

**Kern County Off Highway Motor Vehicle License Fund
Grant Disbursement Agreement**

This Grant Disbursement Agreement is made and entered into this ____ day of _____ by and between the County of Kern, a political subdivision of the State of California ("County") and _____ ("Grantee").

The County and Grantee agree as follows:

1. The County will make a grant in the maximum amount of _____ to the Grantee subject to the terms and conditions set forth herein.
2. The Grantee shall deposit grant funds in a special account designated "Off-road Vehicle County Grant Fund", separate and apart from all other accounts, which shall reflect all receipts and expenditures of funds granted by the County only.
3. The Grantee shall complete the Project as described in Exhibit A, attached hereto and incorporated herein by this reference, no later than _____.
4. The term of this Agreement, subject to any provision for prior termination, shall commence as of the date first above written and shall terminate on _____.
5. The County shall have no obligation to disburse money under this Agreement unless and until the Grantee demonstrates to the satisfaction of the County that the Grantee has title to, or adequate interests in, the real property comprising the Project Location, including but not limited to the following:
 - A. Land access to the Project Area by a maintained public way; and
 - B. A right of passage over a waterway, open to the public, between the Project and navigable waters; and
 - C. Easements or other public rights of way outside the Project Area providing access to the Project Area for travel, maintenance and other services.
6. The County shall have no obligation to disburse money under this Agreement to cover Project costs unless and until the Grantee demonstrates that it has acquired permits necessary (where applicable) to construct and operate the Project.

7. The disbursement of Grant funds may be made either (1) in advance of Project work or (2) after the occurrence of work (in arrears), at County's sole option.

A. Grant advances shall be subject to the following conditions:

- (1) The Grantee may request a Grant advance from the County to cover those Project Costs expected to occur in the succeeding thirty (30) day period.
- (2) Requests for Grant advances may not be made more than once every thirty (30) days.
- (3) All expenditures of advanced Grant funds shall be made only after receiving the written approval of the County; requests for such approval must be accompanied by invoices or other evidence of Project Costs and may be made only once every thirty (30) days.
- (4) The Grantee shall request County approval of the final expenditure of advanced Grant funds no later than thirty (30) days following the completion of the Project.
- (5) The Grant funds advanced by the County shall remain County property until such funds are approved for expenditure by the County.
- (6) The Grantee may invest any advanced Grant funds that are not required to meet immediate contractual obligations; any interest or investment return accrued from such investments shall be deposited in the account required in Paragraph 2 of this Agreement and shall be used to help pay Project costs.
- (7) The Grantee shall return to the County any Grant funds and investment return on Grant funds remaining after all Project costs have been paid; such funds shall be returned to the County no later than sixty (60) days following completion of the Project.

B. Grant payments made in arrears shall be made as follows:

- (1) The County may make monthly payments under this Agreement upon written request by the Grantee; such requests shall be substantiated by invoices or other evidence of Project costs submitted by the Grantee.
- (2) The Grantee shall request final payment under this Agreement no later than sixty (60) days following completion of the Project.

8. (Optional Paragraph 8. applicable only if initialed by both parties and is to be used if the Project is located in whole or part on County owned or controlled property.)

A. The Grantee shall obtain from the County written approval for the following:

- (1) All bid documents prior to advertisement;
- (2) All contracts prior to award,
- (3) All construction change orders, and
- (4) Acceptance of the Project by County.

B. Plans and specifications for the Project shall be prepared by persons approved by the County and, if applicable, licensed by the State of California to undertake the type of planning required by the Project, and must provide for all Project components as required by the Kern County General Services Division.

C. All contracts for construction of the Project shall:

- (1) Be awarded in accordance with all applicable laws and regulations.
- (2) Contain the following clause: "Representatives from the County shall be allowed access to all parts of construction work."
- (3) Contain a clause that the contractor shall comply with all air pollution and environmental control rules, regulations, ordinances and statutes which apply to the Project and any work performed pursuant to the Project.

D. Prior to commencement of the construction of the Project, the Grantee shall cause the contractor and corporate surety acceptable to the County to furnish in favor of the Grantee and the County, as their interests may appear, bonds in the minimum amounts indicated below:

- (1) Faithful performance - One Hundred Percent (100%) of the total contract bid price.
- (2) Labor and Materials - One Hundred Percent (100%) of the total contract bid price. Copies of such bonds shall be furnished to the County.

9. The Grantee shall retain ownership, control and/or right to access to all land within the Project Area and land providing public access to the Project Area and shall not sell,

exchange, transfer, mortgage, hypothecate, lease, assign or sublease in any manner any or all of the real property within the Project Area or required in connection therewith, without advance written approval of the County. The Grantee warrants that there shall be no encumbrance, lien, easement, license, title, cloud, or other interest which may interfere with the Project or use thereof by the public. This Paragraph 9 shall survive the termination of this Agreement.

10. Operation of Project - (Insert appropriate terms depending on who will maintain.)

11. The County through written notice may require the Grantee to remedy (to County's satisfaction) any breach of this Agreement within thirty (30) days of the date of such notice. The County may extend the time to remedy or complete any remedy of a noticed breach. If Grantee fails to remedy the breach to County's satisfaction, County may, at its option, correct the cause of the breach and charge Grantee with all costs, including administrative costs, incurred in the course of correcting the breach. Alternatively, at County's option, Grantee shall repay the County for some or all Project costs covered by the Grant (repayment in an amount to be determined by the County), which repayment shall occur within One Hundred Eighty (180) days of County's demand for repayment.

12. Grantee, in order to protect County and its agents, officers, Commissions, and employees against all claims and liability for death, injury, loss and damage as a result of Grantee's actions in connection with the performance of Grantee's obligations, as required in this Agreement, shall secure and maintain insurance as described below. Grantee shall be responsible for any deductibles under all required insurance policies.

- A. Workers' Compensation Insurance Requirement – Grantee shall submit written proof that Grantee is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the Labor Code.

In signing this Agreement, Grantee makes the following certification, required by section 1861 of the Labor Code:

"I am aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Agreement."

- B. Liability Insurance Requirements: Grantee shall maintain in full force and effect, at all times during the term of this Agreement, the following insurance:

- (1) Commercial General Liability Insurance, including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity

provisions of this Agreement), Products-Completed Operations Hazard, and Personal Injury for liability arising out of Grantee's performance of services under this Agreement. Said insurance coverage shall have minimum limits for Bodily Injury and Property Damage liability of _____ dollars (\$_____) each occurrence and _____ dollars (\$_____) aggregate.

- (2) Automobile Liability Insurance with a combined single limit of not less than _____ dollars (\$_____) per occurrence. Such insurance shall include coverage for all owned, hired and non-owned vehicles and shall be provided by a business or commercial vehicle policy.

The Commercial General Liability Insurance shall include an endorsement naming the County of Kern and County's officers, agents, Commissions and employees as insureds as their interests may appear.

- (3) Prior to providing any services under this Agreement, evidence of insurance in compliance with the requirements above shall be furnished to the _____ Department Director by Certificate of Insurance.

C. Cancellation of Insurance – The above stated insurance coverages required to be maintained by Grantee shall be maintained until the completion of all services to be performed by Grantee under this Agreement, and shall not be reduced or canceled without thirty (30) days prior written notice to County. If a claims-made policy is used, the above-required coverages shall be maintained for an additional three (3) years beyond the time period indicated above for all claims-made policies. Also, phrases such as "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company" shall not be included in the cancellation wording of all Certificates of Insurance.

D. All insurance shall be issued by a company or companies listed in the current "Best's Key Rating Guide" publication with a minimum of a "B+;V" rating, or in special circumstances, be pre-approved by both the Risk Management Division of the Office of County Counsel and the Director of the _____ Department.

E. If Grantee is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, Grantee shall provide coverage substantially equivalent to the insurance coverages and endorsements required above. The _____ Department Director, or his designee, and the County's Risk Management Department shall determine, in their sole discretion, whether the coverage proposed to be provided by Grantee is substantially equivalent to the above-required coverages.

- F. Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve Grantee for liability in excess of such coverage, nor shall it preclude the County from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.
- G. Failure by Grantee to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by Grantee. County, at its sole option, may terminate this Agreement and obtain damages from Grantee resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Grantee, County shall deduct from sums due to Grantee any premiums and associated costs advanced by County for such insurance. If the balance of monies obligated to Grantee pursuant to this Agreement are insufficient to reimburse County for the premiums and any associated costs, Grantee agrees to reimburse County for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by County to take this alternative action shall not work to relieve Grantee of its obligation to obtain and maintain the insurance coverages required by this Agreement.

13. The Grantee waives all claims and recourse against County, including the right to contribution for any loss or damage arising from, growing out of or in any way connected with or incident to the Agreement. Further, Grantee shall indemnify, hold harmless, and defend the County, its officers, agents, Commissions and employees against any and all claims, demands, damages, costs, expenses (including reasonable attorneys' fees), or liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the Project.

14. No assignment or transfer of this Agreement or any part hereof, rights hereunder, or interest herein by Grantee shall be valid unless and until it is approved in writing by the County and made subject to such reasonable terms and conditions as the County may impose.

15. Grantee shall maintain and make available for inspection by the County's representatives accurate records of all its costs, disbursements, and receipts with respect to its activities under this Agreement.

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16. This Agreement shall terminate on the date specified in Paragraph 3 of this Agreement if (1) the Grantee has not met all conditions precedent to disbursement under this Agreement by such date, or (2) if no disbursement by the County of Grant funds occurs by such date.

The County of Kern

Grantee

Chairman
Board of Supervisors

Approved as to Form:

County Counsel

Approved as to Content:

County Administrative Officer

Director, Parks and Recreation Department

SAMPLE AGREEMENT