



DATE: DECEMBER 18, 2018

FROM: GOODS MOVEMENT

**SUBJECT: RESOLUTION NO. _____ - APPROVAL OF FIRST
AMENDMENT TO AGREEMENT NO. 16-3448 WITH PRODUCTIVITY
APEX, INC.**

SUMMARY:

Staff requests the Board of Harbor Commissioners' approval of the First Amendment to Agreement No. 16-3448 with Productivity Apex, Inc. (PAI), for a term extension of one year, and to modify PAI's labor categories and rates. In January 2017, the Harbor Department executed a three-year agreement with PAI to develop and demonstrate the California Energy Commission (CEC) Eco-FRATIS Drayage Truck Efficiency Project (Project). The Eco-FRATIS Project and PAI agreement is funded entirely with CEC and Los Angeles County Metropolitan Transportation Authority (METRO) funds in the combined amount of \$1,210,000, which will not change as a result of this requested amendment. In addition, staff is requesting approval for the delegation of authority to the Executive Director to execute future amendments in order to implement any Letter Agreements issued by the CEC which approve "Nonsignificant Changes" (as defined in the CEC Grant Agreement term and conditions) to the Project. The Harbor Department's financial responsibility continues to be limited to staff time to manage the Project as PAI invoices will be paid only after grant funds are received on an on-going basis.

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 California Environmental Quality Act (CEQA) in accordance with Article II, Section 2(f) of the Los Angeles City CEQA Guidelines;

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2. Approve the first amendment to Agreement No. 16-3448 with Productivity Apex, Inc. to extend the term from its current expiration of January 20, 2020 to January 20, 2021, replace Exhibit B of Exhibit A in its entirety and to delegate authority to the Executive Director to execute amendments in order to implement Letter Agreements as issued and approved by the CEC, and agreed upon in writing with PAI;
3. Authorize the Executive Director to execute and the Board Secretary to attest to said agreement amendment and on behalf of the Board;
4. Direct the Board Secretary to transmit the Resolution and First Amendment to the City Council for approval pursuant to Section 373 of the City Charter and Section 10.5 of the City Administrative Code; and
5. Adopt Resolution No. _____.

DISCUSSION:

Background/Context - On December 15, 2016, the Board approved an agreement with PAI to develop and demonstrate the CEC Eco-FRATIS Drayage Truck Efficiency Project (see Transmittal 2 for details). The Board also approved funding agreements with the CEC and METRO for a combined amount of \$1,210,000, to cover all costs (see Transmittal 2). The schedule for the demonstration phase for the Eco-FRATIS project has changed since project inception in January 2017. The 12-month demonstration period is now scheduled to commence in January 2019, followed by a project evaluation. Thus, the PAI agreement term needs to be extended. The First Amendment also modifies PAI's labor categories and rates, and the effective date of the amendment will be July 18, 2018, in order to apply the modified rates to work already performed by PAI. The CEC will pay the Department at the modified rates, allowing PAI to be fully reimbursed for work performed back to the effective date of the First Amendment.

The Project is one of two elements in the overall CEC funded project; the other element is the Advanced Yard Tractor Deployment, being managed by the Environmental Management Division. On December 18, Harbor Department staff will also be requesting approval of an amendment to the grant agreement with the CEC to reflect the PAI labor categories/rates updates, along with other modifications to the CEC grant agreement.

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Eco-FRATIS Component - The Eco-FRATIS component entails demonstrating technology with drayage trucks to improve drayage operations to/from the Ports of Los Angeles and Long Beach. In addition to PAI and METRO, the other principal partners in this project include: the University of California, Riverside - Center for Environmental Research and Technology; InfoMagnus/Geostamp; and Southern Counties Express trucking company.

First Amendment - The First Amendment to the PAI Agreement also includes the delegation of authority to the Executive Director to execute future amendments to the Agreement in order to implement any Letter Agreements issued by the CEC which implement “Nonsignificant Changes” (as defined in the CEC Grant Agreement term and conditions) to the Project. Examples of nonsignificant changes include minor changes to the schedule that does not increase overall schedule of the contract and/or changes to labor rates/categories that do not change the total agreement amount. The CEC Grant Agreement terms and conditions defines changes that are considered “Significant Changes,” as including, but not limited to the following: extensions to the term of the Grant Agreement, significant modifications to the purpose of the Scope of Work, and increases in the amount of the Grant Agreement. Changes to the Grant Agreement that the CEC determines are not significant would be implemented by the CEC through a Letter Agreement, and would not require approval at an Energy Commission meeting. As provided for in the proposed First Amendment, these Letter Agreements will become effective upon the execution of an amendment by the Executive Director and PAI of amendments to the PAI Agreement, without further board approval. Each of these amendments will have an individual letter agreement.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an amendment to an existing professional services agreement, which is an administrative activity. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

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FINANCIAL IMPACT:

There is no financial impact associated with the proposed First Amendment, as the existing agreement amount remains unchanged. The Harbor Department's financial responsibility continues to be limited to staff time to manage the Project. The Harbor Department will pay PAI invoices only after grant funds are received from the CEC and METRO. PAI invoices related to the Project have been paid, and are expected to be paid as follows:

| Fiscal Year | CEC & METRO funds |
|--------------------|--|
| 2017 & 2018 | \$319,887 |
| 2019 | \$626,113 |
| 2020 | \$145,000 |
| 2021 | \$119,000 (Includes \$109,000 grant retention payment from CEC & METRO) |
| TOTAL | \$1,210,000 |

For administrative purposes, reimbursements from the CEC and Metro are recorded as non-operating revenues within Account 76084. PAI invoices are then subsequently paid via Account 89097, Center 6000, Program 000. As part of the FY 2019 budget process, funding of \$18,650,698 was made available within Account 89097, Center 6000, Program 000 for the payment of PAI invoices under the Project as well as other grant programs with similar pass-through components.

CITY ATTORNEY:

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

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TRANSMITTALS:

1. First Amendment to Agreement No. 16-3448 with PAI, Inc.
2. December 2016 Board Report/Resolution

FIS Approval: 

CA Approval: 



KERRY CARTWRIGHT, P.E.
Director of Goods Movement



ANTONIO V. GIOIELLO, P.E.
Deputy Executive Director

APPROVED:



EUGENE D. SEROKA
Executive Director

CC:S
AUTHOR: K. CARTWRIGHT

