APPENDIX I: FEDERAL GRANT AWARD

	U.S. ENVIRONMENTAL PROTECTION AGENCY **Grant Agreement**	**GRANT NUMBER (FAIN):** 97T26701 **MODIFICATION NUMBER:** 0 **PROGRAM CODE:** 5Y	**DATE OF AWARD** 12/11/2024
		TYPE OF ACTION New	**MAILING DATE** 12/16/2024
		PAYMENT METHOD: ASAP	**ACH#**

RECIPIENT TYPE: Special District	**Send Payment Request to:** Contact EPA RTPFC at: rtpfc-grants@epa.gov
RECIPIENT:	**PAYEE:**
STOCKTON PORT DISTRICT P. O. BOX 2089 STOCKTON, CA 95201-2089 **EIN:** 94-6001403	STOCKTON PORT DISTRICT P. O. BOX 2089 STOCKTON, CA 95201-2089

PROJECT MANAGER	EPA PROJECT OFFICER	EPA GRANT SPECIALIST
Jeff Wingfield P.O. BOX 2089 STOCKTON, CA 95201-2089 **Email:** Jwingfield@stocktonport.com **Phone:** 209-946-0246	Vernese Gholson 75 Hawthorne Street, AIR-1-1 San Francisco, CA 94105 **Email:** gholson.vernese@epa.gov **Phone:** 415-947-4200	Mackenzie Whitby Grants Branch, MSD-6-1 75 Hawthorne Street San Francisco, CA 94105 **Email:** whitby.mackenzie@epa.gov **Phone:** 415-972-3615

PROJECT TITLE AND DESCRIPTION

Inflation Reduction Act – Clean Ports Program

See Attachment 1 for project description.

BUDGET PERIOD	PROJECT PERIOD	TOTAL BUDGET PERIOD COST	TOTAL PROJECT PERIOD COST
02/01/2025 - 01/31/2029	02/01/2025 - 01/31/2029	$ 129,685,058.00	$ 129,685,058.00

NOTICE OF AWARD

Based on your Application dated 05/24/2024 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards $ 110,469,349.00. EPA agrees to cost-share 85.18% of all approved budget period costs incurred, up to and not exceeding total federal funding of $ 110,469,349.00. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.

ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)	AWARD APPROVAL OFFICE
ORGANIZATION / ADDRESS	**ORGANIZATION / ADDRESS**
U.S. EPA, Region 9, U.S. EPA, Region 9 Grants Branch, MSD-6 75 Hawthorne Street San Francisco, CA 94105	U.S. EPA, Region 9, Air & Radiation Division, AIR-1 R9 - Region 9 75 Hawthorne Street San Francisco, CA 94105

THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Digital signature applied by EPA Award Official Carolyn Truong - Grants Management Officer	**DATE** 12/11/2024

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	$ 0	$ 110,469,349	$ 110,469,349
EPA In-Kind Amount	$ 0	$ 0	$ 0
Unexpended Prior Year Balance	$ 0	$ 0	$ 0
Other Federal Funds	$ 0	$ 0	$ 0
Recipient Contribution	$ 0	$ 0	$ 0
State Contribution	$ 0	$ 0	$ 0
Local Contribution	$ 0	$ 0	$ 0
Other Contribution	$ 0	$ 19,215,709	$ 19,215,709
Allowable Project Cost	$ 0	$ 129,685,058	$ 129,685,058

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.051 - Clean Ports Program	Inflation Reduction Act: Sec. 60102 Clean Air Act: Sec. 133	2 CFR 200, 2 CFR 1500 and 40 CFR 33

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	2509M9S020	2227	E4SF6	09M2	000AVFXY3	4166	-	-	$ 110,469,349
									$ 110,469,349

Budget Summary Page

Table A - Object Class Category (Non-Construction)	Total Approved Allowable Budget Period Cost
1. Personnel	$ 0
2. Fringe Benefits	$ 0
3. Travel	$ 0
4. Equipment	$ 34,774,748
5. Supplies	$ 0
6. Contractual	$ 1,754,000
7. Construction	$ 17,745,877
8. Other	$ 75,410,433
9. Total Direct Charges	$ 129,685,058
10. Indirect Costs: 0.00 % Base	$ 0
11. Total (Share: Recipient 14.82 % Federal 85.18 %)	$ 129,685,058
12. Total Approved Assistance Amount	$ 110,469,349
13. Program Income	$ 0
14. Total EPA Amount Awarded This Action	$ 110,469,349
15. Total EPA Amount Awarded To Date	$ 110,469,349

Attachment 1 - Project Description

The purpose of this award is to provide funding under the Inflation Reduction Act to the Stockton Port District. Specifically, the recipient will reduce air pollution at the project locations through the deployment of zero-emission equipment and infrastructure at the port.

This assistance agreement provides full federal funding in the amount of $110,469,349. See terms and conditions.

The activities include transforming several pieces of cargo-handling equipment to becoming zero-emissions operating at the Port of Stockton terminal. The project will also result in a shore power system for tanker vessels, delivering emissions reductions across two California air districts and reducing impacts on communities heavily impacted by industrial operations. The Port and its partners will also deploy electric mobile harbor cranes, terminal tractors, solar, battery energy storage, and an electric mobile railcar indexer, as well as near-port community engagement, air monitoring, and workforce development at the Port.

The anticipated deliverables include the purchase and deployment of 54 electric forklifts, 2 electric mobile harbor cranes, 6 electric terminal tractors, 47 direct current fast chargers (with a total of 58 charging ports), 6.5 MW of rooftop solar power, 1.5 MW of battery energy storage, 1 electric mobile railcar indexer, and one 3.8 MW vessel shore power system. Other deliverables include establishment of a Port Community Engagement Policy, deployment of 3 air quality monitors, workforce training on zero-emission equipment, and local job fairs and apprenticeship programs.

The expected outcomes include reduced CO2, PM2.5 and NOx emissions, increased renewable power output, increased distributed energy storage capacity, improved transparency about port activities and air quality in the local community, delivery of new skills and capabilities to workforce, and increased access to high-quality job opportunities for near-port communities.

The intended beneficiaries include the Stockton Port District and partners, which will deploy and utilize the zero-emission equipment and infrastructure. Indirect beneficiaries include near-port communities which will experience improved ambient air quality. The activities include the following to be implemented through subawards:

-Subaward to procure 24 electric forklifts and 6 terminal tractors

-Subaward to procure and deploy 1 mobile electric railcar indexer

-Subaward to deploy a 3.8 MW shore power system with 2 pedestals

-Subaward to for advisory services on air quality monitoring scope

-Subaward to support electric forklift training, electrical training, and student learning about Zero Emission goods movement

Note: The subawards overall are going to port tenants or non-profits assisting with the project.

Administrative Conditions

General Terms and Conditions

The recipient agrees to comply with the current Environmental Protection Agency (EPA) general terms and conditions available at: https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2024-or-later

These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at: https://www.epa.gov/grants/grant-terms-and-conditions#general.

A. Federal Financial Reporting (FFR)

For awards with cumulative project and budget periods greater than 12 months, the recipient will submit an annual FFR (SF 425) covering the period from the project/budget period start date to **September 30** of each calendar year to the EPA Finance Center in Research Triangle Park, NC. The annual FFR will be submitted electronically to rtpfc-grants@epa.gov no later than **December 30** of the same calendar year. Find additional information at https://www.epa.gov/financial/grants. (Per 2 CFR § 200.344(b), the recipient must submit the Final FFR to rtpfc-grants@epa.gov within 120 days after the end of the project period.)

B. Procurement

The recipient will ensure all procurement transactions will be conducted in a manner providing full and open competition consistent with 2 CFR § 200.319. In accordance with 2 CFR § 200.324, the recipient and subawardee(s) must perform a cost or price analysis in connection with applicable procurement actions, including contract modifications. *State and Tribal government entities must follow procurement standards as outlined in 2 CFR § 200.317.*

C. MBE/WBE Reporting, 40 CFR, Part 33, Subpart E (EPA Form 5700-52A)

The recipient agrees to submit a “MBE/WBE Utilization Under Federal Grants and Cooperative Agreements” report (EPA Form 5700-52A) annually for the duration of the project period. The current EPA Form 5700-52A with instructions is located at https://www.epa.gov/grants/epa-grantee-forms

This provision represents an approved exception from the MBE/WBE reporting requirements as described in 40 CFR Section 33.502.

Reporting is required for assistance agreements where funds are budgeted for procuring construction, equipment, services and supplies (including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the “Other” category) with a cumulative total that exceed the **Simplified Acquisition Threshold (SAT) currently set at $250,000** (the dollar threshold will be automatically revised whenever the SAT is adjusted; See 2 CFR Section 200.1), including amendments and/or modifications. All procurement actions are reportable when reporting is required, not just the portion which exceeds the SAT.

Recipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 4A when completing the form.

When completing the annual report, recipients are instructed to check the box titled “annual” in section 1B of the form. For the final report, recipients are instructed to check the box indicated for the “Final Report (project completed)” in section 1B of the form.

The annual reports are due by October 30th of each calendar year and the final report is due within 120 days after the end of the project period, whichever comes first. The recipient will submit the MBE/WBE report(s) and/or questions to GrantsRegion9@epa.gov and the EPA Grants Specialist identified on page 1 of the award document.

D. Indirect Costs

The Cost Principles under 2 CFR Part 200, Subpart E apply to this award. Since there are no indirect costs included in the assistance budget, they are not allowable under this Assistance Agreement.

E. Subaward(s)

The recipient's approved budget includes subaward(s). As applicable, the recipient will comply with the General Term and Condition on reporting of first tier subawards to www.fsrs.gov per “Reporting Subawards and Executive Compensation” requirement.

F. Non-Federal Third-Party Contributions

This award includes non-federal third party contributions. Third party contributions counting towards satisfying a cost sharing requirement must be verifiable from the recipient's records and its subgrantee (s). As applicable, these records must reflect how the value is placed on third party contributions. The value of third party contributions must be applicable to the period to which the cost sharing requirement apply (2 CFR § 200.306).

G. New Recipient Training Requirement

The recipient agrees to complete the EPA Grants Management Training for Applicants and Recipients and the How to Develop a Budget training within 90 calendar days of the date of award of this agreement. The recipient must notify the EPA Grant Specialist via email when the required training is complete. For additional information on this training requirement, the recipient should refer to RAIN-2024-G01.

The recipient is precluded from drawing down funds under this assistance agreement until such time the recipient receives from EPA written confirmation of completing the required online courses. Please note, any costs incurred prior to receiving EPA confirmation are at **Stockton Port District**'s own risk. If **Stockton Port District** fails to respond or is unable to satisfactorily address all identified deficiencies within 90 days of the award date of this assistance agreement or within any extension of time granted by EPA, the agreement may be terminated. Noncompliance with this term and condition may result in adverse action by EPA per 2 CFR § 200.339.

Programmatic Conditions

a. Final Approved Workplan and Modifications

1. Recipient agrees to carry out the project in accordance with the final approved workplan.

2. Recipients are required to report deviations from budget or project scope or objective, and must request prior written approval from the EPA for:

a. any change in the scope or objective of the project (even if there is no associated budget revision requiring prior written approval);

b. any change in key personnel (including employees and contractors) that are identified by name or position in the Federal award specified in the application or workplan; the disengagement from the project for more than three months, or a 25% reduction in time and effort devoted to the Federal award over the course of the period of performance, by the approved project director or project manager;

c. The inclusion of costs that require prior approval in accordance with 2 CFR Part 200 Subpart E—Cost Principles or 48 CFR part 31, “Contract Cost Principles and Procedures,” as applicable;

d. the transfer of funds budgeted for participant support costs to other budget categories as defined in 2 CFR Section 200.1 Definitions to other categories of expense;

e. unless described in the final approved workplan and budget, the subawarding, transferring or contracting out of any work under the award;

f. changes in the total approved cost-sharing provided by the recipient; or the need arises for additional Federal funds to complete the project.

Requests for proposed modifications to the approved workplan or budget, including additions, deletions, or changes in the schedule, must be submitted in a timely manner to the EPA Project Officer for approval, to minimize project delays. Depending on the type or scope of changes, a formal amendment to the award may be necessary. Major project modifications which include changes to the approved types and number of partners and equipment, or to the approved project partners and location(s) may not be allowed.

b. Performance Reporting and Final Performance Report

1. Performance Reports – Content

In accordance with 2 CFR 200.329, the recipient agrees to complete and submit electronic performance reports using reporting template(s), including the approved Clean Ports Project Reporting Template (EPA Form Number: 5900-690 or future revisions, as applicable), which will be provided by the project officer. The purpose of performance reports is to provide updates on implementation of each project, including information on each of the following areas:

1. A comparison of accomplishments to the outputs/outcomes established in the assistance agreement work plan for the reporting period, including detailed technical information on new mobile equipment and

electric charging and hydrogen fueling infrastructure deployed, and the retirement of older equipment, as appropriate;

2. The reasons why any established outputs/outcomes were not met;

3. Additional information, analysis, and explanation of cost overruns or higher than-expected-unit costs.

Additionally, the recipient agrees to notify the EPA when a significant development occurs that could impact the award. Examples of significant developments can include:

- events that enable meeting milestones and objectives sooner or at less cost than anticipated;
- events that produce different beneficial results than originally planned; or
- problems, delays, or adverse conditions which will impact the ability to meet the milestones or objectives of the award, including outputs/outcomes specified in the assistance agreement work plan.

If a significant development negatively impacts the award, the recipient must include information on their plan for corrective action and any assistance needed to resolve the situation.

The final project report will include all categories of information required for semi-annual reporting, including a final, detailed description of all zero-emission technology deployment activities completed at each project location. The final project report will also include a narrative summary of the project and the successes and lessons learned for the entire project.

2. Performance Reports - Frequency

Throughout the 4-year performance period, the recipient agrees to submit **semi-annual** performance reports electronically to the EPA Project Officer by the due date following the conclusion of each semi-annual reporting period. The semi-annual reporting periods are:

January 1 – June 30: Report due date July 30.

July 1 – December 31: Report due date January 30

Additional reporting may be required if the grant is extended or at the discretion of the EPA Project Officer. The recipient must submit the final performance report no later than 120 calendar days after the end date of the period of performance.

3. Subaward Performance Reporting

The recipient must report on its subaward monitoring activities under 2 CFR 200.332(e). Examples of items that must be reported are:

1. Summaries of results of reviews of financial and programmatic reports.

2. Summaries of findings from site visits and/or desk reviews to ensure effective subrecipient performance.

3. Environmental results the subrecipient achieved.

4. Summaries of audit findings and related pass-through entity management decisions.

5. Actions the pass-through entity has taken to correct deficiencies such as those specified at 2 CFR 200.332(f), 2 CFR 200.208, and the 2 CFR Part 200.339 Remedies for Noncompliance.

If the recipient is unable to obtain this information, the recipient must report to EPA why the information is not available.

c. Cybersecurity Condition

1. The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.

2.a. The EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure. For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or the EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer (PO) no later than 90 days after the date of this award and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by the EPA's regulatory programs for the submission of reporting and/or compliance data.

b. The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in 2.a if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or the EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR 200.332(e), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and the EPA.

d. Project Transparency

The recipient agrees to engage with near-port communities about the project during the performance period. Examples of appropriate community engagement during the project period are outlined on pg. 45 of the Notice of Funding Opportunity. Community engagement activities conducted as part of the final approved workplan should be reported in performance reporting described in Programmatic Term and Condition B (Performance Reporting and Final Performance Report).

1. The recipient agrees to publicly share, such as on a webpage, a detailed written summary of the results of the emissions inventory and/or emission reduction plan included in the final workplan.

e. Automated Standard Application Payments (ASAP) and Proper Payment Draw Down

The recipient is subject to the Automated Standard Application Payments (ASAP) and Proper Payment Draw Down General Term and Condition. See the “Financial Information” section of the General Terms and Conditions.

The recipient is required to notify the EPA Project Officer of draws from ASAP in excess of 50% of the award within a 24-hour period. The recipient is required to provide such notification within 3 business days of the draw amount being surpassed.

The recipient is subject to the Management Fees General Term and Condition, which includes the following requirements that prohibit profit on the part of the recipient:

1. Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable.

2. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work. See the “Selected Items of Cost” section of the General Terms and Conditions.

f. Public or Media Events

The recipient agrees to notify the EPA Project Officer listed in this award document of public or media events publicizing the accomplishment of significant events related to construction projects as a result of this agreement and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days' notice.

g. Program Beneficiary

Program beneficiaries must abide by requirements to ensure that the funds are used only for authorized purposes.

h. Procurement Procedures

As provided in 2 CFR 200.317, with limited exceptions, states and Indian Tribes must follow the same policies and procedures they follow for procurements financed with non-Federal funds. If such policies and procedures do not exist, States and Indian Tribes must follow the procurement standards in §§ 200.318 through 200.327. In addition to its own policies and procedures, a State or Indian Tribe must also comply with the following procurement standards: §§ 200.321, 200.322, 200.323, and 200.327. All other recipients and subrecipients, including subrecipients of a State or Indian Tribe, must follow the procurement standards in §§ 200.318 through 200.327.

The recipient must follow applicable procurement procedures. The EPA will not be a party to these transactions. If the EPA funds are used to purchase goods or services, recipient agrees to compete the contracts for those goods and services and conduct cost and price analyses to the extent required by the fair and open competition for procurement provisions of 2 CFR §§200.318 – 327. Approval of a funding application does not relieve recipients of their obligations to compete service contracts and conduct cost and price analyses.

i. Quality Assurance

Authority: Quality Assurance applies to all assistance agreements involving environmentally related data operations, including environmental data collection, production, or use. 2 CFR 1500.12 Quality Assurance.

The recipient shall ensure that subawards involving environmental information that are issued under this agreement include appropriate quality requirements for the work. The recipient shall ensure sub-award recipients develop and implement the Quality Assurance (QA) planning document in accordance with this term and condition; and/or ensure sub-award recipients implement all applicable approved QA planning documents.

1. Quality Management Plan (QMP)

a. Prior to beginning environmental information operations, the recipient must:

i. Develop a QMP,

ii. Prepare the QMP in accordance with the current version of the EPA's Quality Management Plan Standard. Submit the document for EPA review, and

iii. Obtain the EPA Quality Assurance Manager or designee (hereafter referred to as QAM) approval.

b. The recipient must submit the QMP before beginning environmental information operations.

c. The recipient must review their approved QMP at least annually.These documented reviews shall be made available to the sponsoring EPA organization if requested. When necessary, the recipient shall revise its QMP to incorporate minor changes and notify the EPAPO and QAM of the changes. If significant changes have been made to the Quality Program that affect the performance of environmental information operations, it may be necessary to re-submit the entire QMP for re-approval. In general, a copy of any QMP revision(s) made during the year should be submitted to the EPA PO and QAM in writing when such changes occur. Conditions requiring the revision and resubmittal of an approved QMP can be found in section 6 of the EPA's Quality Management Plan (QMP) Standard.

2. Quality Assurance Project Plan (QAPP)

a. Prior to beginning environmental information operations, the recipient must:

i. Develop a QAPP,

ii. Prepare QAPP in accordance with the current version of the EPA's Quality Assurance Project Plan (QAPP) Standard,

iii. Submit the document for EPA review, and

iv. Obtain the EPA Quality Assurance Manager or designee (hereafter referred to as QAM) approval.

b. The recipient must submit the QAPP before beginning environmental information operations.

c. The recipient shall notify the PO and QAM when substantive changes are needed to the QAPP. The EPA may require the QAPP be updated and re-submitted for approval.

d. The recipient must review their approved QAPP at least annually. The results of the QAPP review and any revisions must be submitted to the PO and the QAM at least annually and may also be submitted when changes occur.

For Reference:

• Quality Management Plan (QMP) Standard and EPA's Quality Assurance Project Plan (QAPP) Standard; contain quality specifications for the EPA and non-EPA organizations and definitions applicable to these terms and conditions.

• EPA QA/G-5: *Guidance for Quality Assurance Project Plans*.

• The EPA's Quality Program website has a list of QA managers, and Specifications for EPA and Non-EPA Organizations

• The Office of Grants and Debarment Implementation of Quality Assurance Requirements for Organizations Receiving EPA Financial Assistance.

j. Climate Resilience

To the extent practicable, the recipient agrees to incorporate current and future climate change risk in planning, siting, design, and operation of the project. Approaches for incorporating climate change risk may make use of climate change data and information (e.g., projections and emission scenarios) that are reflective of the project's anticipated lifespan. This includes consideration of the climate change risks posed to the individuals, communities, local governments, organizations, or other entities served by the project over its anticipated lifespan.

k. Use of Logos

If the EPA logo is appearing along with logos from other participating entities on websites, outreach materials, or reports, the EPA logo must **not** be prominently displayed in a way that may imply that any of the recipient or subrecipient's activities are being conducted by the EPA. Instead, the EPA logo should be accompanied with a statement indicating that the Stockton Port District or Port of Stockton received financial support from the EPA under an Assistance Agreement. More information is available at: https://www.epa.gov/stylebook/using-epa-seal-and-logo#policy

l. Build America, Buy America (BABA) Requirements

All projects under this competition are subject to the domestic sourcing requirements under the Build America, Buy America (BABA) provisions of the Infrastructure Investment and Jobs Act (IIJA) (P.L. 117-58, §§ 70911-70917) when using federal funds for the purchase of goods, products, and materials on any form of construction, alteration, maintenance, or repair of infrastructure in the United States. The Buy

America preference requirement applies to all of the iron and steel, manufactured products, and construction materials used for the infrastructure project under an award for identified EPA financial assistance funding programs.

These sourcing requirements require that all iron, steel, manufactured products, and construction materials used in Federally funded infrastructure projects must be produced in the United States, as defined in P.L 117-58 § 70912(6). The recipient must implement these requirements in its procurements, and this article must flow down to all subawards and contracts. For legal definitions and sourcing requirements, the recipient must consult EPA's Build America, Buy America website.

Clean Ports Program grants are subject to the requirements of BABA, which requires applicants to comply with Buy America preference requirements or apply for a waiver for each infrastructure project. The following potentially eligible projects under this competition meet the definition of “infrastructure” and are subject to Buy America preference requirements under BABA:

- Structures, facilities, and equipment that generate, transport, and distribute energy - including electric vehicle (EV) charging equipment.

- Any other permanent public structure that meets the qualifies as “infrastructure” as addressed in OMB Memorandum M-24-02 and 2 C.F.R. section 184.4(c).

Questions regarding BABA applicability to specific Clean Ports Program projects should be submitted to BABA-OTAQ@epa.gov.

When necessary and supported by rationale provided in P.L 117-58 § 70914, the recipient may submit a project-specific waiver request to EPA or notify EPA when using an existing waiver. The recipient should request guidance on submitting a BABA waiver request from the EPA Project Officer. A list of existing approved EPA waivers is available on the EPA Build America, Buy America website at: https://www.epa.gov/cwsrf/build-america-buy-america-baba-approved-waivers. Please continue to monitor this website for further BABA guidance or any future EPA waivers that may impact the Clean Ports grants program.

See EPA's “Build America, Buy America” general term and condition for additional requirements: https://www.epa.gov/grants/grant-terms-and-conditions.

m. Eligible and Ineligible Project Costs

1. Project Implementation Costs: Eligible project costs include those costs directly related to the implementation, management, and oversight of the project, including the proportion of recipient and subrecipient personnel and benefit costs expended in relation to the award, equipment, contractual, travel, supplies, subgrants and rebates, and indirect costs. See 2 C.F.R. Part 200, Sections 200.412-200.415.

2. Zero-Emissions (ZE) Mobile Equipment Costs.

a. Recipient shall only use assistance funding to purchase ZE mobile equipment that will directly serve at least one port for a minimum of three years.

b. For purposes of this assistance program, a port is either a water port or a dry port, as defined below:

i. Water port: places on land alongside navigable water (e.g., oceans, rivers, or lakes) with one or more facilities in close proximity for the loading and unloading of passengers or cargo from ships, ferries, and other commercial vessels. This includes facilities that support non-commercial Tribal fishing operations.

ii. Dry port: an intermodal truck-rail facility that is included in the 2024 Federal Highway Administration's (FHWA) Intermodal Connector Database based on meeting the criteria set in 23 C.F.R. Part 470. These criteria include having more than 50,000 TEUs (20-foot equivalent units) per year or other units measured that would convert to more than 100 trucks per day, or comprising more than 20 percent of freight volumes handled by any mode within a State.

c. For purposes of this assistance program, zero emission mobile equipment is that which:

i. produces zero tailpipe emissions of any criteria pollutant, air toxics, or greenhouse gas other than water vapor;

ii. has an onboard powertrain and is:

• self-propelled by the powertrain;

• intended to be propelled while performing its function; or

• portable or transportable, meaning designed to be and capable of being carried or moved from one location to another (e.g., has wheels, skids, carrying handles, dolly, trailer or platform) and is moved as part of normal operations (i.e., it does not stay in one location for more than 12 consecutive months or the full annual operating period of a seasonal operation); and

iii. is limited to electric and hydrogen fuel cell technologies for which there is an equivalent model with an internal combustion engine available in the marketplace.

This definition is derived from the definitions of “Mobile sources” in 40 CFR § 51.491 and “Nonroad engine” in 40 CFR § 1068.30.

d. Eligible project costs include the purchase and deployment of new eligible battery-electric or hydrogen fuel cell vehicles, vessels, powertrains, and other mobile equipment that directly serve at least one port for a minimum of three years according to the following minimum parameters for each mobile equipment category.

i. Cargo handling equipment (terminal tractors, forklifts, top handlers, side picks, straddle carriers, etc.): at least 90% of annual usage (hours) will take place at the port(s) identified in the award.

ii. Drayage Trucks: at least 100 visits/year will take place at the port(s) identified in the award.

iii. Locomotives (switchers, railcar movers): (1) at least 75% of its annual usage (hours) will take place at the port(s) identified in the application, (2) shall visit the port(s) identified in the award on a minimum of 200 days per year, and (3) must exclusively perform short-haul runs between the

port(s) identified in the award and a second point of rest, e.g., a terminal, interchange, or yard.

iv. Harbor craft and other vessels (commercial and Tribal fishing vessels, tugs, ferries, patrol boats, workboats, dredges, pilot boats, barges, etc.): at least 60% of its annual usage (hours and port visits) will take place at the port(s) identified in the award.

v. Other eligible mobile source equipment: at least 90% of annual usage (hours and operating days) must take place at the port(s) identified in the award.

e. Mobile equipment must be human-operated and human-maintained.

f. Recipient shall not use assistance funding for any of the following types of equipment or activities.

i. Equipment which uses a non-ZE powertrain, including hybrid technologies powered in part by internal combustion engines, unless the non-ZE power source is mandated by safety regulations, and functions solely as a source of emergency backup power.

ii. First-of-a-kind demonstration and pilot projects designed to determine the technical feasibility and economic potential of technologies at either a pilot or prototype stage.

iii. Research and development projects. Research is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. Development is defined as the systematic use of knowledge and understanding gained from research, and directed toward the production of technologies, devices, systems, or methods, including design and development of prototypes and processes.

iv. Ship modifications to allow vessels to accept shore-based electrical power, unless the modification is part of a project to replace the internal combustion engine(s) of a marine vessel with a ZE powertrain.

v. Light-duty vehicles.

vi. Expenses related to repowering and/or replacing engines for existing onroad vehicles.

vii. Expenses related to replacing internal combustion engines in existing nonroad equipment, locomotives, and marine vessels with ZE powertrains where the updated nonroad equipment, locomotive, or marine vessel includes a non-ZE powertrain, unless the non-ZE power source is mandated by safety regulations, and functions solely as a source of emergency backup power.

viii. Expenses related to replacing cabs, axles, paint, brakes, mufflers, or any other parts or materials that are not required to ensure the effective installation and functioning of the replacement of an internal combustion engine in existing nonroad equipment, locomotives, or marine vessels with a ZE powertrain.

3. Fueling Infrastructure Costs:

a. Recipient agrees that any infrastructure purchased or installed using EPA assistance funding may only be used to purchase or install infrastructure which will directly serve at least one port, as defined above in M.2.b. for a minimum of three years and according to the following parameters:

i. All infrastructure (except for vessel shore power) must directly serve eligible ZE mobile equipment purchased as part of the award. However, equipment not purchased as part of the grant may also utilize the fueling infrastructure.

ii. Infrastructure serving any mobile equipment (besides drayage trucks and locomotives) must be located on-site or in close proximity to port facilities identified in the award.

iii. Infrastructure serving drayage trucks or locomotives must be located on-site or in close proximity to port facilities identified in the applications, or at the first point of rest from the port facilities identified in the award (i.e., a terminal, depot, interchange, or yard where an eligible ZE mobile equipment purchased as part of the grant will fuel).

b. Infrastructure must be human-operated and human maintained.

c. For shore power projects, shore power-capable vessels docked at a berth where shore power is available must be required to turn off the vessel's engines and use the shore power system, with limited exceptions for extreme circumstances.

d. Electric charging infrastructure must be located at or behind the meter (on the customer side) except for minor grid upgrades in front of the meter (utility side) if the work is necessary to connect an eligible charging station to the electric distribution network.

e. Alternating Current (AC) Level 2 charging infrastructure must be EPA ENERGY STAR certified at the time of purchase.

f. Electric charging infrastructure must meet the following installation requirements: Electricians installing, operating, or maintaining electric charging infrastructure purchased through this program are required to be certified under the Electric Vehicle Infrastructure Training Program or another program approved by the EPA in consultation with the Department of Labor and Department of Transportation, as will be reflected in the terms of this grant award. For projects requiring more than one electrician, at least one of the electricians performing each phase of the infrastructure work should meet the requirements above.

g. Recipient agrees not to use EPA assistance funding for any of the following ineligible infrastructure costs:

i. Front of the meter costs related to purchase or installation of electric infrastructure. This includes but is not limited to: major grid upgrades to utility-owned power distribution equipment (such as longer power line extensions, improvements to offsite power generation, bulk power transmission, or substations); transformers located on the utility side of the meter and their installation; and operation and maintenance performed on utility systems.

ii. Infrastructure which relies on air polluting components (e.g., backup generators or auxiliary power units), unless the non-ZE component is mandated by safety regulations, and functions solely as an emergency backup power source.

iii. Power generation systems (including non-renewable powered backup generators), except for solar and wind power generation systems that primarily power mobile equipment and which are located on land.

iv. Hydrogen production systems (e.g., electrolyzers, conversion facilities), associated infrastructure, and their installation.

v. Transmission (e.g., piping and pipelines) and/or transportation of hydrogen outside of the port.

h. Marine shore power projects must meet applicable international shore power design standards (IEC/ISO/IEEE 80005-1:2019/AMD 2:2023 High Voltage Shore Connection Systems or the IEC/PAS 80005-3:2014 Low Voltage Shore Connection Systems).

i. Solar or wind power generation systems must be located on land in close proximity to the port facilities identified in the award; or at the first point of rest from the port facilities for infrastructure serving drayage trucks or locomotives. Offshore wind and floating solar/wind infrastructure purchases and installation are not permitted.

4. Ineligible Technology Deployment Support Costs: The recipient may not use EPA assistance funding for the following purposes:

a. Feasibility assessment of ZE technology. Technology feasibility assessment is a preliminary exploration of a candidate technology to determine its merits and viability for successful deployment in regular service. A feasibility assessment can include the evaluation of key technical, operational, labor, economic, legal/regulatory, and deployment (timeline/schedule) issues. Feasibility assessment results are used to create a realistic project plan, schedule, and budget. [These activities are eligible for funding in the separate NOFO for Climate and Air Quality Planning projects under Funding Opportunity Number EPA-R-OAR-CPP-24-05. However, please note that applicants requesting funding for technology deployment under this ZE Technology Deployment Competition are expected to have conducted necessary feasibility assessments prior to applying and should not be planning to conduct further feasibility assessments prior to deployment.]

b. Costs for resiliency measures not directly related to protecting equipment purchased as part of the grant award from extreme weather events.

c. Leasing vehicles or equipment. If financing is necessary, the purchase should be financed with a conventional purchase loan.

d. Fuel and electricity expenses.

5. Other Ineligible Costs: As proscribed in Section 825 of the National Defense Authorization Act, no funds may be awarded to an entity that uses in part or in whole: the national transportation logistics public information platform (commonly referred to as ‘LOGINK'); any national transportation logistics information platform provided by or sponsored by the People's Republic of China, or a controlled commercial entity; or a similar system provided by Chinese state-affiliated entities.

n. Program Audit

In addition to the provisions of EPA's General Terms and Conditions which relate to audits and access to records, the recipient agrees to comply with random EPA reviews of the recipient to protect against waste, fraud, and abuse. As part of this process, EPA, or its authorized representatives, may request copies of grant documents from prior recipients who have received grants, or may request documentation from current recipients and sub-awardees, to verify statements made on the application

and reporting documents. Recipients may be selected for advanced monitoring, including a potential site visit to confirm project details. EPA, or its authorized representatives, may also conduct site visits to confirm documentation is on hand and that purchased equipment and infrastructure is in service at the ports named in the award, as well as confirm applicable infrastructure adheres to Build America, Buy America (BABA) requirements (see BABA Programmatic Term and Condition for more details). Recipients are expected to comply with site visit requests and recordkeeping requirements and must supply EPA with any requested documents for as long as the records are retained, or risk cancellation of an active grant application or other enforcement action.

o. Record Retention

Recipients must keep all financial records, supporting documents, accounting books and other evidence of Grant Program activities for three years from the date of submission of the final financial report. If any litigation, claim, or audit is started before the expiration of the three-year period, the recipient must maintain all appropriate records until these actions are completed and all issues resolved.

p. Operation and Maintenance

The recipient will ensure the continued proper operation and maintenance of equipment and devices funded under this agreement. Such equipment and infrastructure shall be operated and maintained for the expected lifespan of the specific measure and in accordance with commonly accepted design standards and specifications. The recipient shall include a provision in every applicable sub-agreement (subgrant or contract) awarded under this grant requiring that the equipment and devices funded under this agreement be properly operated and maintained. Likewise, the sub-agreement will assure that similar provisions are included in any sub-agreements that are awarded by the sub-recipient.

q. Foreign Entity of Concern

1. As part of carrying out this award, recipient agrees that they are not:

    a. an entity owned by, controlled by, or subject to the direction of a government of a “covered nation” as defined at 10 U.S.C. § 4872(d);

    b. an entity headquartered in a “covered nation” as defined at 10 U.S.C. § 4872(d); or

    c. a subsidiary of an entity described in (A) or (B).

Note: Paragraph 1 applies to the recipient of this award only and not subrecipients.

2. Additionally, awarded funds may not be used by the recipient or subrecipients for the purchase of a crane manufactured by (A) any entity owned by, controlled by, or subject to the direction of a government of a covered nation “covered nation” as defined at 10 U.S.C. § 4872(d); or (B) any entity headquartered in a covered nation “covered nation” as defined at 10 U.S.C. § 4872(d).

As of the date these terms and conditions become effective, covered nations under 10 U.S.C. § 4872(d) are the Democratic People's Republic of North Korea; the People's Republic of China; the Russian Federation; and the Islamic Republic of Iran.

r. Emissions Inventories

The recipient agrees to follow the EPA's Port Emissions Inventory Guidance, when developing the emissions inventories included in the workplan. This guidance may be found at: https://www.epa.gov/ports-initiative/port-and-goods-movement-emission-inventories.

s. Competency Policy

Competency of Organizations Generating Environmental Measurement Data

In accordance with Agency Policy Directive Number FEM-2012-02, Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements, Recipient agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable, Recipient agrees to demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. Recipient shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the policy is available online at https://www.epa.gov/sites/default/files/2017-05/documents/policy_to_assure_the_competency_of_organizations.pdf or a copy may also be requested by contacting the EPA Project Officer for this award.

Reference: https://www.epa.gov/sites/default/files/2017-05/documents/policy_to_assure_the_competency_of_organizations.pdf

t. Geospatial Data Standards

All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at https://www.fgdc.gov/.

u. Mandatory Cost Share Requirement

This award and the resulting federal funding share (as shown under “Notice of Award” in the award document) is based on estimated costs requested in the recipient's final approved workplan. While actual total costs may differ than those estimates, the recipient is required to provide no less than the cost-share percentages outlined below, as applicable, of the final Zero-Emission (ZE) Technology Deployment Grant Competition costs. The EPA's participation shall not exceed the total amount of federal funds awarded or the maximum federal cost-share percentages outlined below, as applicable, of the final equipment costs. Recipients must satisfy any applicable cost share requirements with allowable costs as set forth in 2 CFR § 200.306. The cost share requirement is as follows:

Tier B (Water or Dry Ports): EPA Share of Total Project Cost (Maximum) = 90%, Mandatory Cost Share of Total Project Costs = 10%

Total Project cost refers to total allowable costs incurred under a federal award and all required cost sharing and voluntary committed cost sharing, including third-party contributions.

v. Voluntary Cost Share

This award and the resulting federal funding of **$110,469,349** is based on estimated costs requested in the recipient's application at the later of (a) the time this funding opportunity closed on May 28, 2024, or (b) when negotiations concluded. Included in these costs is a voluntary cost-share contribution of

$6,941,336 by the recipient in the form of a voluntary cost-share or overmatch (providing more than any minimum mandatory cost-share) that the recipient included in its proposal dated May 24, 2024. The recipient must provide this voluntary cost-share contribution during performance of this award unless the EPA agrees otherwise in a modification to this agreement. While actual total costs may differ from the estimates in the recipient's application, the EPA's participation shall not exceed the total amount of federal funds awarded.

If the recipient fails to provide the voluntary cost-share contribution during the period of award performance, and the EPA does not agree to modify the agreement to reduce the cost share, the recipient is in violation of the terms of the agreement. In addition to other remedies available under 2 CFR Part 200, the Agency may consider this factor in evaluating future proposals from the recipient. In addition, if the voluntary cost-share contribution does not materialize during the period of award performance then the EPA may reconsider the legitimacy of the award; if the EPA determines that the recipient knowingly or recklessly provided inaccurate information regarding the voluntary cost-share or overmatch the recipient described in its proposal dated May 24, 2024. The EPA may take action as authorized by 2 CFR Part 200 and/or 2 CFR Part 180 as applicable.

w. Leveraged Resources for Complementary Initiatives

Leveraging: The recipient agrees to provide the proposed leveraged funding, including any voluntary cost-share contribution or overmatch, that is described in its proposal dated May 24, 2024. If the proposed leveraging does not materialize during the period of award performance, and the recipient does not provide a satisfactory explanation, the Agency may consider this factor in evaluating future proposals from the recipient. In addition, if the proposed leveraging does not materialize during the period of award performance then the EPA may reconsider the legitimacy of the award; if the EPA determines that the recipient knowingly or recklessly provided inaccurate information regarding the leveraged funding the recipient described in its proposal dated May 24, 2024 the EPA may take action as authorized by 2 CFR Part 200 and/or 2 CFR Part 180 as applicable.

x. Equipment Disposition

Equipment purchased under this award must directly serve the port(s) identified in the award for a minimum of three years. After this period of time, in accordance with 2 CFR 200.313, when original or replacement equipment acquired under this agreement is no longer needed for the original project or program or for other activities currently or previously supported by the EPA, the recipient must request disposition instructions from the EPA Project Officer. Disposition instructions will be one of the following:

1. Equipment with a current fair market value of $10,000 or less (per unit) may be retained, sold, or otherwise disposed of with no further obligation to the EPA or pass-through entity.

2. Except as provided in 2 CFR 200.312(b), or if EPA or the pass-through entity fails to provide requested disposition instructions within 120 days, items of equipment with a current fair market value in excess of $10,000 (per unit) may be retained or sold by the recipient or subrecipient. EPA is entitled to an amount calculated by multiplying the percentage of the EPA's contribution towards the original purchase by the current market value or proceeds from the sale. If the equipment is sold, EPA or the pass-through entity may permit the recipient or subrecipient to retain, from the Federal share $1,000 of the proceeds, to cover expenses associated with the selling and handling of the equipment.

3. The recipient or subrecipient may transfer title to the property to the Federal Government or to an

eligible third party provided that the recipient or subrecipient must be entitled to compensation for its attributable percentage of the current fair market value of the property.

4. In cases where a recipient or subrecipient fails to take appropriate disposition actions, EPA or the pass-through entity may direct the recipient to take disposition actions.

y. Paperwork Reduction Act

Notwithstanding any references to collection of information in the recipient's application or proposal for EPA funding, the scope of work for this cooperative agreement does not include a survey or other information collection of identical information from 10 or more parties. No EPA funds (directly paid by EPA or from the recipient's cost share) may be used for the design or administration of such an information collection, and EPA personnel may not participate in such activities. Reasonable costs for analyzing independently collected information and publishing the results of such information collections are allowable to the extent authorized in the EPA approved budget for this agreement.

z. Davis-Bacon and Related Acts (DBRA) Term and Condition

1. Program Applicability

a. Program Name – Clean Ports Program

b. Statute requiring compliance with Davis-Bacon – Clean Air Act Section 314

c. Activities subject to Davis-Bacon – any construction activities funded by this grant.

d. The recipient must work with the appropriate authorities to determine wage classifications for the specific project(s) or activities subject to Davis Bacon under this grant (or cooperative agreement).

2. Davis-Bacon and Related Acts

Davis-Bacon and Related Acts (DBRA) (https://www.dol.gov/agencies/whd/government-contracts/construction) is a collection of labor standards provisions administered by the Department of Labor, that are applicable to grants involving construction. These labor standards include the:

- Davis-Bacon Act, which requires payment of prevailing wage rates for laborers and mechanics on construction contracts of $2,000 or more

- Copeland “Anti-Kickback” Act, which prohibits a contractor or subcontractor from inducing an employee into giving up any part of the compensation to which he or she is entitled; and

- Contract Work Hours and Safety Standards Act, which requires overtime wages to be paid for over 40 hours of work per week, under contracts in excess of $100,000.

3. Recipient Responsibilities When Entering Into and Managing Contracts:

a. Solicitation and Contract Requirements:

i. Include the Correct Wage Determinations in Bid Solicitations and Contracts: Recipients are

responsible for complying with the procedures provided in 29 CFR 1.6 when soliciting bids and awarding contracts.

ii. Include DBRA Requirements in All Contracts: Include the following text on all contracts under this grant:

> "By accepting this contract, the contractor acknowledges and agrees to the terms provided in the DBRA Requirements for Contractors and Subcontractors Under EPA Grants."

b. After Award of Contract:

i. Approve and Submit Requests for Additional Wages Rates: Work with contractors to request additional wage rates if required for contracts under this grant, as provided in 29 CFR 5.5(a)(1)(iii).

ii. Provide Oversight of Contractors to Ensure Compliance with DBRA Provisions: Ensure contractor compliance with the terms of the contract, as required by 29 CFR 5.6.

4. Recipient Responsibilities When Establishing and Managing Additional Subawards: a. Include DBRA Requirements in All Subawards (including Loans):

Include the following text on all subawards under this grant:

> "By accepting this award, the EPA subrecipient acknowledges and agrees to the terms and conditions provided in the DBRA Requirements for EPA Subrecipients."

Provide Oversight to Ensure Compliance with DBRA Provisions: Recipients are responsible for oversight of subrecipients and must ensure subrecipients comply with the requirements in 29 CFR 5.6.

5. Consideration as Part of Every Prime Contract Covered by DBRA

The contract clauses set forth in this Term & Condition, along with the correct wage determinations, will be considered to be a part of every prime contract covered by Davis-Bacon and Related Acts (see 29 CFR 5.1), and will be effective by operation of law, whether or not they are included or incorporated by reference into such contract, unless the Department of Labor grants a variance, tolerance, or exemption. Where the clauses and applicable wage determinations are effective by operation of law under this paragraph, the prime contractor must be compensated for any resulting increase in wages in accordance with applicable law.

aa. Subawards to For-Profit Entities

1. In addition to the EPA General Term and Condition "Establishing and Managing Subawards", the recipient (i.e. "pass-through entity") agrees to require that for-profit subrecipients comply with Subparts A through F of the Uniform Grant Guidance (2 CFR Part 200) and the Federal cost principles applicable to for-profit entities located at 48 CFR Part 31, with the exception of the method of payment to for-profit subrecipients must be "reimbursement" rather than "advance". Pass-through entities must obtain documentation that the for-profit subrecipient has incurred eligible and allowable costs prior to releasing EPA funds to the subrecipient.

2. The recipient is authorized to provide subawards to for-profit entities as included in the EPA-approved Workplan. The recipient agrees to require that for-profit entities that receive such subawards:

a. Can only recover their eligible and allowable direct and indirect costs from EPA-funded activities, including recovering the portion of their overhead costs attributable to the activities by applying either a Federally approved indirect cost rate, as authorized by 2 CFR 200.414(f), or the de-minimis rate if the subrecipient does not have a Federally approved rate;

b. Comply with the Management Fees General Term and Condition, which is incorporated by reference into the Establishing and Managing Subawards General Term and Condition;

c. Account for and use program income under the rules for program income pursuant to 2 CFR § 300.307 and 2 CFR § 1500.8(b) and the terms and conditions of the award agreement;

d. Be subject to the same requirements as non-profit subrecipients under 2 CFR Part 200 Subparts A through E; and

e. Select an independent auditor consistent with the criteria set forth in 2 CFR 200.509 and obtain an independent audit substantially similar in scope and quality to that of the Single Audit (see 2 CFR 200.500 et. seq.); the subrecipient must submit the audit to the recipient within 9 months of the end of the recipient's fiscal year or 30 days after receiving the report from an independent auditor, whichever is earlier; as provided in 2 CFR 200.337(a) the recipient must provide EPA, the EPA Office of Inspector General, and the Comptroller General with access to the subrecipient's independent auditor reports.

bb. Voluntary Scrappage

1. Recipient must provide, in the semi-annual and final reports, evidence of appropriate scrappage and evidence of appropriate disposal for all internal combustion engine equipment or vehicles identified for scrappage in the final workplan, and in accordance with scrappage plans described in the proposal dated May 28, 2024.

2. Participating fleet owners must attest to the appropriate disposal in a signed scrappage statement. A sample scrappage statement (EPA Form 5900-684) may be found at https://www.epa.gov/system/files/documents/2024-02/2024-clean-ports-sample-scrappage-stmt-2024-02.pdf. The scrappage statement must include: vehicle owner's name and address; vehicle make, vehicle model, vehicle model year, VIN, odometer/usage meter reading, engine make, engine model, engine model year, engine horsepower, engine ID or serial number, as applicable; Name, address, and signature of dismantler; Date engine and/or vehicle/equipment was scrapped. Recipients must include or attach the following photos with the scrappage statement according to guidance provided by Project Officer, to demonstrate compliance with scrappage requirements: side profile of the vehicle, prior to disabling; VIN tag or equipment serial number; Engine label (showing serial number, engine family number, and engine model year); Engine block, prior to hole; Engine block, after hole; and Cut frame rails.

a. If the recipient for any reason does not scrap the vehicle/piece of equipment described in the application project narrative dated May 28, 2024, or listed on the Supplemental Application Template (“4b. Scrappage Information” tab), an equivalent vehicle/piece of equipment or must be scrapped instead, with approval of the project officer.

b. Equipment identified for scrappage may not be resold or donated instead of being scrapped.

3. The existing vehicle/equipment must be scrapped or rendered permanently disabled within two years of delivery of the equivalent new zero-emissions vehicle/equipment, or before the end of the project performance period, whichever comes first.

a. Cutting a three-inch-by-three-inch hole in the engine block (the part of the engine containing the cylinders) is the preferred method for scrappage. Other acceptable scrappage methods may be considered and will require prior EPA approval.

b. Disabling the chassis may be completed by cutting through the frame or frame rails on each side at a point located between the front and rear axles.

c. Recipients seeking approval for alternate scrappage methods must submit an alternative scrappage plan to the EPA project officer detailing how the method will destroy and/or disable the engine and must, if approved, comply with the evidence requirements listed below, including digital photographs.

4. Equipment and vehicle components that are not part of the engine or chassis may be salvaged from the unit being scrapped (e.g., seats, tires, etc.).

a. If disabled engines, disabled vehicles, disabled equipment, or parts are to be sold, program income requirements apply.

5. Equipment to be scrapped must meet ownership, usage, and remaining life criteria defined in 5.a. through 5.f.:

a. The existing equipment being scrapped must be fully operational. Operational equipment must be able to start, move, and have all necessary parts to perform its function.

b. The participating fleet owner must currently own and operate the existing equipment and have owned and operated it during the two years prior to upgrade.

c. The existing equipment being scrapped must have at least three years of remaining life at the time of scrappage. Remaining life is the owner's estimate of the number of years until the unit would have been retired from service if the unit were not being scrapped because of the grant funding. The remaining life estimate includes years of service expected after being rebuilt or sold to another fleet. Remaining life depends on the current age and condition of the vehicle at the time of upgrade, as well as factors like usage, maintenance, and climate.

d. Equivalent Replacement: The existing engine/equipment being scrapped must have similar horsepower as the new engine/equipment being purchased (within 40%).

e. Highway Usage:

i. To be eligible, the existing certified highway vehicle must have accumulated at least 7,000 miles/year during the two years prior to scrappage.

ii. Exception: If an applicant can demonstrate that a certified highway vehicle is being used in a predominately nonroad application (e.g., those that idle for long periods to power an auxiliary

apparatus), the definition below under “Nonroad Usage” of engine operating hours may be used if approved by the project officer. The EPA will review and approve this exception on a case-by-case basis.

iii. The mileage of two or more units may be combined to reach the thresholds above, where two or more units will be scrapped and replaced with a single unit.

f. Nonroad Usage:

i. To be eligible, nonroad engines should operate at least 500 hours/year during the two years prior to scrappage.

ii. The engine operating hours of two or more units may be combined to reach the thresholds above where two or more units will be scrapped and replaced with a single unit.

6. Locomotive and Marine Usage:

a. Existing locomotive and marine engines to be scrapped must operate at least 1,000 hours/year during the two years prior to scrappage.

b. The engine operating hours of two or more units may be combined to reach the thresholds above where two or more units will be scrapped and replaced with a single unit.

c. Participating fleet owners must attest to each of the above criterion in a signed eligibility statement which includes each equipment make, model, year, vehicle or other unique identification number, odometer/usage meter reading, engine make, model, year, horsepower, engine ID or serial number, and vehicle/equipment/vessel registration/licensing number and state.

7. This documentation must be submitted as part of the grantee's programmatic reporting to the EPA.

cc. Historic Preservation

National Historic Preservation Act (NHPA)

Section 106 of the NHPA requires all federal agencies to consider the effects of their undertakings, including the act of awarding a grant or cooperative agreement, on historic properties, and to provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on such undertakings. The recipient must assist the EPA Project Officer in complying with NHPA if any activities funded under this grant impact a historic property. Historic properties include: (a) land or buildings listed in or eligible for listing on the National Register of Historic Places; (b) archaeologically sensitive areas or in an area where traditional cultural properties are located; and (c) properties that are associated with significant historic events, are associated with significant people, embody distinctive characteristics, and contain important precontact information.

The recipient should work with their Project Officer to ensure that subrecipients are available to work with EPA on any required consultation process with the State or Tribal Historic Preservation Office prior to commencing the project to ensure compliance with Section 106 of the NHPA.

If NHPA compliance is required, necessary Section 106 consultation activities, such as historic or

architectural surveys, structural engineering analysis of buildings, public meetings, and archival photographs, can be considered allowable and allocable grant costs.

Archeological and Historic Preservation Act (AHPA)

This law applies if archeologically significant artifacts or similar items are discovered after an EPA-funded construction project has begun, and compliance may be coordinated with the NHPA, discussed above. The AHPA requires federal agencies to identify relics, specimens, and other forms of scientific, prehistorical, historical, or archaeologic data that may be lost during the construction of federally-sponsored projects to ensure that these resources are not inadvertently transferred, sold, demolished or substantially altered, or allowed to deteriorate significantly. The recipient must ensure that subrecipients performing construction projects are aware of this requirement, and the recipient must notify EPA if the AHPA is triggered.

ee. Other Federal Requirements

In addition to other statutes outlined in these programmatic terms and conditions, the recipient must comply with all federal cross-cutting requirements. These requirements include, but are not limited to:

- **Endangered Species Act, as specified in 50 CFR Part 402:** Non-Federal entities must identify any impact or activities that may involve a threatened or endangered species. Federal agencies have the responsibility to ensure that no adverse effects to a protected species or habitat occur from actions under Federal assistance awards and conduct the reviews required under the Endangered Species Act, as applicable.

- **Federal Funding Accountability and Transparency Act:** Recipients of financial assistance awards must comply with the requirements outlined in 2 CFR Part 170*, Reporting Subaward and Executive Compensation* and in the General Term and Condition “Reporting Subawards and Executive Compensation.”

- **Farmland Protection Policy Act:** This statute requires EPA to use criteria developed by the Natural Resources Conservation Service (NRCS) to identify the potential adverse effects of Federal programs on farmland and its conversion to nonagricultural uses, to mitigate these effects, and to ensure that programs are carried out in a manner that is compatible with the farmland preservation policies of state and local governments, and private organizations. Recipients may need to work with EPA or NRCS, as appropriate, to ensure compliance.

- **Coastal Zone Management Act:** Projects funded under federal financial assistance agreements must be consistent with a coastal State's approved management program for the coastal zone.

** END OF DOCUMENT **