. Upon completion of the required record-retention period, the Grantee must submit all Project records to CARB. Hardcopy or electronic records are suitable. Acceptable forms of electronic media must be approved based on prior written concurrence from CARB.
 - ii. Remediate documents and webpages, as needed, to be ADA-compliant in accordance with the Web Content Accessibility Guidelines 2.0, level AA, or a subsequent version, as provided under this Grant Agreement.
 - iii. Develop a systematic process and schedule to back up Project database(s) each day, at a minimum.
 - iv. Develop a plan for disaster recovery of all relevant software applications, websites, and data.
 - v. Develop and enforce security measures to safeguard Project database(s).
 - vi. Provide data updates to CARB upon request, which could include production of all Project records.
 - vii. Provide periodic data summaries to CARB.
 - viii. Provide quarterly and the annual Status Reports to CARB detailing the status of the Project and all Grant Recipient projects, the anticipated reports to be issued, and any upcoming disbursement requests. Where requested by CARB, Grantee will clarify, supplement, modify, or update its Status Reports at no additional cost to CARB.
 - ix. Under CARB direction, develop templates for use by CARB and Grant Recipients to support such documents as final reports, quarterly reports, status updates, and disbursement tracking.

- x. Where necessary as solely determined by CARB, the Grantee shall support CARB's enforcement efforts, including the recapturing of funds from Grantee, Resource Entity or Grant Recipient, and by providing CARB with any information, documents, data, or other materials needed to investigate or carry out such efforts.
 - xi. Support CARB in efforts to track key information about the distribution of Grant funds to support the development, deployment, and commercialization of advanced technology vehicles, equipment, and infrastructure.
- c. The Grantee shall retain a combined file for the Project containing:
 - i. Original executed copy of the Grant Agreement and exhibits, as well as any amendments to the Grant Agreement, if applicable.
 - ii. CARB approved plans, policies, procedures and manuals.
 - iii. Copies of Grantee's Grant Disbursement Request Forms and supporting documentation.
 - iv. Documentation of earned interest generation and expenditure (see Section 7, Fiscal Administration, for more information).
 - v. Communications related to the Project, by and between CARB, Grantee, Resource Entities, and Grant Recipients.
 - vi. Copies of all deliverables from the Grant Recipients.
 - vii. Copies of any decision that CARB has made in support of Grant Recipient projects, such as minor changes in project scope, changes in timeline, or line-item shifts.
 - viii. Data that has been collected during the implementation of Grant Recipient projects that result from the FY 2025 Program solicitation.
 - ix. Any documents, files or webpages that have been created to support the outreach of Program.
 - x. Presentations, pamphlets, posters, videos, or other electronic media used to support Program.
 - xi. An official file for Program, which shall adequately document all significant actions relative to the project.
 - xii. Records, contracts, subcontracts, statements of work, work product from contractors, subcontractors or consultants of Grantee.
- d. All Project records must be retained for a period of five (5) years after termination or expiration of the Grant Agreement, whichever occurs first. Upon completion of the fifth year of record retention, the Grantee shall submit all remaining Project records to CARB that have not previously been requested or turned over to CARB. Hardcopy or electronic transfer of electronic records are suitable. Acceptable forms of electronic media, including hard drives and flash drives, shall be provided. Other forms of electronic media may be allowed based on prior written concurrence from CARB.
- e. All Project records are subject to audit pursuant to the audit provisions of this Grant Agreement.

13. Acknowledgement of CARB

Grantee agrees to acknowledge the California Air Resources Board (CARB) as a funding source for the Project and all Grant Recipient projects, when such projects are publicized in any news media, websites, brochures, publications, audiovisuals, or other types of promotional material.

Grantee shall adhere to CARB's logo usage requirements, in a manner directed by CARB. CARB logos and any additional required materials shall be provided to the Grantee by CARB staff.

14. CCI

Where applicable, Grantee agrees to also acknowledge the California Climate Investments (CCI) program as a funding source, and adhere to the *CCI Funding Guidelines* as outlined in the *California Climate Investments Messaging and Communications Guide* (<http://www.caclimateinvestments.ca.gov/logo-graphics-request/>). Below are specific requirements for acknowledgement.

Grantee agrees to include the CCI funding boilerplate and logo (see Figure 1) on all outreach and public facing materials whenever it publicizes (in any news media, websites, brochures, publications, audiovisuals, or other types of promotional material) projects funded in whole or in part by this Agreement. Grantee shall include this requirement in all Grant Recipient agreements, as appropriate. The acknowledgement must read as follows: "CalSMP Community Engagement Project is part of California Climate Investments, a statewide initiative that puts billions of Cap-and-Trade dollars to work reducing greenhouse gas emissions, strengthening the economy, and improving public health and the environment – particularly in disadvantaged communities." And whenever applicable, the Spanish translation acknowledgement: CalSMP Proyecto de Participación Comunitaria forma parte de las Inversiones del Clima de California, un iniciativa estatal que destina miles de millones de dólares de Cap-and-Trade para la reducción de gases de efecto invernadero, fortalecimiento de la economía y mejoramiento de la salud pública y el medio ambiente – especialmente en comunidades en desventaja.

The CCI logo and name serves to bring under a single brand the many investments whose funding comes from the GGRF. The logo represents a consolidated and coordinated initiative by the State to address climate change by reducing greenhouse gases, while also investing in disadvantaged communities and achieving many other co-benefits.

Figure 1: CCI logo



15. Data and Intellectual Property Ownership

“Project Information Resources” means data, database, information, personally identifiable information (PII), documentation, materials, computer software, website, and any other intellectual property (IP) developed, substantially modified, licensed, or acquired by the Grantee, Resource Entities, or Grant Recipients, with any Grant Funds in performance of this Grant Agreement. Project Information Resources may be in hard copy form, such as computer printouts, or may be retained in machine form, such as computer memory or storage media.

Grantee shall comply with the following terms, and ensure that all agreements with their Resource Entities and Grant Recipients also include the following terms, as applicable:

- a. Ownership.
Project Information Resources developed or acquired by Grantee or a Resource Entity shall be the exclusive property of CARB. Project Information Resources licensed by Grantee or a Resource Entity shall list CARB as a co-licensee.

Project Information Resources developed, licensed, or acquired by a Grant Recipient shall remain the exclusive property of that entity.

- b. Copyleft License.
Computer software developed or substantially modified using Grant Funds must include a copyleft license comparable to [GNU General Public License version 3.0 or later \(GPLv3\)](#).

Other copyrightable Project Information Resources that are developed or substantially modified using Grant Funds and shared with third parties must also include a copyleft license comparable to Creative Commons Attribution Share Alike license, version 4.0 or later ([Legal Code - Attribution-ShareAlike 4.0 International - Creative Commons](#)).

Exceptions to the copyleft license requirement of this subsection include where:

- i. The sharing of the material is restricted by law or regulation;
 - ii. The sharing of the material would create an identifiable risk to the detriment of national security, confidentiality of State information, or individual privacy;
 - iii. The sharing of the material would create an identifiable risk to the stability, security, or integrity of the systems or personnel of the State, or of the material's owner; or,
 - iv. The sharing of the material would create an identifiable risk to the State's, or the material owner's, mission, programs, or operations.
- c. Intellectual Property Law.
Appropriate systems and controls must be in place to ensure that Grant Funds will not be used in the performance of this Grant Agreement for the acquisition, operation, development, or maintenance of computer software or other intellectual property in violation of copyright or any other State, federal, or international intellectual property laws; and,
- d. CARB License.
CARB grants to Grantee and Resource Entities, as needed, a no-cost, royalty-free, non-exclusive, non-transferable, revocable license to make, use, reproduce, share, publish, translate, modify, make collective works of, and make derivative works of the Project Information Resources, subject to applicable law on privacy and confidentiality, to the extent CARB has the right to do so.

Grantee shall require Grant Recipients to grant CARB a no-cost, royalty-free, non-exclusive, transferable, irrevocable, worldwide, perpetual license to make, use, reproduce, share, publish, translate, modify, make collective works of, and make derivative works of the Project Information Resources, subject to applicable law on privacy and confidentiality, to the extent Grant Recipient has the right to do so.

16. Confidentiality And Data Security

Except as required by applicable law, or as otherwise expressly authorized by this Grant Agreement, the Grantee shall not disclose to any third party any record, data, or information which CARB has designated as confidential, in perpetuity. It is expressly understood and agreed that information the Grantee collects, generates, or acquires in performing its obligations under this Grant may be deemed confidential by CARB, and shall not be released without prior CARB approval in writing. Therefore:

- i. Unauthorized use of Project Information Resources by Grantee, Resource Entities, Grant Recipients, or other third parties is prohibited. For the purposes of this requirement, the phrase “unauthorized use” means the data mining or processing of data which has been stored or transmitted by Grantee, Resource Entities, or Grant Recipients, for unrelated or commercial purposes, advertising or advertising-related purposes, or for any purpose other than security or service delivery analysis that is not explicitly authorized by Grantor.
- ii. Project information or data, including but not limited to personally identifiable information (“PII”) and all records and supporting documentation that personally identifies or describes an individual or individuals, is confidential in accordance with California Civil Code sections 1798, et seq. and other relevant State or federal statutes and regulations. In performance of any of the terms or conditions of this Grant, the Grantee shall safeguard all such information, records, applications, PII and data which comes into its possession or control in perpetuity, and shall not release or publish any such information, records, data, or application records without first obtaining in each instance the advance written approval of an authorized representative of CARB.
- iii. Grantee must ensure that the Grantee’s employees, officers, directors, members (of a limited liability company (LLC) form of entity), partners (of a partnership form of entity), agents, representatives, assigns, Resource Entities, and Grant Recipients are informed of the confidential nature of any shared information or data; and, ensure by written agreement that such individuals and entities are prohibited from copying, revealing, or utilizing such information or data (or any parts thereof) for any purpose other than in compliance with applicable laws and in fulfillment of this Grant, and are precluded from taking any action otherwise prohibited under any provision of this Grant or applicable laws.
- iv. All of the persons and entities listed in the subsection above must adhere to all CARB confidentiality, disclosure, and privacy policies.
- v. Grantee must sign all non-disclosure and confidentiality agreements provided by CARB, and shall require their Resource Entities and Grant Recipients to do the same when requested by CARB.
- vi. Grantee must report any data breach, loss, or theft of Project Information Resources or Project Equipment to CARB immediately, and to any local, State, or federal officials as applicable.
- vii. Grantee agrees to notify CARB immediately of any security incident involving suspected or actual release or breach of any information system, servers, data, or any other information developed or collected pursuant to this Grant. Grantee agrees that CARB has the right to participate in the investigation of a security incident involving such suspected or actual release or breach, or to conduct its own

independent investigation, and that the Grantee shall cooperate fully in such investigations.

- viii. Grantee agrees that it shall be responsible for all costs incurred by it and by CARB due to a security incident resulting from any act or omission of Grantee or any of their Resource Entities or Grant Recipients, including any acts or omissions resulting in an unauthorized disclosure, release, access, review, or destruction of data or information; or loss, theft or misuse of information or data developed or gathered pursuant to this Grant. If applicable law requires, or if CARB determines, that notice to the individuals whose data has been lost or breached is needed, then the Grantee shall provide all such notification and will bear any and all costs associated with the notice or any mitigation selected by CARB. These costs include, but are not limited to, staff time, material costs, postage, media announcements, credit monitoring for impacted individuals, and other identifiable costs associated with the breach or loss of data.
- ix. If Grantee believes disclosure of a confidential record or information may be required by law, such as the California Public Records Act (Gov. Code, § 7920.000, et seq.), court order, or legal process (such as a subpoena), Grantee shall first give CARB at least fourteen (14) days advance written notice prior to any planned disclosure so that CARB can seek, solely at CARB's discretion, an order preventing disclosure from a court of competent jurisdiction. Grantee agrees that it shall immediately notify and work cooperatively with CARB to respond timely and correctly to any and all public records requests. Grantee agrees that it will not challenge or authorize or endorse any challenge to any action or request by CARB to obtain a protective order or court order to prevent the release of any information.
- x. Grantee assumes all responsibility and liability for the security and confidentiality of PII, sensitive and confidential information and data under its jurisdiction or control.
- xi. Grantee certifies, represents, and warrants that:
 - 1) Its data and information security standards, tools, technologies and procedures are sufficient to protect confidential, sensitive and PII data and information;
 - 2) Grantee is in compliance and shall remain in compliance at all times during the Grant Term with the following requirements and obligations:
 - a) California Information Practices Act (Civil Code sections 1798, et seq.);
 - b) California State Administrative Manual 5350.1 and California Statewide Information Management Manual 5305-A pertaining to encryption of confidential, sensitive and/or PII information or data;

- c) Current National Institute of Standards and Technology (NIST) special publications 800-171, Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations. Third party audit results and Grantee's plan to correct any negative findings shall be made available to CARB upon request;
- d) Undergo an annual Statement on Standards for Attestation Engagements (SSAE) No. 16 Service Organization Control (SOC) 2 Type II audit. Third party audit results and Grantee's plan to correct any negative findings and implementation progress reports shall be made available to CARB upon request; and
- e) Privacy provisions of the Federal Privacy Act of 1974; Compliance with industry standards and guidelines applicable to the work performed under the Grant. Relevant security provisions may include but are not limited to: Health Insurance Portability and Accountability Act of 1996, IRS 1075, Health Information Technology for Economic and Clinical (HITECH) Act, Criminal Justice Information Services (CJIS) Security Policy, Social Security Administration (SSA) Electronic Information Exchange Security Requirements, and the Payment Card Industry (PCI) Data Security Standard (DSS) as well as their associated Cloud Computing Guidelines.

17. Insurance Requirements

The Grantee, and each Resource Entity or Grant Recipient, must comply with all requirements outlined in the (a) General Insurance Provisions section and (b) Grant Insurance Requirements section below. No payments of Grant Funds (including Administrative Fees) will be made under the Grant until and unless the Grantee fully complies with all insurance requirements.

This provision does not apply to voucher recipients or similar third parties who receive Grant Funds for the purchase or lease of vehicles or equipment for their sole and exclusive ownership and personal use, and not for performance under this Grant Agreement where such vehicle or equipment will be used by the Grantee, Resource Entities, Grant Recipients, or the general public. Such individuals must obtain any and all insurance as required by the law and must show proof of such insurance upon the request of CARB or Grantee.

a. General Insurance Provisions

i. Coverage Term

Coverage needs to be in force for the complete Term of the Grant. If insurance is set to expire during the Term of the Grant, a new certificate must be received by the State at least ten days prior to the expiration of

this insurance. Any new insurance must comply with the original Grant terms.

ii. **Policy Cancellation or Termination & Notice of Non-Renewal**

The Grantee is responsible for notifying the State within five business days of any cancellation, non-renewal, or material change that affects required insurance coverage. New certificates of insurance are subject to the approval of CARB, and the Grantee agrees no work or services will be performed prior to obtaining such approval. In the event that the Grantee fails to keep in effect at all times the specified insurance coverage, the State may, in addition to any other remedies it may have, terminate the Grant upon the occurrence of such event, subject to the provisions of the Grant.

iii. **Premiums, Assessments, and Deductibles**

The Grantee is responsible for any premiums, policy assessments, deductibles, or self-insured retentions contained within their insurance program.

iv. **Primary Clause**

Any required insurance contained in the Grant shall be primary, and not excess or contributory, to any other insurance carried by the State.

v. **Insurance Carrier Required Rating**

All insurance companies must carry an AM Best rating of at least "A-" with a financial category rating of no lower than VII. If the Grantee is self-insured for a portion or all of its insurance, review of financial information including a letter of credit may be required.

vi. **Endorsements**

For any work or activity performed or carried out in whole or in part using Grant Funds or to carry out any term or condition of this Grant Agreement, each insurance policy must name in an endorsement, using the following language exactly as presented here, "the State of California, the California Air Resources Board, and each of its and their officers, agents, and employees as additional insureds." A blanket additional insured endorsement is not acceptable. A Waiver of Subrogation or Right to Recover endorsement in favor of the State of California is required and must also be attached to the certificate.

Any required endorsements requested by the State or required in this Grant Agreement must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.

vii. **Inadequate Insurance**

Inadequate or lack of insurance does not negate the Grantee's obligations under the Grant.

viii. **Satisfying a Self-Insured Retention (SIR)**

All policies with a SIR shall be endorsed to allow the State to satisfy the SIR or deductible at the State's discretion. The State may fund the SIR or deductible by deducting that amount from any Grant Funds otherwise due to the Grantee. Policies shall not contain any provision that limits the satisfaction of the SIR or deductible to the Named Insured.

Alternatively, the Grantee can obtain from its insurer, and produce to CARB, an express elimination of the requirement to pay the SIR or Deductible for "the State of California, the California Air Resources Board, and each of its and their officers, agents, and employees as additional insureds."

ix. **Available Coverages/Limits**

All coverage and limits available to the Grantee shall also be available and applicable to the State.

x. **Resource Entities and Grant Recipients**

In the case of the Grantee's utilization of Resource Entities to complete any part of the Grant scope of work, the Grantee shall include all Resource Entities as insureds under the Grantee's insurance or supply evidence of the Resource Entity's insurance to the CARB equal to or greater than the policies, coverages, and limits required of the Grantee. Grantee shall also ensure that Grant Recipients carry the same or greater coverage for the work or services performed.

b. **Grant Insurance Requirements**

The Grantee, each Resource Entity, and each Grant Recipient, shall display evidence of the following on a certificate of insurance which includes all the required endorsements, including but not limited to additional insured endorsements. Failure to provide the certificates upon request will result in the termination of the Grant. The following coverages must be evidenced on the certificates of insurance.

i. **Commercial General Liability**

Each entity shall maintain commercial general liability (CGL) on an occurrence form with limits not less than \$2,000,000 per occurrence for bodily injury and property damage liability combined with a \$4,000,000 annual policy aggregate. A "per project aggregate" endorsement is required. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal and advertising injury, and liability assumed under an insured contract or grant. This insurance shall apply separately to each insured against whom a claim is made or a suit is brought subject to the entity's limit of liability.

ii. **Automobile Liability**

If the entity will be using vehicles to complete the Project or driving a vehicle onto State property, automobile liability insurance or business

automobile liability insurance is required. For vehicles used in a CARB-funded shared mobility services that are not subject to Civil Code section 2505 (e.g., carshare vehicles, shuttles, and buses), the entity shall maintain business motor vehicle liability with limits of not less than a \$5,000,000 per accident. For any other vehicle that is not used in a CARB-funded shared mobility service (e.g., vehicles used for project planning, rebalancing, maintenance, marketing, outreach, or driving to events), the entity shall maintain business motor vehicle liability with limits of not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired, and non-owned motor vehicles.

Grantee certifies that the Grantee and any of their Resource Entities or Grant Recipients possess valid automobile coverage in accordance with California Vehicle Code Sections 16450 to 16457, inclusive. At the request of CARB, each entity must show proof of automobile liability. Failure to provide proof upon request will result in the termination of the Grant.

iii. **Workers Compensation and Employers Liability**

The entity shall maintain statutory worker's compensation, with statutory limits, and employer's liability coverage for all its employees who will be engaged in the performance of the Grant. In addition, employer's liability limits of \$1,000,000 per claim are required.

The entity shall notify CARB in writing if they have no employees, or are otherwise exempt from worker's compensation, and therefore also exempt from this requirement for employer's liability coverage. If the entity retains employees or otherwise loses its exemption from worker's compensation at any point during the term of this Grant Agreement, it shall immediately notify CARB and comply with the worker's compensation and employer's liability insurance requirements stated herein.

iv. **Cyber Liability**

The entity shall maintain Cyber Liability coverage, with limits not less than \$1,000,000 per occurrence or claim, and \$5,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as undertaken by the Grantee in the Grant Agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, and infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or

destruction of electronic information, release of private information, alteration of electronic information, extortion, and network security. The policy shall provide coverage for breach response costs, regulatory fines, and penalties, as well as credit monitoring expenses. The Policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the state of California in the care, custody, or control of the insured.

v. **Crime Insurance**

Crime insurance requirements are negotiable at CARB's sole discretion. At a minimum, the maximum amount of funding that the Grantee or Grant Recipient will have on hand at any time must be covered. Coverage shall include but not be limited to employee dishonesty, theft, forgery, or alteration, and inside/outside money and securities coverages including first- and third-party theft for state-owned or leased property in the care, custody, and/or control of the Grantee. The policy shall include as loss payee, the State of California, and the California Air Resources Board.

vi. **Self-Insurance (If applicable)**

If a Grantee has elected to be self-insured, they must receive approval of their self-insurance program from CARB. To obtain CARB approval, the Grantee must submit the following documents to CARB:

- 1) Workers' Compensation - The Grantee will provide a copy of its Certificate of Consent to Self-Insure from the Department of Industrial Relations.
- 2) All Other - The Grantee's Risk Manager, or comparable position holder, shall provide a written description of the plan including what is covered, what is not covered, identify the financial limits of the plan and identify the source of funds for financing the plan.

Grantee must also provide:

- 1) Their most recent audited annual financial statement including all accounting letters. The report must show the Grantee's owner's equity of at least \$5,000,000 and annual profit of at least \$500,000.
- 2) A signed written statement from the Grantee's certified public accountant (CPA) confirming the annual net profit for each of the prior four (4) years has been at least \$500,000.

18. General Provisions (Alphabetical)

a. **Alternative Enforcement.**

The remedies set out in this Grant Agreement are contractual in nature. Nothing stated in this Grant Agreement in any way limits, prevents or

precludes the State of California from taking any enforcement action, exercising any police power, or prosecuting any violation of law.

b. **Amendment.**

This Grant Agreement may only be amended by a written amendment to this Grant Agreement which has been fully executed by authorized representatives of both Parties. Unless otherwise approved by CARB, requests by Grantee for amendment of this Grant Agreement must be made at least sixty (60) days prior to the Grant term end date.

c. **Americans with Disabilities Act (ADA) Language.**

Grantee must ensure that all products and services submitted to, uploaded, or otherwise provided to or funded by CARB or made available to the public by the Grantee, their Resource Entities or Grant Recipients, including but not limited to data, software, plans, drawings, specifications, reports, operating manuals, notes and other written or graphic work prepared in the course of performance of this Grant Agreement, including Status Reports (collectively, the "Work"), comply with Web Content Accessibility Guidelines 2.0, level AA, and any subsequent versions, 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) (collectively, the "Accessibility Requirements"). For any Work provided to CARB or the public in PDF format, Grantee, along with their Grant Recipients, shall also provide an electronic version in the original electronic format (for example, Microsoft Word or Adobe InDesign). CARB may request from the Grantee documentation of compliance with the requirements described above and may perform testing to verify compliance. Grantee agrees to respond to and resolve any complaint brought to its attention regarding accessibility of materials provided under this Grant Agreement.

- i. Grantee must bring into compliance, at no cost to CARB, any Work by Grantee, Resource Entities, or Grant Recipients, not meeting the Accessibility Requirements. If Grantee fails to bring the Work into compliance with the Accessibility Requirements within five (5) business days of issuance of written notice from CARB, or within the time frame specified by CARB in its written notice, then Grantee will be responsible for all costs incurred by CARB in bringing the Work into compliance with the Accessibility Requirements. Grantee agrees to respond to and resolve any complaint brought to its attention regarding accessibility of deliverables provided under this Grant Agreement for a period of one year following delivery of the final deliverable under this Grant Agreement.
- ii. Deviations from the Accessibility Requirements are permitted only by

advance written consent by CARB in each instance.

d. **Assignment.**

This Grant Agreement is not assignable, in whole or in part, by the Grantee without the advance written consent of CARB in the form of a formal written amendment signed by authorized representatives of both Parties.

e. **Assurances.**

CARB reserves the right, but not the obligation, to seek further written assurances from the Grantee, Resource Entities, or Grant Recipients, that the work performed under this Grant Agreement will be performed consistent with the terms and conditions of this Grant Agreement.

f. **Audit.**

Grantee agrees that CARB, the California Department of General Services, California Department of Finance, the California State Auditor (formerly known as the California Bureau of State Audits), and any of their respective designated representatives shall have the right to review and copy any records and supporting documentation pertaining to the performance of this Grant Agreement and all Grant Funds received or expended. Grantee agrees to maintain such records for a possible audit for a minimum of five (5) years from the date of termination, cancellation, or expiration of this Grant Agreement or for 5 years after a funded incentive activity has concluded, whichever is later. The Parties may stipulate to a longer records retention period. Grantee agrees to produce all such records to CARB upon request, allow CARB and other state designated representatives (including auditors) access to such records during normal business hours, and to allow interviews of Grantee and any and all of Grantee's Resource Entities and Grant Recipients who might reasonably have information related to such records. Furthermore, Grantee agrees to include in all agreements, contracts and subcontracts, language identical to or similar to this paragraph to ensure CARB has the ability and right to audit records and conduct interviews of any and all Grantee's employees, officers, directors, members (of a limited liability company (LLC) form of entity), partners (of a partnership form of entity), agents, representatives, assigns, Resource Entities, and Grant Recipients in relation to performance or use of the Grant Funds under this Grant Agreement.

g. **Authority.**

Each person executing this Grant Agreement on behalf of a Party represents that he or she is duly authorized to execute and deliver this Grant Agreement on that Party's behalf.

h. **Availability of funds.**

Grantee acknowledges, agrees and understands that Grantor's obligations, including but not limited to payment or reimbursement, under this Grant Agreement are contingent upon the availability of designated or legislatively appropriated funds. In the event funds are not available, Grantor shall have no obligation and no liability to pay any funds whatsoever to the Grantee or to furnish any other consideration under this Grant Agreement or for any other

reason. Grantee acknowledges it has no reasonable reliance interest in receiving any funds under this Grant Agreement in the event such funds are not designated or legislatively appropriated.

i. **Compliance with Law.**

The Grantee agrees that it will, at all times, comply with, and require their Resource Entities and Grant Recipients to comply with, all applicable federal, state, and local laws, rules, guidelines, regulations, and requirements during the Term. This requirement includes, but is not limited to:

- i. Obtaining any permits or approvals necessary to undertake the activities funded by the Grant Funds, and complying with all environmental review requirements associated with such activities; and,
- ii. Compliance with federal law which prohibits employers from hiring, recruiting, or referring people who do not have the legal right to work in this country; or, hiring contractors who hire people who do not have the legal right to work in this country. (8 U.S.C. § 1324a.).

A failure of the Grantee to comply fully at all times with this section is a breach of this Grant Agreement, and is cause for immediate termination of the Agreement without advance notice.

j. **Conflict of Interest.**

Grantee certifies that it is, and shall remain, in compliance with all applicable State and federal conflict of interest laws during the entire Term of this Grant Agreement. Grantee will have no interest, and shall not acquire any interest, direct or indirect, which will conflict with its ability to impartially perform under, or complete the tasks described in, this Grant. Grantee must disclose any direct or indirect financial interest or situation which may pose an actual, apparent, or potential conflict of interest with its duties throughout the Grant Term. CARB may consider the nature and extent of any actual, apparent, or potential conflict of interest in Grantee's ability to perform the Grant. Grantee must immediately advise CARB in writing of any potential new conflicts of interest throughout the Grant Term.

Government Code Section 87104 prohibits public officials of CARB, which includes any member, officer, employee, or consultant of a CARB advisory body, from making a formal or informal appearance before, or oral or written communication to CARB for the purpose of influencing a decision by CARB on a grant or other entitlement for use, such as a contract, loan, license, or permit. Prohibited communications include grant applications, letters, emails, phone calls, meetings, or any other form of oral or written communication within or outside of a public committee meeting with CARB, or CARB staff, for the purpose of influencing a CARB decision on an application for funding submitted to CARB. A knowing or willful violation of this section may result in a member being guilty of a misdemeanor and fined up to the greater of \$10,000 or three times the amount of an amount unlawfully received. If a court determines a violation occurred and that the official action might not otherwise

have been taken or approved if not for the prohibited communication, the grant may be voided. (See Gov. Code §§ 91000, 91003.)

- i. For this reason, CARB officials, including but not limited to advisory body members, may not be a signatory or administrator on a grant application, or on any resulting grant agreement. Such individuals should not be listed on the grant application except as necessary to show their role in the organization.
 - ii. An advisory body member's organization may continue to be eligible for a grant. However, the grant must not follow any communications for purposes of influence by the advisory body member on CARB's decision on that grant agreement. That organization would need to identify a different member of the organization to sign or be the administrator for any applications and awarded grants.
 - iii. Applications from organizations affiliated with CARB Board members may require additional review and CARB Board approval. This process may delay grant execution and/or distribution of funds.
 - k. **Construction.**
Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Agreement.
 - l. **Cumulative Remedies.**
The rights and remedies of the Parties to this Grant Agreement, whether pursuant to this Grant Agreement or in accordance with law, shall be construed as cumulative, and the exercise of any single right or remedy shall constitute neither a bar to the exercise of nor the waiver of any other available right or remedy.
 - m. **Days.**
"Day" or "Days" means calendar days, unless expressly noted otherwise.
 - n. **Disadvantaged Communities.**
The Grantee, for the purposes of this Program, the Project and all Grant Recipient projects, will designate disadvantaged communities, as identified by CalEnviroScreen 4.0. The identified disadvantaged community census tracts are available at: <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>.
 - o. **Disputes.**
The Grantee shall continue with the responsibilities under this Grant Agreement during any dispute between Grantee and CARB, unless otherwise directed by CARB. Grantee staff or management will work in good faith with CARB staff and management to resolve any disagreements or conflicts arising from implementation of this Grant Agreement. However, any disagreements that cannot be resolved at the management level within 30 days of when the issue is first raised with CARB staff shall be subject to final resolution by the CARB Executive Officer, or the Executive Officer's designated representative, in the Executive Officer's sole discretion. Nothing contained in this paragraph

is intended to limit any of the rights or remedies that the Parties may have under law.

r. **Entire Agreement.**

This Grant Agreement constitutes the entire agreement and understanding between the Parties and supersedes and replaces any and all prior negotiations and agreements of any kind, whether written or oral, between the Parties concerning this Grant Agreement.

s. **Equipment/Vehicle Ownership.**

Project Equipment means any products, objects, vehicles, computers, hardware, vessels, engines, machinery, apparatus, implements or tools acquired by Grantee or any of their Resource Entities using Grant Funds. CARB, within its discretion, may elect to determine the normal useful life of such Project Equipment. Project Equipment is defined as having a useful life of at least one year from the date of purchase, having an acquisition unit cost of at least \$5,000, and purchased with CARB funds. All such Project Equipment is, upon acquisition, the exclusive property of CARB, and shall primarily, but need not be exclusively, be used for the purposes of carrying out the obligations of this Grant Agreement during the Term. Upon request by CARB during the Term, in the event of cancellation or termination for cause, the Project Equipment, and title thereto, shall be delivered to CARB.

t. **Environmental Justice.**

In the performance of this Grant Agreement, the Grantee shall conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, genders, cultures, and income levels, including minority populations and low-income populations, of the State of California. Equal access includes, but is not limited to, ensuring language barriers are fully addressed to the satisfaction of CARB and as otherwise required by local, state and federal law.

u. **Executive Order N-6-22 - Russia Sanctions.**

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 ("EO") regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state of California ("State") agencies to terminate contracts and grants with, and to refrain from entering any new contracts and grants with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Contractor or Grantee is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. The State shall provide Contractor or Grantee advance written notice of such termination, allowing Contractor or Grantee at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State.

v. **Force Majeure.**

Neither CARB nor the Grantee are liable for nor will be deemed to be in default for any delay or failure in performance under this Grant Agreement or interruption of services resulting, directly or indirectly, from acts of God, civil unrest, war, fire, flood, earthquakes, or other physical natural disasters. If either Party intends to invoke this clause to excuse or delay performance, the Party invoking the clause must provide written notice to the other Party immediately of the intent to invoke the clause and the reasons why the force majeure event is preventing that Party from, or delaying that Party in, performing its obligations under this Grant Agreement. CARB may terminate this Grant Agreement immediately, in writing and without penalty, in the event Grantee invokes this clause, in which case Grantee shall immediately return all remaining Grant Funds to CARB or a CARB designee, cease all expenditure of Grant Funds, and turn over all documents, records, deliverables, intellectual property and other information in relation to this Grant Agreement.

- i. If the Grant Agreement is not terminated by CARB pursuant to this clause, upon completion of the force majeure event, the Grantee must immediately re-commence the performance of its obligations under this Grant Agreement. The Grantee must also provide to CARB a written proposal to revise the Project Schedule, inclusive of anticipated major milestones and timeframes for expending remaining Grant Funds, while minimizing the effects of the delay caused by the force majeure event.
 - ii. An event of force majeure does not relieve a Party from any of its obligations which arose before the occurrence of the force majeure event nor is any Party relieved from those obligations which survive termination or cancellation of the Grant Agreement.
- w. **Funding Prohibitions for Sectarian Purposes and Non-Public Schools.**
Grantee, Resource Entities, and Grant Recipients may use or authorize the use of CARB-provided funds only in a manner that is consistent with applicable laws, including California Constitution, article XVI, section 5, article IX, section 8, and federal law. CARB reserves the right to obtain additional information from Grantee and others to determine compliance with California Constitution, article XVI, section 5 and article IX, section 8. Failure to provide any requested information may result in denial of future Administrative Fees or Grant Funds or termination of this Grant Agreement or any other agreements.
- x. **GenAI Technology Use & Reporting.**
 - i. Definitions:
 - 1) "Generative AI (GenAI)" means "an artificial intelligence system that can generate derived synthetic content, including text, images, video, and audio that emulates the structure and characteristics of the system's training data." (Gov. Code § [11549.64](#).)
 - 2) "Deliverable" means "software, services, goods, works of authorship, and any other items (e.g., reports, documentation) to be delivered pursuant to this Grant Agreement, including any incidental items."
 - ii. Grantee must notify CARB in writing, within 15 days or a period agreed

to by CARB, and require their Resource Entities and Grant Recipients to notify CARB in writing in the same timeframe, if they:

- (1) Intend to provide GenAI as a deliverable to CARB; or,
- (2) Intend to utilize GenAI, including GenAI from third parties, to complete all or a portion of any deliverable that materially impacts:
 - (i) Functionality of a State system;
 - (ii) Risk to the State; or,
 - (iii) Performance under this Grant Agreement.

For avoidance of doubt, the term “materially impacts” shall have the meaning set forth in State Administrative Manual (SAM) § 4986.2 Definitions for GenAI.

- iii. Notification shall be provided to CARB’s Project Liaison identified in this Grant Agreement.
- iii. At the direction of CARB, Grantee shall discontinue, and require their Resource Entities and Grant Recipients to discontinue, the provision to CARB of any previously unreported GenAI that results in a material impact to the functionality of a State system, risk to the State, or Grant performance, as determined by CARB.
- iv. If the use of previously undisclosed GenAI is approved by CARB, then upon request by CARB, Grantee will amend the Grant Agreement accordingly, and their related agreements with Resource Entities and Grant Recipients, which may include incorporating the [GenAI Special Provisions](#) into these agreements, at no additional cost to the State.
- v. CARB, at its sole discretion, may consider Grantee’s failure to disclose or discontinue the provision or use of GenAI as described above, or to incorporate terms as requested in this section into their agreements with Resource Entities and Grant Recipients, to constitute a material breach of the Grant Agreement when such failure results in a material impact to the functionality of the system, risk to the State, or Grant performance. CARB is entitled to seek any and all remedies available to it under law as a result of such breach, including but not limited to termination of the Grant Agreement.

y. **Governing Law and Venue.**

This Grant Agreement is governed by, and shall be interpreted in accordance with, the laws of the State of California. CARB and the Grantee hereby agree that any action arising out of this Grant Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California, or in the United States District Court in and for the Eastern District of California, Sacramento location. The Grantee hereby waives any existing sovereign immunity for the purposes of this Grant Agreement.

z. **Grantee’s Responsibility for Work.**

Grantee shall be responsible for all work performed pursuant to this Grant Agreement, including but not limited to work performed by any Resource Entity or Grant Recipient. Grantee shall be responsible for any and all disputes

arising out of its contract for work performed in relation to, as a result of, or as a consequence of this Grant Agreement, including, but not limited to, payment disputes with Grantee's employees, officers, directors, members (of a limited liability company (LLC) form of entity), partners (of a partnership form of entity), agents, representatives, assigns, Resource Entities, or Grant Recipients. CARB will not mediate disputes between Grantee and any other entity concerning responsibility for performance of work performed pursuant to this Grant Agreement.

- i. All subcontracts must be submitted to CARB upon request for review prior to execution. CARB may also request them during or after the Grant term and Grantee agrees to provide them within five (5) calendar days. For subcontracts that are listed as "to be determined" in the Budget, the Schedule or elsewhere in any attachment to this Grant Agreement, Grantee must submit a revised Budget to CARB, identifying the subcontractor and specific items of cost expected to be incurred by that subcontractor, which in each instance shall be subject to advance approval by CARB. In addition, Grantee must have a fully executed subcontract before the subcontractor can incur any costs for which Grantee will seek reimbursement.
- ii. Grantee is required, where feasible, to employ best contracting and procurement practices that promote open competition for all goods and services. Grantee shall obtain price quotes from an adequate number of sources for all subcontracts.
- iii. Upon request, Grantee will provide CARB a copy of all solicitations for services or products used or needed to carry out the terms of this Grant Agreement, including copies of the proposals or bids received.
- iv. Grantee is responsible for handling all contractual and administrative issues arising out of or related to any subcontracts it enters into under this Grant Agreement. No subcontract may relieve Grantee of its responsibilities under this Grant Agreement. Grantee is solely liable and responsible for the acts and omissions of its subcontractors or persons directly or indirectly employed by any of them.
- v. Grantee's obligation to pay the Resource Entities and Grant Recipients is an independent obligation from CARB's obligation to make payments to the Grantee. As a result, CARB has no obligation to pay or enforce the payment of any funds to any such third parties. Grantee is responsible for establishing and maintaining contractual agreements with and reimbursing each such third parties for work performed in accordance with the terms of this Grant Agreement and the terms of any such third party agreements.
- vi. All Resource Entity, Grant Recipient, and other third party agreements must, at a minimum, incorporate all of the following:
 - 1) A clear and accurate description of the material, products, or services to be procured.

- 2) A detailed budget and timeline.
 - 3) Provisions that allow for administrative, contractual, or legal remedies in instances where the Resource Entity, Grant Recipient, or third party violates or breaches contract terms, and provides for such sanctions and penalties as may be appropriate.
 - 4) Provisions for termination by the Grantee, including termination procedures and the basis for settlement.
 - 5) A statement that further assignments will not be made to any third or subsequent tier subcontractor without additional advance written consent of CARB.
 - 6) Language conforming to the Third Party Agreements Required Terms section .
- vii. Without limiting any of CARB's other remedies, failure to comply with the above requirements is a material breach of this Grant Agreement and grounds for immediate termination.
- aa. **Indemnification & Hold Harmless.**
Grantee agrees to indemnify, defend at their own expense, and hold harmless the State of California, CARB, and CARB officers, Board members, employees, volunteers, agents, representatives, and successors-in-interest against, for and from any and all liabilities, losses, damages, claims and expenses, including reasonable attorneys' fees, arising out of, resulting from, or related to any actions or inactions of the Grantee, or any of their Resource Entities or Grant Recipients, in performance under this Grant Agreement, including but not limited to actions or inactions relating to, arising out of or resulting from the purchase, return, resale, operation, design, or manufacture of any equipment, vessels, vehicles, or engines purchased, acquired, developed, modified, or used with Grant Funds, in whole or in part.
- bb. **Independent Actor.**
The Grantee, Resource Entities, and Grant Recipients, in their performance of this Grant Agreement, shall act in an independent capacity and not as officers, employees or agents of the State of California or CARB.
- dd. **Nondiscrimination.**
i. During the performance of this Grant Agreement, Grantee and its Resource Entities and Grant Recipients shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, reproductive health decision making, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (over 40), sexual orientation, or veteran or military status, any other characteristic protected by law, or unlawfully deny family-care leave, medical-care leave, pregnancy-disability leave, or other legally-protected leave. Grantee, Resource Entities, and Grant Recipients shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination and harassment. Grantee,

Resource Entities, and Grant Recipients shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code section 12900 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.

ii. During the performance of this Grant, Grantee and its Resource Entities and Grant Recipients shall comply with the provisions of California Government Code section 11135; Title VI of the U.S. Civil Rights Act of 1964; Section 504 of the federal Rehabilitation Act of 1973; the federal Age Discrimination Act of 1975; Section 13 of the Federal Water Pollution Control Act of 1972; and U.S. Environmental Protection Agency's implementing regulations at 40 C.F.R. Parts 5 and 7.

iii. Grantee, Resource Entities, and Grant Recipients shall give written notice of their respective obligations under this clause to labor organizations through which any of their employees may have a collective bargaining or other agreement related to work with their entity.

iv. Grantee, Resource Entities, and Grant Recipients shall permit access by representatives of the California Civil Rights Department or CARB upon reasonable notice to access all sources of information as required to ascertain compliance with this clause.

v. Grantee acknowledges and agrees that, pursuant to Government Code section 11136, whenever CARB has reasonable cause to believe that Grantee, Resource Entities, or Grant Recipients have violated any of the provisions of Government Code section 11135 or section 12900 et seq., or any of the provisions of California Civil Code sections 51, 51.5, 51.7, 54, 54.1, or 54.2, or any regulation adopted to implement these sections or Article 1 (commencing with Government Code section 12960) of Chapter 7 of the Government Code, then CARB will notify Grantee or, where applicable, the Resource Entity or Grant Recipient, of such violation and will submit a complaint detailing the alleged violations to the California Civil Rights Department for investigation and determination pursuant to Government Code sections 11136 and 12960 et seq.

vi. In the event of Grantee's or its Resource Entity's or Grant Recipient's noncompliance with this provision, Grantee or its Resource Entity or Grant Recipient may be subject to remedial action determined appropriate and consistent with applicable law by CARB or the California Civil Rights Department, including but not limited to termination of this Grant Agreement.

vii. Grantee acknowledges that CARB's Civil Rights Policy applies to this Grant Agreement and CARB will administer this Grant consistent with such policy. The policy may be found at: <https://ww2.arb.ca.gov/california-air-resources-board-and-civil-rights>.

viii. To the extent that the Grant includes federal funding, Grantee and its Resource Entities and Grant Recipients should refer to the U.S. EPA [Civil Rights Guidance on Procedural Safeguards: Requirements and Best Practices](#).

Though not legally required, this guidance document may assist recipients of U.S. EPA financial assistance (such as grantees) when developing and improving their legally required federal civil rights compliance efforts.

ix. Grantee shall include the nondiscrimination and compliance provisions of this clause in all contracts, subcontracts, and agreements, including but not limited to those with Resource Entities and Grant Recipients, where work is performed to fulfill any term or condition of this Grant Agreement.

ee. **Notice.**

i. Any notice, demand, request, consent, or approval that either Party desires or is required to give to the other Party under this Grant Agreement shall be in writing. Notices may be transmitted by any of the following means:

- 1) By delivery in person.
- 2) By certified U.S. mail, return receipt requested, postage prepaid.
- 3) By "overnight" delivery service; provided that next-business-day delivery is requested by the sender.
- 4) By electronic means.

ii. Notices delivered in person will be deemed effective immediately on receipt (or refusal of delivery or receipt). Notices sent by certified mail will be deemed effective seven (7) calendar days after the date deposited with the U. S. Postal Service. Notices sent by overnight delivery service will be deemed effective one business day after the date deposited with the overnight delivery service. Notices sent electronically will be effective on the date of transmission, where it is documented in writing. Notices shall be sent to the persons and addresses set forth in Section 4, Project Liaisons, of this Grant Agreement. Either Party may, by written notice to the other, designate a different address that shall be substituted for the names of persons identified under Section 4 of this Grant Agreement.

ff. **Office of Foreign Asset Control.**

Transactions may be or are prohibited if they involve the property or interests in property of an entity or individual listed on the Office of Foreign Asset Control (OFAC) targeted lists. OFAC publishes lists of targeted individuals, groups, and entities, which can be found at <https://home.treasury.gov/policy-issues/office-of-foreign-assets-control-sanctions-programs-and-information>.

Refer also to the U.S. Department of the Treasury website:

<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions>. The

property and interests in property of an entity that is 50 percent or more owned, whether individually or in the aggregate, directly or indirectly, by one or more persons whose property and interests in property are blocked

pursuant to any part of 31 C.F.R. chapter V are also blocked, regardless of whether the entity itself is listed.

Grantee represents, warrants, and agrees that Grantee is not, and will not become, in violation of any federal law pertaining to any entity or individual listed on any of the OFAC lists. Grantee shall include in all agreements with its Resource Entities and Grant Recipients an acknowledgment that the entity and its agents and property are not in violation of any federal law pertaining to any entity or individual listed on any of the OFAC lists. Grantee shall notify CARB within 15 calendar days if it has knowledge that Grantee, any Resource Entity, or any Grant Recipient is in violation of any federal law pertaining to any entity or individual listed on any of the OFAC lists.

gg. **Order of Precedence.**

In the event of any inconsistency between the exhibits, attachments, specifications, or provisions which constitute this Grant Agreement, the following Order of Precedence shall apply:

- i. Grant Agreement Cover Sheet
- ii. Exhibit C: Fiscal Year(s) 2022 Funding Plan
- iii. Exhibit E: California Clime Investments Funding Guidelines
- iv. Exhibit A: Grant Agreement Terms and Conditions
- v. All other Exhibits incorporated into the Grant Agreement or as otherwise listed on the Grant Agreement Cover Sheet.

hh. **Paragraph Headings.**

The headings and captions of the various paragraphs, subparagraphs and sections hereof are for convenience only, and they shall not limit, expand, or otherwise affect the construction or interpretation of this Grant Agreement.

ii. **Prevailing Wage and Labor Compliance.**

Where applicable, the Grantee agrees to be bound by and comply with all the provisions of California Labor Code Section 1771 et seq. regarding prevailing wages. Grantee agrees to monitor all agreements subject to reimbursement from this Grant Agreement to ensure that the provisions of California Labor Code Sections 1720-1861 are being met by Grantee, Resource Entities, and Grant Recipients.

jj. **Professionals.**

Grantee agrees that only licensed professionals will be used to perform services or conduct work under this Grant Agreement where such services are called for and where licensed professionals are required for those services under California law.

kk. **Severability.**

If a court of competent jurisdiction holds any provision of this Grant 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 of those provisions, will not be affected, and will remain in full force and effect.

ll. **Survival.**

Those terms, conditions, provisions, and exhibits which by their nature should survive termination, cancellation, or expiration of this Grant Agreement, shall so survive, including but not limited to those sections pertaining to indemnity, insurance, recordkeeping, audit, return of funds, data security, confidentiality, transition, ownership, and the General Provisions.

mm. **Third Party Agreement Required and Prohibited Terms.**

All grants, subgrants, technical grants, contracts, vouchers, agreements and subcontracts entered into by and between Grantee and any Resource Entity or Grant Recipient using or applying Grant Funds (in whole or in part) shall contain the language (or similar language with the same meaning and intent) in the following terms of this Grant Agreement: Audits, Authority, Availability of Funds, California Climate Investments (CCI) (if applicable), Compliance with Law, Confidentiality and Data Security, Conflicts of Interest, Data and Intellectual Property Ownership, Electric Vehicle Charging Infrastructure and Equipment Installation (if applicable), Electric Vehicle Charger Uptime (if applicable), Entire Agreement, Equipment/Vehicle Ownership, Fiscal Administration, Force Majeure, Funding Prohibitions for Sectarian Purposes and Non-Public Schools, Governing Law and Venue, Indemnification and Hold Harmless, Independent Actor, Labor Compliance for Drayage and Short-haul (AB 479) (if applicable), Non-Discrimination, Prevailing Wage and Labor Compliance, Professionals, Russia Sanctions, Severability, Survival, and Third Party Beneficiaries.

Grantee may not include an arbitration clause, mandatory or optional, in any agreement related to this Grant Agreement with any Resource Entity or Grant Recipient, without CARB's prior written approval.

nn. **Third Party Beneficiaries.**

Grantee represents, warrants and agrees that CARB and the State of California are third party beneficiaries in all contracts, subcontracts, grants, subgrants and other agreements entered into using Grant Funds, or for the purpose of carrying out any of the terms or conditions of this Grant Agreement during the Term, and upon request by CARB, shall send to CARB a copy of said agreements.

The existence of this Grant Agreement does not create, and nothing stated in this Grant Agreement creates, rights in or grants remedies to any third party or third parties, other than CARB and the State of California as stated in this section, as a beneficiary or beneficiaries of this Grant Agreement, or of any duty, covenant, obligation or undertaking established herein.

oo. **Timeliness.**

Time is of the essence in the performance of this Grant Agreement. Grantee shall proceed with and complete all of its obligations under this Grant Agreement in a timely and expeditious manner.

pp. **Waiver of Rights.**

Any waiver of rights with respect to a default or other matter arising under the Grant Agreement at any time by either Party shall not be considered a waiver of rights with respect to any other default or matter. Any rights and remedies of CARB provided for in this Grant Agreement are in addition to any other rights and remedies provided by law.

DRAFT

Exhibit B, Statement of Work
Grant No.: GXX-ATDP-XX

Attachment I - Budget Summary

Grantee: _____

Project: _____ **Project**

Partner	Tasks For task descriptions see Exhibit B Attachment II	CARB Funding	Project Matching Funds	
		Administration Funds	Match Cash	Match In-Kind
Grantee	Program Administration	...	...	...
	Subtotal	...	...	...
	Grant Total Funding Amount	...		

Disbursement of Funds:

Administration Fees

The Grantee shall receive administrative funding in accordance with the Fiscal Administration section of this Grant Agreement.

Exhibit B, Statement of Work

Grant No.: GXX-ATDP-XX

Attachment II - Project Schedule

Grantee: _____

Project: _____

Detailed Scope of Work and Schedule

Task	Date	Administrative Fee
Tasks 1 thru 1.X General Funds:		\$ _____
Task 1.1 Execute Grant Agreement		
Task 1.2 Complete Implementation Manual		
Task 1.3 Outreach and Education		
... ..		
Task 1.9 Status Report		
TOTAL		\$ _____

¹ Personal information or other data collected from incentive applications may not be used or released in any way; however, with approval from CARB, this information can be used for other related CARB incentive programs with the consent of the applicant (e.g. checking "opt-in" boxes on the application) and the written consent of CARB.

Exhibit B, Statement of Work

Grant No.: GXX-ATDP -XX

Attachment III - Key Project Personnel

Grantee: _____

Project: _____

Name	Position	Duties