



THE PORT
OF LOS ANGELES
Executive Director's
Report to the
Board of Harbor Commissioners

DATE: APRIL 4, 2023

FROM: ENVIRONMENTAL MANAGEMENT

SUBJECT: RESOLUTION NO. _____ - FIRST AMENDMENT TO AGREEMENT NO. 19-3684 WITH THE PORT OF HUENEME FOR THE ZERO EMISSION SHORE TO STORE DEMONSTRATION PROJECT

SUMMARY:

Staff requests approval of the First Amendment to the Subrecipient Agreement No. 19-3684 with the Port of Hueneme (POH) to pass through grant funds from the California Air Resources Board (CARB) as part of the “Shore to Store” Demonstration Project (Project). The Project is primarily funded under Grant Agreement No. 19-3639 with CARB, wherein the City of Los Angeles Harbor Department (Harbor Department) partnered with Kenworth Motor Company (Kenworth), POH, and Equillon Enterprises LLC (d/b/a Shell Oil Products US) (Shell) to demonstrate 10 hydrogen fuel cell electric drayage trucks, two heavy duty hydrogen fueling stations, two battery electric yard tractors, and associated electrical infrastructure to support zero-emission operations at POH. The First Amendment allocates to POH unspent funding from other tasks under the CARB Grant agreement, to account for POH’s actual spending over the life of the Project and extends the Project term to align with the CARB Grant agreement. The Harbor Department will not commit any additional funding under this proposed First Amendment.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners (Board):

1. Find that the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines;
2. Approve and ratify the First Amendment to Agreement No. 19-3684 between the City of Los Angeles Harbor Department and the Port of Hueneme to reallocate funding and extend the Project term to May 15, 2023, for the Shore to Store Demonstration Project;
3. Authorize the Executive Director to execute and the Board Secretary to attest to said First Amendment for and on behalf of the Board;
4. Adopt Resolution No. _____.

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DISCUSSION:

Background/Context – On March 7, 2019, the Board accepted a grant award from CARB in the amount of \$41,122,260 and approved Grant Agreement No. 19-3639 to develop and demonstrate equipment and to administer the Project. On September 5, 2019, the Board approved Subrecipient Agreement No. 19-3864 with POH, as well as Subrecipient agreements with Kenworth and NREL. On July 23, 2020, the Board approved a Subrecipient Agreement with Shell. On April 1, 2021, the Board approved a funding agreement with the South Coast Air Quality Management Department (SCAQMD) to receive \$1,000,000 to support the construction of the zero-emission hydrogen fuel cell trucks manufactured by Kenworth as well as an amended Grant Agreement No. 19-3639 to extend the term of the Project.

“Shore to Store” Project Summary – The Harbor Department is partnering with world-leading original equipment manufacturers, Kenworth, Shell, and Toyota Motor North America (Toyota) to establish a new forward-looking zero-emissions framework for future goods movement throughout Southern California and beyond. The Project focus is on providing critical regional hydrogen fueling infrastructure for short, medium, and especially long-haul drayage provided by 10 zero emission hydrogen fuel cell drayage trucks. The Shore to Store Project showcased a complete zero emission supply chain from the time that a ship arrives at the Port of Los Angeles until it reaches its final storefront destination.

Port of Hueneme Demonstration – The Project provides an opportunity for the POH to demonstrate two zero emissions battery electric yard tractors at its facility 60 miles north of the Los Angeles metropolitan area and support the deployment of a mobile zero emission ship-to-shore crane. These deployments represent the first zero emission equipment deployed at POH. In performing the Project tasks, POH incurred significantly more costs than anticipated, primarily due to material cost increases over the intervening years between the grant proposal and actual construction.

CARB Agreement Second Amendment – Staff is bringing a Second Amendment to Agreement No. 19-3639 to the Board for approval separately from this item. The Second Amendment revises milestone deadlines and reallocates funding between budget items among subrecipient partners to account for actual spending over the life of the Project, without increasing the \$41,122,260 total grant amount from CARB. The reallocation of funding among project subrecipients allows the redistribution of cost savings from one subrecipient, Kenworth, to cover cost overruns experienced by two subrecipients, POH and NREL. Kenworth’s truck portion of the demonstration was completed in August 2022, with \$1,856,759 in grant awarded funds unspent. CARB and Harbor Department staff have worked together to develop the final allocation of those funds to other tasks. \$148,000 will be used to cover the increased cost for NREL to assemble the final report and report data on the e-crane at POH. The remaining \$1,708,759 will be moved into

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POH's task budget to cover some of their cost overrun. If approved by the Board, the Second Amendment would reallocate CARB grant funds to POH, which this First Amendment to POH Agreement No. 19-3684 would accept as described below.

Proposed Agreement No. 19-3684 First Amendment Details

- Term Extension: The proposed First Amendment extends the agreement term from the original expiration date of October 30, 2022 through the end of the CARB grant agreement on May 15, 2023 (Transmittal 1). Because this is amendment of an expired agreement, see Board Approval and Ratification below.
- Grant Funds Reallocation: First Amendment Exhibit B reallocates to POH \$1,708,759 from other Project unspent grant funds, in the form of rescheduled tasks and grant allocations for POH's zero-emission infrastructure construction.

Board Approval and Ratification

This action recommends that the Board approve and ratify the First Amendment to reallocate POH funding and extend the Project term to May 15, 2023. Since the Agreement No. 19-3684 expired last year on October 31, 2022, the Board may decide to approve and ratify the First Amendment. Under established municipal law, the Board is not required but it may, in its sole discretion, legally ratify defective contracts after-the-fact, if it could have originally authorized such contracts at the inception. The ratification may be considered retroactive and thus date from the time the contract was first entered into. (McQuillin, *The Law of Municipal Corporations*, § 29:115, 3d ed.) Here, the Board, had the authority on October 31, 2019 to have approved Agreement No. 19-3684 with a term ending May 15, 2023 (three years and seven months) and the allocations to POH set forth in the First Amendment. The Los Angeles Administrative Code (LAAC) Section 10.5 (c)(1) exempts long term contracts greater than three years from City Council approval if the contract is between the City and another governmental entity. Therefore, the Board can now, in its discretion, ratify and approve the First Amendment; with the result having the effect of a duly adopted First Amendment as though it had been adopted as of October 31, 2019.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of the First Amendment to the Agreement with POH and CARB for the proposed Project, which is an administrative activity. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of CEQA in accordance with Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

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FINANCIAL IMPACT:

Approval of the proposed Amendment will update the Project budget and milestones to adjust funds amongst subrecipients to account for actual spending over the course of the Project. The overall reimbursable costs Kenworth incurred totaled \$1,856,759 less than originally budgeted. Of those funds, \$148,000 will be reallocated to tasks being provided by NREL, and the remaining \$1,708,759 will be moved to tasks being performed by POH. There is no financial impact to the Harbor Department.

The table below summarizes the funding adjustments proposed by this amendment.:

Participants	Original CARB Funds	Reallocation	Updated CARB Funds
Kenworth	\$20,430,000	(\$1,856,759)	\$18,573,241
Shell	\$17,100,000	\$0	\$17,100,000
POH	\$3,000,000	\$1,708,759	\$4,708,759
NREL	\$592,260	\$148,000	\$740,260
TOTAL	\$41,122,260	\$0	\$41,122,260

Matching funds and in-kind contributions required under CARB Grant Agreement No. 19-3639 have been incurred and provided by Kenworth, Shell, Toyota, POH, the truck companies that demonstrated the vehicles, and the SCAQMD.

CITY ATTORNEY:

The Office of the City Attorney has reviewed the Second Amendment and approved it as to form and legality.

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TRANSMITTAL:

1. First Amendment to Agreement No. 19-3684

FIS Approval: 
CA Approval: 


CHRISTOPHER CANNON
Director of Environmental Management

Michael DiBernardo
MICHAEL DiBERNARDO
Deputy Executive Director

APPROVED:

Marla Bleavins For

EUGENE D. SEROKA
Executive Director

CC/mrx
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Amendment 1 Board Report - FINAL.docx
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