



Check here if additional pages are attached. 5 Pages

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| AGREEMENT NUMBER: ARV-16-026 | AMENDMENT NUMBER: 04 |
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- This Agreement is entered into between the State Agency and the Recipient named below:
STATE AGENCY'S NAME
State Energy Resources Conservation and Development Commission
RECIPIENT'S NAME
City of Los Angeles Harbor Department (Port of Los Angeles)
- The term of this Agreement: From: 06/15/2017 To: 10/31/2023
- The maximum amount of this Agreement after this amendment is: \$ 4,524,000 (\$0 Amendment)
- The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

The purpose of this amendment is to add Special Terms and Conditions and provide a 7 month no-cost term extension. Agreement ARV-16-026, approved by the Energy Commission on May 10, 2017, is amended as follows:

- Exhibit A-1, Schedule of Products and Due Dates, attached, replaces the previous Exhibit A-1 Schedule of Products and Due Dates in its entirety.
- Exhibit C-1, Special Terms and Conditions, attached, are added.

RECIPIENT

RECIPIENT'S NAME (If other than an individual, state whether a corporation, partnership, etc)
City of Los Angeles Harbor Department (Port of Los Angeles)

| | |
|----------------------------------|-------------------------------|
| BY (Authorized Signature) | DATE SIGNED (Do not type) |
| NAME AND TITLE OF PERSON SIGNING | |
| ADDRESS | |

STATE OF CALIFORNIA

AGENCY NAME
State Energy Resources Conservation and Development Commission

| | |
|--|-------------------------------|
| BY (Authorized Signature) | DATE SIGNED (Do not type) |
| NAME AND TITLE OF PERSON SIGNING | |
| <u>Adrienne Winuk, Contracts, Grants, and Loans Office Manager</u> | |
| ADDRESS | |
| <u>715 P Street, MS-18</u> <u>Sacramento, CA 95814-5512</u> | |

APPROVED AS TO FORM AND LEGALITY

December 15 2022

HYDEE FELDSTEIN SOTO, City Attorney

By

Deputy City Attorney

**Exhibit A
Attachment A-1**

Schedule of Products and Due Dates

Agreement Term: 06/15/2017 - 10/31/2023

| Task Number | Task Name | Product(s) | Due Date |
|--------------------|---|--|--|
| 1 | Administration | | |
| 1.1 | Attend Kick-off Meeting | | |
| | | Updated Schedule of Products | 6/15/2017 |
| | | Updated List of Match Funds | 6/15/2017 |
| | | Updated List of Permits | 6/15/2017 |
| | | Kick-Off Meeting Agenda (CEC) | 6/15/2017 |
| 1.2 | Critical Project Review Meetings | | |
| | 1st CPR Meeting | CPR Report | 10/31/2018 |
| | | Written determination (CEC) | 10/31/2018 |
| | 2nd CPR Meeting | CPR Report | 10/24/2019 |
| | | Written determination (CEC) | 10/24/2019 |
| 1.3 | Final Meeting | | <u>10/15/2023</u> |
| | | Written documentation of meeting agreements | <u>8/16/2023</u> |
| | | Schedule for completing closeout activities | <u>8/16/2023</u> |
| 1.4 | Monthly Progress Reports | | |
| | | Monthly Progress Reports | The 10th calendar day of each month during the approved term of this Agreement |
| 1.5 | Final Report | | |
| | | Final Outline of the Final Report | 12/5/2020 |
| | | Draft Final Report (no less than 60 days before the end term of the agreement) | <u>7/31/2023</u> |
| | | Final Report | <u>08/31/2023</u> |
| 1.6 | Identify and Obtain Match Funds | | |
| | | A letter regarding match funds or stating that no match funds are provided | 7/14/2017 |
| | | Copy(ies) of each match fund commitment letter(s) (if applicable) | 7/14/2017 |
| | | Letter(s) for new match funds (if applicable) | Within 10 days of identifying new match funds |
| | | Letter that match funds were reduced (if applicable) | Within 10 days of identifying reduced funds |

**Exhibit A
Attachment A-1**

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| 1.7 Identify and Obtain Required Permits | Letter documenting the permits or stating that no permits are required | 9/15/2017 |
| | A copy of each approved permit (if applicable) | Within 10 days of receiving each permit |
| | Updated list of permits as they change during the term of the Agreement (if applicable) | Within 10 days of change in list of permits |
| | Updated schedule for acquiring permits as changes occur during the term of the Agreement (if applicable) | Within 10 days of change in schedule for obtaining permits |
| 1.8 Obtain and Execute Subcontracts | Letter describing the subcontracts needed, or stating that no subcontracts are required | 9/15/2017 |
| | Draft subcontracts | 15 days prior to the scheduled execution date |
| | Final subcontracts | Within 10 days of execution |
| 2 PLAN, DESIGN, BUILD AND DEMONSTRATE FIVE ADVANCED CARGO HANDLING EQUIPMENT, INCLUDING ZERO-EMISION TOP HANDLERS AND YARD TRACTORS | Top Handler Equipment Summary Report | 1/4/2021 |
| | Yard Tractor Equipment Summary Report | <u>2/28/2022</u> |
| 3 PLAN, DESIGN AND CONSTRUCT CHARGING INFRASTRUCTURE | Construction Summary Report | <u>6/30/2022</u> |
| | 4 DATA COLLECTION AND ANALYSIS | |
| | Top Handler Data collection information and analysis will be provided in the final report (Task 1.5) | 8/30/2021 |
| | Yard Tractor Data collection information and analysis will be provided in the final report (Task 1.5) | <u>7/31/2023</u> |

Exhibit C-1
Special Terms and Conditions
ARV-16-026 Amendment 04

1. Tasks
 - a. The Recipient agrees to complete all tasks described in Exhibit A, Scope of Work, by October 31, 2023, including but not limited to:
 - i. A 12-month demonstration of the yard tractors and Cavotec Smart Plug-In System (SPS) and a 12-month data collection period that shall be completed by May 31, 2023.
 - ii. Provide monthly progress reports throughout the Agreement term.
 - iii. Submit all project deliverables by the due dates listed in Exhibit A-1 Schedule of Products and Due Dates.
 - iv. Fulfill the match share requirements of this Agreement.
 - b. The California Energy Commission (CEC) retains all rights and remedies should the Recipient fail to complete all tasks described in Exhibit A, Scope of Work, or otherwise fail to satisfy all terms and conditions of this Agreement.
2. The Recipient agrees to submit the Draft Final Report by July 31, 2023, and the Final Report by August 31, 2023.
3. Reimbursement Deadline
 - a. The CEC has legal restrictions on how long the funds encumbered in this Agreement are available to spend under this Agreement. Recipient acknowledges that the funding under Agreement ARV-16-026 liquidates (i.e., is no longer available for disbursement from the CEC) on June 30, 2023.
 - b. The Recipient agrees that all CEC-reimbursable expenditures must be incurred prior to March 31, 2023, even though the end date of the Agreement extends beyond this date. Expenditures incurred after March 31, 2023 may not be reimbursed by the CEC, but may count towards the Recipient's match fund commitment if incurred prior to the end date of this Agreement.
 - c. The Recipient agrees that all invoices (including request(s) to release retention) will be properly documented and submitted to the CEC on or before March 31, 2023, in accordance with the terms and conditions of this Agreement in order to be eligible for payment. Failure to do so may result in the CEC not being able to process payment requests prior to the funding liquidation deadline. Failure by Recipient to submit invoices documented in

accordance with the terms and conditions of this Agreement according to the above schedule may, in addition to any other rights and remedies available to the CEC, result in payment not being issued for those invoices.

4. Liquidated Damages

- a. Due to the Recipient's delays in performing tasks described in Exhibit A, Scope of Work for this Agreement, the Recipient will be unable to perform all project work, and incur allowable expenses in relation to that work, before the June 30, 2023 liquidation date.
- b. Recipient has asked the CEC to extend the agreement end date beyond the June 30, 2023 liquidation date to October 31, 2023 and pay all Agreement funds, including release of retention, before all project work is scheduled to be complete. Typically, the CEC withholds some or all retention until the end of the Agreement to help ensure grantees fully perform. In this case, requests to release retention must be received by March 31, 2023 to be payable due to the liquidation deadlines, but the Recipient is scheduled to complete work by October 31, 2023.
- c. The Recipient acknowledges that damages are likely to result if the CEC pays all Agreement funds, including retention, to the Recipient and the Recipient does not fully complete all tasks described in Exhibit A, Scope of Work, including but not limited to 12 months of demonstration and data collection, and that those damages may be difficult to prove.
- d. Therefore, the Recipient and the CEC agree that the payment of liquidated damages in an amount equal to ten (10) percent of the total Agreement funds disbursed as of the end date of the Agreement would reasonably compensate the CEC for any actual damages sustained, and not be a penalty, if the Recipient does not fully complete all tasks described in Exhibit A, Scope of Work, and satisfy all terms and conditions of this Agreement.
- e. Without eliminating or modifying any rights and remedies available to the CEC, the Recipient, upon CEC's written request, agrees to pay the CEC ten (10) percent of the total Agreement funds disbursed as of the end date of the Agreement, if the Recipient does not fully complete all tasks described in Exhibit A, Scope of Work, and satisfy all terms and conditions of this Agreement.

5. These Special Terms and Conditions shall be in addition to, and not in lieu of, the other terms and conditions to Agreement ARV-16-026, including those relating to the CEC's right and remedies thereunder. In case of a conflict, the Special Terms and Conditions contained in this Exhibit C-1 will govern over other provisions in this Agreement.

6. The Special Terms and Conditions contained in this Exhibit C-1 survive the completion or termination date of this Agreement for any reason.
7. The CEC retains all rights and remedies should the Recipient fail to complete all tasks or otherwise breach this Agreement.