

APPENDIX C

Air Quality Improvement Program (AQIP) Hybrid Off-Road Equipment Pilot Project

SAMPLE Grant Agreement Fiscal Year 2010-11

California Air Resources Board
May 24, 2011

**Grant Agreement
Air Quality Improvement Program (AQIP) (Pursuant to AB 118)
Hybrid Off-Road Equipment Pilot Project
Fiscal Year 2010-11**

Project Title: Hybrid Off-Road Equipment Pilot Project

Grant Number:

Grant Amount:

Grant Recipient Name:

Authorized Official:

Title:

Address:

Phone #:

Tax ID No:

The following documents are attached and incorporated as part of this grant and take precedence in the following order:

Exhibit A: Grant Provisions

Exhibit B: Work Statement incorporating the following attachments:

Budget Summary (Attachment I)

Project Milestones (Attachment II)

Project Schedule (Attachment III)

Key Project Personnel (Attachment IV)

Exhibit C: Grant Disbursement Request

Exhibit D: Hybrid Off-Road Equipment Pilot Project Solicitation and Application Package (i.e. Grantee Application)

Exhibit E: Hybrid Off-Road Equipment Pilot Project Implementation Manual

The undersigned parties agree to comply with the requirements and conditions contained herein, including all provisions, roles, and responsibilities identified in the Hybrid Off-Road Equipment Pilot Project Solicitation, Grantee Application Package, and Project Implementation Manual. The undersigned parties certify under the penalty of perjury that they are duly authorized to bind the parties to this grant.

California Air Resources Board:

Grant Recipient:

Signature of Authorized Official

Name: Cathy Chapin
Title: Chief, Financial Operations Division
Date:

Signature of Authorized Official

Name:
Title:
Date:

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EXHIBIT A

Grant Provisions

1. GRANT PARTIES AND CONTACT INFORMATION

1.1 This grant is from the California Air Resources Board (herein after referred to as ARB) to name of recipient (herein after referred to as Grantee).

1.2 The ARB Grant Administrator is Lauri Brunkhorst. All financial inquiries regarding this project shall be directed to:

Lauri Brunkhorst
Air Resources Board
Administrative Services Division
P.O. Box 1436
Sacramento, California 95812
Phone: (916) 322-8215
E-mail: lbrunkho@arb.ca.gov

1.3 The ARB Project Liaison is Joe Calavita. Correspondence regarding this project shall be directed to:

Joe Calavita
Air Resources Board
Mobile Source Control Division
P.O. Box 2815
Sacramento, California 95812
Phone: (916) 445-4586
E-mail: jcalavit@arb.ca.gov

1.4 The Grantee Liaison is _____. Correspondence regarding this project shall be directed to:

Grantee Liaison
Title
Address
Phone
Email

1.5 This grant is not assignable by the Grantee, either in whole or in part, without the consent of ARB.

2. TIME PERIOD

- 2.1 Performance of work or other expenses billable to ARB under this grant may commence after signing and awarding of this grant. Performance on this grant ends once the Grantee has submitted the final report or if the grant is terminated, whichever is earlier.
- 2.2 All work must be completed within two years of grant execution.
- 2.3 All funds must be disbursed to the Grantee no later than June 30, 2013.
- 2.4 The ARB Executive Officer retains the authority to terminate or reduce the dollar amount of this grant if by January 1, 2013, 60 percent of project funding has not been expended by the Grantee. In the event of such termination, Section 6 of these provisions shall apply.

3. FINANCIAL MATTERS

- 3.1 ARB's obligations under this Grant Agreement are contingent upon the availability of funds. In the event funds are not available, the State shall have no liability to pay any funds whatsoever to the Grantee or to furnish any other considerations under this Grant Agreement.
- 3.2 The Grantee 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 Grantee further agrees that it will maintain separate Project accounts in accordance with generally accepted accounting principles.

Budget

- 3.3 The maximum amount of this grant is \$XXX thousand. Under no circumstance will ARB reimburse the Grantee for more than this amount.
- 3.4 The budget for this project is shown in Exhibit B, Attachment I. Except as stated in Section 3.6 of these provisions, grant disbursements for demonstration technology and administrative funds shall not exceed the corresponding AQIP grant amount.
- 3.5 The total AQIP funding may only be reallocated in the event that the Grantee requests less administrative funding than the amount stated in the budget.
- 3.6 No grant funds may be used to purchase equipment or computers that would be required to be returned to the State at the completion of this demonstration project.

Grant Disbursements

3.7 Requests for payment shall be made with the grant disbursement request (Exhibit D) and conform to the instructions identified in sections 4.2 and 4.3 of the Implementation Manual. Grant payments shall be made only for reasonable costs incurred by the Grantee and (with the exception of the first disbursement of administration funds) only when the Grantee has submitted a grant disbursement request, milestones stipulated in Exhibit C, Attachment II and section 4.2 of the Implementation Manual have been accomplished, documentation of accomplishment has been provided to ARB in the form of the Status Report, and any associated deliverables (if applicable) have been provided to ARB. The ARB Project Liaison may accelerate in his or her sole discretion the schedule for disbursement of administration funds identified in Exhibit C, Attachment II (with the exception of the final project administration disbursement) if needed to ensure the Grantee has adequate administrative funds for project implementation.

3.8 Grant payments are subject to ARB's approval of Status Reports and any accompanying deliverables. (See Section 5 of these provisions.) A payment will not be made if the ARB Project Liaison deems that a milestone has not been accomplished or documented, that a deliverable meeting specifications has not been provided, that claimed expenses are not documented, not valid per the budget, or not reasonable, that the Grantee has not met other terms of the grant.

The Chief of the Mobile Source Control Division or designee of ARB may review the 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 Mobile Source Control Division, are not reasonable or do not comply with the grant agreement.

3.9 The Grantee shall mail grant disbursement requests to the Project Liaison.

Oversight and Accountability

3.10 The Grantee is responsible for all project oversight and any subcontractors. The Grantee shall comply with all oversight responsibilities identified in section 4.11 of the Implementation Manual.

3.11 The ARB or its designee reserves the right to audit at any time during the duration of this grant the Grantee's costs of performing the grant and to refuse payment of any reimbursable costs or expenses that in the opinion of the ARB or its designee are unsubstantiated or unverified. The Grantee shall cooperate with the ARB or its designee including, but not limited to, promptly providing all information and documents requested, such as all financial records,

documents, and other information pertaining to reimbursable costs, and any matching costs and expenses.

- 3.12 The Grantee shall retain all financial records referred to above and provide them for examination and audit by the State for three years after final payment under this grant.
- 3.13 ARB or its designee may recoup AQIP funds which were received based upon misinformation or fraud, or for which a Grantee, manufacturer, or technology provider is in significant or continual non-compliance with the terms of this grant or State law. ARB also reserves the right to prohibit any entity from participating in the Hybrid Off-Road Equipment Pilot Project due to non-compliance with project requirements.

4. PROJECT MONITORING

Meetings

- 4.1 Initial meeting: A meeting will be held between key project personnel and ARB 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.

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 Project Liaison. Such meetings may be conducted by phone, if deemed appropriate by the Project Liaison.

Technical Monitoring

- 4.2 Any changes in the scope or schedule for the project shall require the prior written approval of the ARB Project Liaison.
- 4.3 The Grantee shall notify the ARB Project Liaison, in writing, immediately if any circumstances arise (technical, economic, or otherwise), which might place 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 IV).
- 4.4 In addition to Status Reports (discussed in Section 5 of these provisions), the Grantee shall provide information requested by the Project Liaison that is needed to assess progress in completing tasks and meeting the objectives of the project.
- 4.5 Any change in budget allocations, re-definition of deliverables, or extension of the project schedule identified in the Grantee Application Package must be

requested in writing to the ARB Project Liaison and approved by ARB, in its sole discretion.

5. REPORTING

Status Reports

- 5.1 The Grantee shall submit Status Reports at a minimum of three-month intervals. The Status Reports shall be provided in a format agreed upon between the ARB Project Liaison and the Grantee and meet the requirements of the Hybrid Off-Road Equipment Pilot Project: Fiscal Year 2010-11 Grant Proposal Solicitation and the Grantee Application Package.
- 5.2 Every grant disbursement request (Exhibit C) shall be accompanied by a Status Report that documents the completion of a milestone specified in Exhibit B, Attachment II.
- 5.3 If the project is behind schedule, the Status Reports must contain an explanation of reasons and how the Grantee plans to resume the schedule.

Final Report

- 5.4 When the project is complete, the Grantee shall submit a draft Final Report. The draft Final Report must be submitted to ARB in an appropriate format agreed upon between the ARB Project Liaison and the Grantee. The Final Report must meet the requirements of the Hybrid Off-Road Equipment Pilot Project: Fiscal Year 2010-11 Grant Proposal Solicitation and the Grantee Application Package. Upon approval of the draft Final Report by the Project Liaison, the Grantee shall provide a written copy of the final version, plus an electronic file.

6. TERMINATION AND SUSPENSION OF PAYMENTS

- 6.1 The ARB reserves the right to terminate this grant upon thirty days' written notice to the Grantee, if the ARB determines that the project has not progressed satisfactorily during the previous three months and the Grantee and ARB have been unable to agree on modifications. In case of early termination, the Grantee will submit a grant disbursement request, a Status Report covering activities up to, and including, the termination date and following the requirements in Sections 3 and 5 of these provisions. Upon receipt of the grant disbursement request and Status Report a final payment will be made to the Grantee. This payment shall be for all ARB-approved, actually incurred costs that in the opinion of ARB are justified. However, the total amount paid shall not exceed the total grant amount.
- 6.2 The ARB reserves the right to issue a grant suspension order in the event that a dispute should arise. The grant suspension order will be in effect until the

dispute has been resolved or the grant has been terminated. If the Grantee chooses to continue work on the project after receiving a grant suspension order, the Grantee will not be reimbursed for any expenditure incurred during the suspension in the event ARB terminates the grant. If ARB rescinds the suspension order and does not terminate the grant, ARB will reimburse the Grantee for any expenses incurred during the suspension that are reimbursable in accordance with the terms of the grant.

- 6.3 ARB may terminate this Grant Agreement by written notice at any time prior to completion of projects funded by this Grant Agreement, upon violation by the Grantee of any material provision after such violation has been called to the attention of the Grantee and after failure of the Grantee to bring itself into compliance with the provisions of this Grant Agreement.

7. CONTINGENCY PROVISION

- 7.1 In the event this grant is terminated for whatever reason, the ARB Executive Officer or designee reserves the right in his or her sole discretion to award a grant to the next highest scored applicant and if an agreement cannot be reached, to the next applicant(s) until an agreement is reached. If ARB is unable to award a grant under these circumstances, ARB may award a grant to other AQIP projects.

8. DISPUTES

- 8.1 The Grantee shall continue with the responsibilities under this Grant Agreement during any dispute. Grantee 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.

9. GENERAL PROVISIONS

- 9.1 **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.
- 9.2 **Compliance with law, regulations, etc.:** The Grantee 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.

- 9.3 **Computer software:** The Grantee 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.
- 9.4 **Conflict of interest:** The Grantee certifies that it is in compliance with applicable State and/or federal conflict of interest laws.
- 9.5 **Damages for breach affecting tax exempt status:** In the event that any breach of any of the provisions of this Grant Agreement by the Grantee shall result in the loss of tax exempt status for any State bonds, the Grantee shall immediately reimburse the State in an amount equal to any damages paid by or loss incurred by the State due to such breach.
- 9.6 **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, cultures, and income levels, including minority populations and low-income population of the State.
- 9.7 **Force majeure:** Neither ARB nor the Grantee shall be liable for or deemed to be in default for any delay or failure in performance under this Grant Agreement or interruption or 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.
- 9.8 **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 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. The Grantee hereby waives any existing sovereign immunity for the purposes of this Grant Agreement.
- 9.9 **Indemnification:** The Grantee 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 Grantee, and out of the operation of equipment that is purchased with funds from this Grant Award.
- 9.10 **Grantee's responsibility for work:** The Grantee 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 Grantee shall be responsible for any and all disputes arising out of its contract 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 Grantee and any other entity concerning responsibility for performance of work.

- 9.11 **Independent actor:** The Grantee, and its agents and employees, if any, in their performance of this Grant Agreement, shall act in an independent capacity and not as officers, employees or agents of ARB.
- 9.12 **Nondiscrimination:** During the performance of this Grant Agreement, the Grantee and its contractors shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of sex, race, 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 Grantee and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment.
- 9.13 **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 establish herein.
- 9.14 **Prevailing wages and labor compliance:** If applicable, the Grantee agrees to be bound by all the provisions of State Labor Code Section 1771 regarding prevailing wages. If applicable, the Grantee shall monitor all agreements subject to reimbursement from this Grant Agreement to ensure that the prevailing wage provisions of State Labor Code Section 1771 are being met.
- 9.15 **Professionals:** For projects involving installation or construction services, the Grantee 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.
- 9.16 **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.
- 9.17 **Timeliness:** Time is of the essence in this Grant Agreement. Grantee shall proceed with and complete the Project in an expeditious manner.
- 9.18 **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.

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Budget Summary

Grantee:

Grant No.:

Project: AQIP Hybrid Off-Road Equipment Pilot Project

Total Costs & Funding

Costs	Project Funds	Administration Funds	Total
1. Equipment Deployment Element			
2. Equipment Testing Element			
Total			

Project administration cost will reflect the administration cost identified in each Grantee Project Application Package and may not exceed ten percent of the Grant amount.

Disbursement of Funds:

Equipment Funding

The Grantee shall receive equipment funds in accordance with section 4.2 of the Implementation Manual.

Project Administration

The Grantee shall receive project administration funding in accordance with section 4.2 of the Implementation Manual.

Disbursement Schedule

Grantee:

Grant No.:

Project: AQIP Hybrid Off-Road Equipment Pilot Project

Disbursement of Funds:

Funds for equipment deployment, equipment testing, and project administration are to be disbursed based on completion of project tasks as described below.

**Hybrid Off-Road Equipment Pilot Project
Disbursement Schedule**

Milestone	Project Administration	Deployment Element	Testing Element
1) Sign Grant Agreement	50 percent		
2) Purchase orders for 25 percent of deployment funds		25 percent	
3) Purchase orders for 50 percent of deployment funds		25 percent	
4) Purchase orders for 75 percent of deployment funds and 25 percent of deployment funds expended on delivered equipment		25 percent	
5) Purchase orders for all deployment funds and 50 percent of deployment funds expended on delivered equipment		15 percent	
6) Testing Element Tasks 1 and 2 complete			50 percent
7) Testing Element Tasks 1 and 2 complete AND 25 percent of deployment funds expended on delivered equipment	25 percent		
8) Testing Element Task 3 complete			25 percent
9) Testing Element Task 4 complete			25 percent
10) Final Project Report and fulfillment of all project commitments	25 percent	10 percent	
TOTAL	100 percent	100 percent	100 percent

Additional information regarding this disbursement schedule may be found in Section 4.2 of the Implementation Manual.

Grantee's Project Implementation Schedule

Grantee:

Grant No.:

Project: AQIP Hybrid Off-Road Equipment Pilot Project

Detailed Scope of Work and Schedule

Work Task	Start Date	Completion Date
Task 1 --		
Task 2 –		
Task 3 –		
Task 4 –		
Task 5 –		

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EXHIBIT B, Attachment IV

Key Project Personnel

Grantee:

Grant No.:

Project: AQIP Hybrid Off-Road Equipment Pilot Project

Name	Position	Duties

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EXHIBIT D: Project Solicitation and Application Package
(i.e. Grantee Application)