State of California

Proposition 1B:
Goods Movement Emission Reduction Program

GRANT AGREEMENT

Between
Air Resources Board and Local Agency

Fiscal Year Funds:	FY2007-08 (Main Grants)
Trade Corridor:	Los Angeles/Inland Empire
Funding Category:	Trucks Serving Ports and Intermodal Rail Yards
Local Agency:	City of Long Beach, a municipal corporation, acting by and through its Board of Harbor Commissioners and City of Los Angeles, a municipal corporation, acting by and through its Board of Harbor Commissioners
Program Funds:	$98,000,000

Grant Number: G07GMLP3

This legally binding Proposition 1B: Goods Movement Emission Reduction Program (Program) GRANT AGREEMENT, including Exhibit 1 attached hereto, dated June 20, 2008 (Date), is made and executed between the STATE OF CALIFORNIA, AIR RESOURCES BOARD ("ARB" or "Board") and the CITY OF LONG BEACH, A MUNICIPAL CORPORATION, ACTING BY AND THROUGH ITS BOARD OF HARBOR COMMISSIONERS AND CITY OF LOS ANGELES, A MUNICIPAL CORPORATION, ACTING BY AND THROUGH ITS BOARD OF HARBOR COMMISSIONERS ("Local Agency"). The Program is intended to improve air quality and protect public health through the administration of State incentives for cleaner equipment and technologies associated with freight movement.

The Local Agency agrees to perform the work described in the Program grant application as modified and clarified in ARB Resolution 08-6 and in this Grant Agreement.

I. Term: This Grant Agreement shall be effective as of June 30, 2008 or full execution of this Grant Agreement ("Start Date"), whichever is earlier, and shall continue in full force and effect until such time as all conditions of the Grant Agreement have been met or until June 30, 2019 ("End Date"), whichever is later.

II. Documents incorporated by reference: This Grant Agreement shall incorporate herein by reference the Local Agency Project Application and the Local Agency Resolutions provided to ARB as part of the Application. This Grant Agreement shall also incorporate herein by reference ARB Resolution 08-6, the accompanying *Staff Report on Award of Fiscal Year 2007-08 Funds*, ARB Resolution 08-12, the *Final Proposition 1B: Goods Movement Emission Reduction Program Guidelines for Implementation* ("Guidelines") as adopted by the Board on February 28, 2008 and the associated *Final Staff Report on Guidelines for Implementation* ("Staff Report"), plus any subsequent amendments to those Guidelines that apply to Fiscal Year 2007-2008 funds. The Local Agency is authorized to administer a Local Agency Project according to the requirements in the documents described above.

III. Local agency project description: Subject to the terms and conditions of this Grant Agreement, ARB will provide funding up to the maximum amount of $98,000,000 (Budget Act Chapters 171 and 172, Statutes 2007 3900-001-6054) to the City of Long Beach, a municipal corporation, acting by and through its Board of Harbor Commissioners and City of Los Angeles, a municipal corporation, acting by and through its Board of Harbor Commissioners to administer a local agency project (Project) in the Los Angeles/Inland Empire Trade Corridor under the FY2007-08 Program. The Project is administration of Program incentives to equipment owners to upgrade existing heavy-duty diesel trucks in the "Trucks Serving Ports and Intermodal Rail Yards" source category that haul goods to and from ports. The Project shall comply with the provisions of this Grant Agreement, Resolution 08-6, Resolution 08-12, the Guidelines, and the Staff Report, as implemented by ARB staff.

IV. Definitions: All terms in this Grant Agreement are as defined in the Guidelines unless otherwise specified in this Grant Agreement.

A. Funding Category-Specific Elements

A.1. Approved project alternatives: The Local Agency may implement the following approved project alternatives, consistent with the Guidelines:

- **Technology alternatives:** For trucks serving ports and intermodal rail yards, the Local Agency shall implement the truck replacement equipment project option and shall target trucks serving ports. The Local Agency may offer non-Program funding for equipment monitoring or tracking devices (such as global positioning systems). In this case, the Local Agency shall agree to monitor the trucks for the project life, make provisions acceptable to ARB for access to data collected on individual trucks, and provide periodic data reports to ARB.
- **Project implementation approaches and contractors:** The Local Agency may use contractors or consultants to assist with Project administration. The Local Agency shall retain responsibility for completion of the Project according to the terms and conditions of this Grant Agreement. The Local Agency shall be solely responsible for payment of all charges and fees.

- **Procedure/process alternatives**: Under this joint local agency project, the Port of Long Beach and the City of Los Angeles Harbor Department (Port of Los Angeles), acting jointly and severally as the Local Agency, shall run a single program under the administrative control of both entities jointly or through one contractor employed by both entities. The Port of Long Beach and the City of Los Angeles Harbor Department (Port of Los Angeles) agree to be held jointly and severally liable for all breaches of this joint agreement, either by one or both of the local entities or by any contractor.
- **Geographic operations:** The Local Agency may restrict eligibility for upgrades under this Project to trucks serving the Port of Long Beach and/or the Port of Los Angeles.
- **Lease-to-own option:** The Local Agency may include a lease-to-own component for the replacement projects that complies with the requirements of the Guidelines. The Local Agency shall submit financial and other data detailed in the *Supplemental Application Instructions for Truck Lease-to-Own Programs* posted on ARB's Program website to ARB for review and obtain written ARB approval prior to expenditure of any Program funds for a lease-to-own program.

A.2. Funding and performance benchmarks: Based on the Local Agency application and ARB's funding award, the Local Agency shall complete the minimum number of equipment projects to achieve the estimated emission reductions and be eligible to receive up to the specified maximum Program funding amounts, as shown in Table 1 below.

Table 1. Program Funding and Performance Benchmarks for Trucks Serving Ports

Minimum # Equipment Projects and Funding Cap	Maximum Program Funding Authorized			Estimated		
	Equipment Project Funds	Administrative Funds	Total Funds (Project plus Administrative)	Match Funding and Source	Total Cost of Local Agency Project	Emission Reductions Over Project Life (lbs)
Replacement: 1,960 trucks @ $50,000 per truck	$98,000,000	None	$98,000,000	$145,040,000 (Ports) $36,260,000 (private)	$279,300,000	NOx: 19,116,000 PM: 904,000

The Local Agency shall not propose to offer Program funding at a level for each equipment project that exceeds the funding caps described in Table 1 and, after reviewing invoices submitted by equipment owners, shall only pay for eligible expenses up to the funding caps identified in Table 1.

A.3. Grant expenditure schedule: ARB shall authorize payment upon approval of a complete and accurate Grant Expenditure Request form and, where applicable, approval of all required reports. At ARB's discretion, these reports may include entry by the Local Agency of equipment project data into an electronic database maintained by ARB. As described in the Guidelines, the Local Agency may request ARB to expend equipment project funds according to the schedule in Table 2.

Table 2. ARB Expenditure of Equipment Project Funds for Trucks Serving Ports and Intermodal Rail Yards

Equipment Project Funds	Percent of Equipment Project Funds	Requirements
Initial equipment project funds	Up to 100%	May be requested once the Local Agency posts the competitively ranked equipment project list on its website, or within six months of ARB's liquidation deadline as specified in State law, whichever comes first.
Additional equipment project funds	Remaining	May be requested at any time after the initial expenditure from ARB, but no later than six months before ARB's liquidation deadline under State law.

A.4. Local Agency match funding: The Local Agency shall provide match funding for the Project of $145,040,000 in non-State local funds.

A.5. Project schedule: The Local Agency shall obligate equipment project funds via executed equipment project contracts no later than December 31, 2009. The Local Agency shall verify project completion and close out payment for each truck project within 18 months of Local Agency execution of the equipment project contract. Other requirements applicable to this Local Agency Project that include, but are not limited to, evaluation of equipment projects and reporting to ARB shall continue through the End Date of this Grant Agreement.

A.6. Provision to activate backup project: Recognizing the critical importance of expediting the upgrade of trucks serving the Port of Long Beach and the Port of Los Angeles, the Local Agency agrees that ARB shall have the right to activate the backup project adopted by its governing board in Resolution 08-06 by assigning this Grant Agreement to the South Coast Air Quality Management District, with appropriate amendments, if the Local Agency is constrained from implementing the Project due to a court order or other legal proceedings that renders the Local Agency unlikely to be able to fully expend the Program funds according to the Project Schedule. The Local Agency may also request that ARB consider such an assignment.

B. General Program Provisions

B.1. Communication: All communication regarding this grant from the Local Agency to ARB should be directed to the ARB Grant Lead identified on ARB's Program website at: http://www.arb.ca.gov/gmbond. Send all grant correspondence, including reports and Grant Expenditure Requests, to the named Grant Lead at:

Goods Movement Emission Reduction Program
Planning and Technical Support Division
California Air Resources Board

Standard U.S. Mail	Other Mail Services
P.O. Box 2815	1001 I Street
Sacramento, CA 95812	Sacramento, CA 95814

Fax: (916) 327-8524

B.2. Direct payments to vendors: The Local Agency may make arrangements in equipment project contracts for Local Agency payments to go directly to the engine, truck, or retrofit dealer or manufacturer if requested by the equipment owner.

B.3. Disposal of old equipment: The Local Agency agrees to establish agreements with qualified salvage yards and verify scrappage/disposal of old vehicle, vessel, equipment, or engine consistent with requirements specified in Chapter III.D.13 of the Guidelines. The Local Agency understands and agrees that should the Guidelines be amended to allow a disposition other than scrappage/disposal, the Local Agency shall abide by those amended Guidelines.

B.4. Earned interest: The Local Agency agrees to maintain records and report on interest earned on Program funds in Local Agency accounts, and to expend earned interest according to the provisions in Chapter III.E.3 of the Guidelines.

B.5. Eligible and ineligible costs: All Program expenditures by the Local Agency shall be directly tied to the purchase and installation of upgraded equipment or other eligible equipment project costs as defined in the Guidelines, or to Local Agency administration costs as allowed under this Grant Agreement and the Guidelines. Any cost specifically identified as ineligible in the Guidelines or accompanying Staff Report cannot be paid for or reimbursed with Program funds.

B.6. Equipment project contracts: The Local Agency shall enter into a legally binding agreement with all equipment owners. The Local Agency agrees to include all equipment project requirements and conditions in contracts with equipment owners, including each provision specified in Chapter III.D.10 of the Guidelines. The Local Agency agrees to be fully responsible for ensuring all projects comply with minimum criteria and procedures contained in the Guidelines. The Local Agency agrees to include provisions in equipment project contracts to allow ARB or its designee to inspect

equipment projects, enforce the terms of Local Agency contracts with equipment owners, and pursue repayment of Program funds for noncompliance with the terms and conditions of the contracts or applicable State laws or regulations.

B.7. Equipment project inspections: The Local Agency agrees to complete equipment project pre-inspections prior to execution of an equipment project contract and post-inspections prior to reimbursement, except in the case of direct payment to vendor.

B.8. Grant expenditure requests: Grant Expenditure Request Forms can be downloaded from the Proposition 1B: Goods Movement Emission Reduction Program website at: http://www.arb.ca.gov/gmbond. Goods and services must be paid for and received within the period from the beginning to the end of the term of the Grant Agreement. All supporting documentation included with the Grant Expenditure Request Form must contain the appropriate grant number prior to submission to ARB.

B.9. Guidelines conformance: The Local Agency agrees to implement the Project in conformance with all applicable requirements of the Guidelines. In the event of any conflicts between this Grant Agreement or any of its amendments, the existing legislation for Proposition 1B, and the Guidelines, the existing legislation shall control, followed by the Guidelines, any amendments to this Grant Agreement in the reverse order in which they were executed, and the Grant Agreement.

B.10. Insurance: For shore power and truck stop electrification projects involving construction of electric infrastructure to replace diesel engine use, the Local Agency shall ensure that the equipment owner provides and maintains insurance against fire, vandalism and other loss, damage, or destruction of the facilities or structures constructed pursuant to this Grant Agreement, if any, for the life of the equipment project. This insurance shall be issued by a company or companies admitted to transact business in the State of California.

B.11. Non-performance: Non-performance by the Local Agency includes, but is not limited to, identified issues with any one or more of the following areas:

- Failure to comply with the Guidelines or statutes.
- Failure to obligate or expend Program funds within established timelines.
- Insufficient performance or widespread deficiencies with program oversight, enforcement, record keeping, contracting provisions, inspections, audit procedures or any other Program element as determined by ARB.
- Misuse of Program funds.
- Funding of ineligible equipment projects or other items.
- Exceeding administrative fund allotment.
- Insufficient, incomplete, or faulty project documentation.
- Failure to provide required documentation or reports requested from ARB, the Department of Finance (DOF), or other agencies in a timely manner.
- Poor performance as determined by an audit conducted by ARB, DOF or other designated agency or contractor.

B.12. Non-performance remedies: Remedies for resolving areas of Local Agency non-performance shall include, but are not limited to, these actions as described in Chapter II.E.7 of the Guidelines:

- Local agency probation and a corrective action plan.
- Recovery of funds obligated under this Grant Agreement.
- Constraints on the local agency's opportunity to compete for future Program funds.

B.13. Non-performance remedies – fund reversion: Consistent with the provisions of the Guidelines for non-performance, ARB may require that all, or a portion of, the remaining unspent Program funds available for expenditure by ARB and/or the Local Agency plus any earned interest, revert back to the California Ports Infrastructure, Security, and Air Quality Improvement Account.

B.14. Non-performance remedies – withholding of funds: Consistent with the provisions of the Guidelines, ARB may withhold all or any portion of the grant funds provided for by this Grant Agreement in the event that the Local Agency has materially violated, or threatens to materially violate, any term, provision, condition, or commitment of this Grant Agreement; or the Local Agency fails to maintain reasonable progress toward completion of the Project.

B.15. Recordkeeping and records access for audits: The Local Agency agrees to establish an official file for the Project which shall adequately document all significant actions relative to the Project. The Local Agency agrees that ARB, DOF, the Bureau of State Audits (BSA), or their designated representative(s) shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Grant Agreement. The Local Agency agrees to maintain such records for a possible audit for at least two years after the End Date or three years after final payment, whichever is later. The Local Agency agrees to allow the auditor(s) access and to copy such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Local Agency agrees to include a similar right of the State to audit records and interview staff in any contract related to performance of this Grant Agreement.

B.16. Reporting requirements: The Local Agency is responsible for submitting to ARB quarterly data updates, semi-annual reports, and Local Agency project completion reports as specified in Chapter III.G.1-3 of the Guidelines. The Local Agency shall submit these updates and reports in the format and manner identified by ARB. The Local Agency agrees that ARB may identify the format and manner of these updates and reports after execution of this Grant Agreement. The Local Agency shall submit quarterly updates and semi-annual reports on the schedule to be established by ARB. The semi-annual reports shall continue through the End Date of the Grant Agreement.

B.17. Program acknowledgment: The Local Agency agrees to acknowledge the "Proposition 1B: Goods Movement Emission Reduction Program" as a funding source in any related media events or other publicity material.

B.18. Small businesses: For shore power and truck stop electrification projects involving construction of electric infrastructure to replace diesel engine use, the Local Agency agrees to initiate outreach to small businesses for construction funded under this Grant Agreement, as described in Chapter III.D.2.d of the Guidelines.

B.19. Tax implications: The Local Agency agrees to notify equipment owners of possible tax implications from receipt of Program funds and encourage participants to consult a tax professional.

The undersigned parties agree to the terms and conditions as set forth in this Grant Agreement. The undersigned parties certify under the penalty of perjury that they are duly authorized to bind the parties to this Grant Agreement.

CALIFORNIA AIR RESOURCES BOARD PROPOSITION 1B: GOODS MOVEMENT EMISSION REDUCTION PROGRAM	
Local Agency (1) Name: CITY OF LONG BEACH, A MUNICIPAL CORPORATION, ACTING BY AND THROUGH ITS BOARD OF HARBOR COMMISSIONERS	
Name Of Local Agency (1) Representative With Signature Authority Chris Lytle	
Title Deputy Executive Director	
Mailing and Street Addresses 925 Harbor Plaza Long Beach, Ca. 90802	
Local Agency (1) Representative Signature	**Date** 6-20-2008
Local Agency (2) Name: CITY OF LOS ANGELES, A MUNICIPAL CORPORATION, ACTING BY AND THROUGH ITS BOARD OF HARBOR COMMISSIONERS	
Name Of Local Agency (2) Representative With Signature Authority MOLLY CAMPBELL	
Title Deputy Executive Director	
Mailing and Street Addresses 425 S. Palo Verde San Pedro, CA 90731	
Local Agency (2) Representative Signature Molly Campbell	**Date** 6-20-08

Signatures continue on next page.

APPROVED AS TO FORM AND RETURNED

Approved as to Form
June 20 20 08
ROCKARD J. DELGADILLO
City Attorney
By _____
Assistant

JUN 20 2008

ROBERT E. SHANNON, City Attorney
By Charles M. Gale
DEPUTY CITY ATTORNEY

CALIFORNIA AIR RESOURCES BOARD	
Name Of ARB Representative With Signature Authority Marie Stephans	
Title Chief, Administrative Services Division	
Mailing And Street Addresses P.O. Box 2815, Sacramento CA 95812 1001 "I" Street, Sacramento CA 95814	
ARB Representative Signature Marie Stephans	**Date** 6-23-08
Amount Encumbered By This Grant Agreement $98,000,000	**Fiscal Year Funds** FY2007-08

EXHIBIT 1
STANDARD GRANT AGREEMENT PROVISIONS

1-1. Amendment: No amendment or variation of the terms of this Grant Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Grant Agreement is binding on any of the parties.

1-2. Assignment: This grant is not assignable by the Local Agency, either in whole or in part, without the consent of ARB.

1-3. Compliance with law, regulations, etc.: The Local Agency agrees that it will, at all times, comply with and require its contractors and subcontractors to comply with all applicable federal and State laws, rules, guidelines, regulations, and requirements.

1-4. Computer software: The Local Agency certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Grant Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

1-5. Conflict of interest: The Local Agency certifies that it is in compliance with applicable State and/or federal conflict of interest laws.

1-6. Damages for breach affecting tax exempt status: In the event that any breach of any of the provisions of this Grant Agreement by the Local Agency shall result in the loss of tax exempt status for any State bonds, the Local Agency shall immediately reimburse the State in an amount equal to any damages paid by or loss incurred by the State due to such breach.

1-7. Disputes: The Local Agency shall continue with the responsibilities under this Grant Agreement during any dispute. Local Agency staff or management may work in good faith with ARB staff or 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 ARB staff shall be subject to resolution by the ARB Executive Officer, or his designated representative, whose decision shall be final and binding.

1-8. Environmental justice: In the performance of this Grant Agreement, the Local Agency 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, cultures, and income levels, including minority populations and low-income populations of the State.

1-9. Fiscal management systems and accounting standards: The Local Agency agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit tracing of grant funds to a level of expenditure adequate to establish that such funds have not been used in violation of State law or this Grant Agreement. Unless otherwise prohibited by State or local law, the Local Agency further agrees that it will maintain separate Project accounts in accordance with generally accepted accounting principles.

1-10. Force majeure: Neither ARB nor the Local Agency shall be liable for or 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, enemy or hostile governmental action, civil commotion, strikes, lockouts, labor disputes, fire or other casualty, etc.

1-11. Governing law and venue: This grant is governed by and shall be interpreted in accordance with the laws of the State of California. ARB and the Local Agency 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. The Local Agency hereby waives any existing sovereign immunity for the purposes of this Grant Agreement.

1-12. Indemnification: The Local Agency agrees to indemnify, defend and hold harmless the State and the Board and its officers, employees, agents, representatives, and successors-in-interest against any and all liability, loss, and expense, including reasonable attorneys' fees, from any and all claims for injury or damages arising out of the performance by the Local Agency, and out of the operation of the Local Agency Project that is the subject of the Grant Agreement.

1-13. Local Agency's responsibility for work: The Local Agency shall be responsible for work and for persons or entities engaged in work, including, but not limited to, contractors, subcontractors, suppliers, and providers of services. The Local Agency shall be responsible for any and all disputes arising out of its contracts for work on the Project, including but not limited to payment disputes with contractors, subcontractors, and providers of services. The State will not mediate disputes between the Local Agency and any other entity concerning responsibility for performance of work.

1-14. Independent actor: The Local Agency, and its agents and employees, if any, in the performance of this Grant Agreement, shall act in an independent capacity and not as officers, employees or agents of ARB.

1-15. Nondiscrimination: During the performance of this Grant Agreement, the Local Agency and its contractors shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of sex, race, religion, color, national origin, ancestry, disability, sexual orientation, medical condition,

marital status, age (over 40) or allow denial of family-care leave, medical-care leave, or pregnancy-disability leave. The Local Agency and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment.

1-16. No third party rights: The parties to this Grant Agreement do not create rights in, or grant remedies to, any third party as a beneficiary of this Grant Agreement, or of any duty, covenant, obligation or undertaking established herein.

1-17. Prevailing wages and labor compliance: If applicable, the Local Agency agrees to be bound by all the provisions of State Labor Code Section 1771 regarding prevailing wages. If applicable, the Local Agency shall monitor all agreements subject to reimbursement from this Grant Agreement to assure that the prevailing wage provisions of State Labor Code Section 1771 are being met.

1-18. Professionals: For shore power and truck stop electrification projects involving construction of electric infrastructure to replace diesel engine use, the Local Agency agrees that only licensed professionals will be used to perform services under this Grant Agreement where such services are called for and licensed professionals are required for those services under State law.

1-19. 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.

1-20. Termination: ARB may terminate this Grant Agreement by written notice at any time prior to completion of the Project, upon violation by the Local Agency of any material provision after such violation has been called to the attention of the Local Agency and after failure of the Local Agency to bring itself into compliance with the provisions of this Grant Agreement in accordance with the non-performance provisions set forth in the Guidelines.

1-21. Timeliness: Time is of the essence in this Grant Agreement. The Local Agency shall proceed with and complete the Project in an expeditious manner.

1-22. 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 the State provided for in this Grant Agreement are in addition to any other rights and remedies provided by law.