

FIRST AMENDMENT TO AGREEMENT NO. 22-9856
BETWEEN THE CITY OF LOS ANGELES AND
CALSTART, INC.

THIS FIRST AMENDMENT to Agreement No. 22-9856 is made and entered into by and between the CITY OF LOS ANGELES, a municipal corporation ("City"), acting by and through its Board of Harbor Commissioners ("Board"), and CALSTART, INC. ("Consultant") as follows:

1. Section 5, COMPENSATION AND PAYMENT is deleted in its entirety and replaced with the following:

"5. COMPENSATION AND PAYMENT

A. Consultant shall not receive any compensation for performance of the services required by this Agreement.

B. The maximum payable under this Agreement shall be Forty Million Dollars (\$40,000,000), payable as set forth in Exhibit A. City shall fund the Voucher Incentive Program using monies collected under the Department's Clean Truck Fund. Funding is expected to be allocated for the Voucher Incentive Program after the Clean Truck Fund begins on April 1, 2022. At the time of the effective date of this Agreement, no funding is available and shall become available only if the Department collects fees under the Clean Truck Fund and allocates said funds to the Voucher Incentive Program.

C. In its sole discretion, the Department may provide funding to Consultant with an initial disbursement of up to 10 percent (i.e., up to \$4,000,000) of the Voucher Incentive Program funding for the establishment of an escrow account which shall be used by Consultant to make payments on behalf of the Department for approved Voucher Agreements under the Voucher Incentive Program.

D. For each Voucher Incentive Program application, Consultant shall submit to City an invoice (in a format approved by the Department) and a completed Voucher Incentive Program Voucher Agreement to the Department. Consultant shall also submit additional supporting documents as set forth in Exhibit A-First Amendment. Consultant shall not issue payment vouchers or release escrow funds unless and until it receives from the Department a Program Voucher Agreement signed by a Department representative as set forth in Subsection E.

E. All Voucher Incentive Program Voucher Agreements shall be reviewed and approved by the Executive Director or his designee. All Voucher Incentive Program Voucher Agreements found acceptable and approved by the Department shall be returned to Consultant for issuance of the voucher(s) requested and release of escrow funds in payment thereof.

F. Upon approval of each Program Voucher Agreement, the City may provide additional disbursements into the escrow account in amounts not

exceeding the total amount of approved Program Voucher Agreements at the time of disbursement. In the event of increased Program activity, the Department may, at its sole discretion, provide additional funding into the escrow account, in order to maintain funds sufficient to provide timely payment of vouchers upon truck delivery to dealers. In no event shall the escrow agreement be funded in excess of the higher amount of either \$5,000,000 or 15% of the total funding then available under Subsection B. Upon depletion of the escrow account below these amounts, the Department shall not provide funding in excess of the total amount authorized under Subsection B without a written amendment to the Agreement executed by the Parties.

G. All funds paid by the Harbor Department into the escrow account that are not committed for a voucher payment at the time of expiration or termination of this Agreement shall be returned by Consultant to the Department within 90 days after expiration or termination of this Agreement.

2. Exhibit A, "*Port of Los Angeles Zero-Emission Truck Voucher Incentive Program Scope of Work*" is removed in its entirety and replaced with Exhibit A-First Amendment, "*Port of Los Angeles Zero-Emission Truck Voucher Incentive Program Scope of Work*" which is attached hereto and made a part hereof.

3. Exhibit A, Attachment 3 "*Port of Los Angeles Zero-Emission Truck Voucher Incentive Program, Voucher Request Form*" is removed in its entirety and replaced with Exhibit A, Attachment 3 – First Amendment "*Port of Los Angeles Zero-Emission Truck Voucher Incentive Program Voucher Agreement*" which is attached hereto and made a part hereof.

4. Exhibit A, Attachment 4 "*Port of Los Angeles Zero-Emission Truck Voucher Incentive Program, Voucher Payment Form*" is removed in its entirety from the Agreement.

Except as amended herein, all remaining terms and conditions of Agreement No. 22-9856 shall remain in full force and effect.

Subject to the provisions of Charter Section 245, the effective date of this Amendment shall be the date of its execution by Executive Director upon authorization of the Board. Consultant is aware that the City Council, pursuant to Charter Section 245 of the City of Los Angeles, has the right to review this Amendment. Accordingly, in no event shall this Amendment become effective until after the expiration of the fifth Council meeting day after Board action, or the date of City Council's approval of the Amendment.

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IN WITNESS THEREOF, the parties hereto have executed this First Amendment to Agreement No. 22-9856 on the date to the left of their signatures.

THE CITY OF LOS ANGELES, by its Board of Harbor Commissioners

Dated: _____

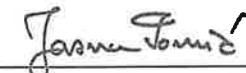
By _____
EUGENE D. SEROKA
Executive Director

Attest _____
AMBER M. KLESGES
Board Secretary

Dated: 08/21/2023

CALSTART INC.
DocuSigned by:
By: 
B71738BC86284F4...

Piero Stillitano, Chief Financial Officer
(Print/type name and title)

Attest: 
Jasna Tomic, Vice President
(Print/type name and title)

APPROVED AS TO FORM AND LEGALITY

August 31, 2023
HYDEE FELDSTEIN SOTO, City Attorney
Steven Y. Otera, General Counsel

By 
Heather M. McCloskey, Deputy

Rev. 12/21/22

EXHIBIT A - First Amendment

PORT OF LOS ANGELES ZERO-EMISSION TRUCK VOUCHER INCENTIVE PROGRAM

SCOPE OF WORK

I. Voucher Incentive Program Description

The City of Los Angeles Harbor Department (“City”, “Harbor Department” or “Department”) established the initial Zero-Emission (“ZE”) Truck Voucher Incentive Program (“Voucher Incentive Program”) in March of 2022 to incentivize the purchase of ZE trucks that provide drayage services at the San Pedro Bay Ports. The Voucher Incentive Program is helping to fund the transformation of port drayage truck fleets, thereby assisting the City in meeting the goal of 100% ZE truck operations at the Port of Los Angeles by 2035. Funds for the Voucher Incentive Program come from the Harbor Department’s Clean Truck Fund Rate, which began collection in April 2022.

The California Air Resources Board (“CARB”) established its Hybrid Truck & Bus Voucher Incentive Project (HVIP) in 2009 as part of the AB118 Air Quality Improvement Program. This statewide HVIP is designed to provide funds to offset the incremental cost of eligible hybrid medium- and heavy-duty vehicles. The statewide HVIP helps commercialize hybrid vehicle technologies and supports a critical ramp-up in production that is necessary to increase deployment of lower emission vehicles, assisting the state in meeting its clean air goals.

CALSTART, Inc. (“CALSTART” or “Contractor”) administers CARB’s HVIP, through Grant Agreement Number G19-HVIP-01, effective March 2020, and the first amendment to that agreement (G19-HVIP-01 Amendment 1), dated February 17, 2021. Through HVIP, CALSTART has established a project infrastructure to provide program outreach, project planning and development, voucher distribution and processing, program monitoring and reporting. The Harbor Department is collaborating with CALSTART to utilize this existing HVIP project infrastructure to manage the Harbor Department’s incentive funding for qualifying truck purchases.

CALSTART shall ensure that the funds provided by the City are dedicated to the purchase of HVIP-approved ZE Class 8 trucks, with the purchasers agreeing to provide truck drayage services to the San Pedro Bay Ports for at least a three-year period after the Date of Voucher Redemption, defined as the date the HVIP Redemption Voucher is last signed by either a dealer or purchaser.

II. Voucher Incentive Program Funding Amounts

CALSTART will identify eligible participants of CARB’s HVIP program to receive the Department’s Voucher Incentive Program funds as follows:

- Up to \$75,000 from Harbor Department funds and \$150,000 from HVIP funds for a total grant amount up to \$225,000 to be used toward the purchase base

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price of CARB- approved ZE Class 8 trucks, not including taxes and fees, by a company or individual purchaser.

- Up to \$100,000 from Harbor Department funds and \$150,000 from HVIP funds for a total grant amount up to \$250,000 towards the purchase base price of the ZE Class 8 vehicle for POLA voucher applications by small fleets, as defined in CARB's implementation guidelines.
- The Department's Voucher Incentive Program funding may be used for trucks receiving incentive funding from other federal, state (including other CARB funding programs), or local government funding sources as allowed by HVIP and the individual funding source guidelines.
- Any applicant awarded an HVIP voucher only prior to the effective date of this First Amendment to Agreement No. 22-9856 is eligible for Harbor Department funding of \$75,000 or \$100,000 (small fleet applicants) only if the applicant's ZE truck has not been delivered to the authorized vendor prior to an applicant applying for Department funding. The Harbor Department shall not make payments for ZE trucks obtained prior to the effective date of the First Amendment to Agreement No. 22-9856 from other incentive funding sources.

To prevent cancellation of POLA voucher applications received during the initial Harbor Department only funding released on September 12, 2022, the Harbor Department funding amounts for each voucher will be increased to up to \$225,000 or \$250,000 (if they are a small fleet). These September solicitation POLA vouchers will not stack with HVIP vouchers and will be fully paid for by Harbor Department funding.

If CARB HVIP funding is exhausted during any funding year as defined by CARB's HVIP Program, the Harbor Department Executive Director has delegated authority to approve voucher funding up to \$400,000 per truck.

III. The Harbor Department is responsible for the following tasks under the Voucher Incentive Program:

1. The CARB-CALSTART Agreement, Grant No. G19-HVIP-01 (Amendment 1), is set forth herein as Attachment 1. If the CARB-CALSTART Agreement is amended in a way that materially impacts the Department's Voucher Incentive Program, the CARB HVIP amendment shall be approved by the Los Angeles Board of Harbor Commissioners through an amendment to Agreement No. 22-9856.
2. The CARB HVIP Implementation Manual ("Implementation Manual"), dated March 15, 2022, is set forth herein as Attachment 2. If the Implementation Manual is revised in a way that materially impacts the Department's Voucher Incentive Program, exclusive of the annual Implementation Manual update, the revised Implementation Manual shall be incorporated into Agreement No. 22-9856 by amendment approved by the Los Angeles Board of Harbor Commissioners.

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3. The Executive Director or his designee has delegated authority to confirm in writing that any modifications to CARB's HVIP approved ZE Class 8 drayage trucks that relate to new fuel type technologies, as posted on CALSTART's HVIP website at <https://californiahvip.org/vehiclecatalog/>, are acceptable to the City, and that the Department's incentive funding may be used for vouchers for the CARB HVIP approved ZE Class 8 drayage trucks.
4. The Executive Director or his designee has delegated authority to confirm in writing when funding becomes available for the Voucher Incentive Program, including but not limited to notice regarding the amount of available funding, when Harbor Department voucher funding may begin and the payment method the Department will use to transmit funds to CALSTART.
5. The Executive Director or his designee, shall review Voucher Incentive Program Voucher Agreements (Attachment 3), upcoming voucher payments and a monthly Status Report from CALSTART, and sign and return Voucher Agreements when each is found to be in compliance with Voucher Incentive Program requirements. In any instance where a Voucher Agreement or Status Report are not in compliance with the Voucher Incentive Program, the Executive Director or his designee shall provide a written response to CALSTART stating the reasons for rejecting said documents.
6. At least quarterly, or upon reasonable request from CALSTART, the Executive Director or his designee shall confirm in writing the amount of Voucher Incentive Program funding that is available for CALSTART to issue vouchers, and provide written notice to CALSTART if previously reported funding amounts have increased or decreased.
7. Participate in regular, as-needed, meetings with CALSTART to discuss Voucher Incentive Program status, project refinements, and any other project-related issues as they may arise from time to time.
8. Review modifications to CARB's HVIP Implementation Manual (at CARB's discretion), CALSTART's HVIP website as it relates to the Department's Voucher Incentive Program, HVIP voucher request forms, voucher payment verifications and CALSTART progress reports.
9. Fund an escrow account as set forth in Section 5 of the Agreement for the payment of the Department's funding of HVIP vouchers for qualified ZE truck purchases, and replenish the account with periodic payments for approved voucher payments during the term of the Agreement.
10. Provide project oversight, review, and accountability in conjunction with CALSTART's obligations under the Agreement.

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IV. Consultant shall perform the following tasks for the Department's Voucher Incentive Program:

1. Implement the Department's Voucher Incentive Program and integrate it into the CARB HVIP by performing; i) applicable duties and requirements set forth in the CARB- CALSTART Agreement, ii) applicable duties and requirements set forth in the HVIP Implementation Manual, and iii) any additional services specific to the Department's Voucher Incentive Program as set forth herein. Whether any duty or obligation of CALSTART under CARB's HVIP applies to the Department's Voucher Incentive Program shall be decided by the Harbor Department Executive Director after reasonable consultation with CALSTART.
2. Promote the Voucher Incentive Program through CALSTART's website by announcing and advertising the availability of funds under the Voucher Incentive Program and update the existing HVIP website to include the Department's Voucher Incentive Program with all applicable forms and program requirements. Ideally, the promotion and advertising will be done in conjunction with CARB's HVIP funding rounds as they occur from time to time. Maintain continuous real-time updates on CALSTART's website showing available Voucher Incentive Program funds.
3. Conduct outreach to potentially eligible applicants providing drayage services to the Port of Los Angeles and the Port of Long Beach and inform them of the additional funding that is (or may be) available through the Voucher Incentive Program, depending on actual funding allocation of collected Clean Truck Fund fees. Ideally, outreach will occur in conjunction with CARB's HVIP funding rounds as they occur from time to time.
4. Using the CARB electronic HVIP Voucher Request Form and Voucher Redemption Form, as modified to integrate the Department's Voucher Incentive Program Voucher Agreement, obtain applications for qualified ZE truck purchases.
5. Evaluate Voucher Incentive Program applications on a first-come, first-served basis pursuant to the requirements outlined in the HVIP Implementation Manual; verify eligibility of the applicants and the selected ZE truck; and ensure that applicants can satisfy the operational criteria with respect to performing drayage services at the San Pedro Bay Ports. The Department's Voucher Incentive Program purchaser eligibility requirements shall include the following provisions:
 - a) Comply with all CARB HVIP Program criteria.
 - b) Select an eligible ZE truck to purchase from the list published on the HVIP website.
 - c) Complete and sign the Port of Los Angeles Zero-Emission Truck

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Voucher Incentive Program Voucher Agreement. See Attachment 3.

- d) Register the ZE truck into the San Pedro Bay Ports' Port Drayage Truck Registry (PDTR) and comply with PDTR insurance requirements within 60 days of delivery.
 - e) Remain registered in the PDTR for three years after the Ddate of Voucher Redemption.
 - f) Provide drayage services with the ZE truck to the San Pedro Bay Ports by making at least 50 trips per year for a period of three-years after the date of voucher redemption. Half of the 50 annual trips (25 trips) shall occur at Port of Los Angeles terminals. A trip is defined as a single loaded gate entry to a port terminal.
 - g) Comply with all local, state, and federal laws.
6. Maintain Excel spreadsheets, in a format approved by the Executive Director or his designee, to track all applications and vouchers associated with the Voucher Incentive Program, which shall include, but not be limited to, participant contact information, vendor contact information, vehicle information, delivery time information, voucher amount distributed, Date of Voucher Redemption, number of trucks per request, and annual survey information.
 7. Utilizing funds available in the Department's escrow fund, distribute voucher funds to dealers/vendors/manufactures for the Department's portion of approved funding and in accordance with the terms of the Voucher Incentive Program, using the procedures set forth in the CARB HVIP program.
 8. Include Harbor Department questions in CARB's Annual Usage Survey and collect vehicle operational information annually from each Voucher Incentive Program participant for a period of three years after the date of voucher redemption for each truck. Harbor Department survey questions will address vehicle miles traveled, truck trips to the Port of Los Angeles and the Port of Long Beach, truck maintenance performed, and current registry status with the San Pedro Bay Ports' Port Drayage Truck Registry.
 9. Provide to the Harbor Department all applicable reports and notices set forth in the CARB-CALSTART Agreement (as amended from time to time) and the HVIP Implementation Manual (as revised from time to time) for the Voucher Incentive Program, including monthly Status Reports (per Section K of the CARB-CALSTART Agreement) and provide the Department with written notice when program participants are at risk of non-compliance, or are non-compliant, with any Voucher Incentive Program participation requirements.

Exhibit A, Attachment 3 - First Amendment
Port of Los Angeles (POLA)
Zero-Emission Truck Voucher Incentive Program
Voucher Agreement

A. Purchasing Company or Individual Purchaser Information		
Purchasing Company or Individual Purchaser Name:		
Company DBA:	<input type="checkbox"/> Not Applicable	
Vehicle Domicile Address:		
City:	State:	ZIP:
Business Mailing Address:	<input type="checkbox"/> Same as Domicile Address	
City	State:	ZIP:
Principal Contact:		
Email Address:	Telephone #:	
B. Dealer Information		
Dealer Name:	Company Name:	
Location Address:		
City:	State:	ZIP:
Telephone #:	Email Address:	
C. Preliminary Vehicle Information		
Manufacturer:		
GVWR:	Make:	Vehicle Model Year:
Preliminary Voucher Amount:		

Voucher ID:

Port of Los Angeles (POLA)
Zero-Emission Truck Voucher Incentive Program
Voucher Agreement

E. Terms & Conditions

As a condition for participating in the Port of Los Angeles Zero-Emission Truck Voucher Incentive Program, the Purchasing Company or Individual Purchaser shall comply with the following requirements for three years starting from the Date of Voucher Redemption, which is defined as the date the HVIP Voucher Redemption Form is last completed and signed by either the Dealer or Purchaser as set forth on the HVIP Voucher Redemption Form:

1. An authorized representative of the Purchasing Company or the Individual Purchaser shall complete all Voucher Incentive Program and the California Air Resources Board (CARB) Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP) forms, which may include but are not limited to a HVIP Voucher Request Form, a HVIP Voucher Redemption Form, and a Vehicle Inspection Form. The undersigned agrees that these forms, and any others required by the CARB HVIP Program as it may be revised from time to time, shall become part of this Voucher Agreement whether or not they are attached hereto.
2. The undersigned, as an authorized representative of the Purchasing Company or the Individual Purchaser has read, understands and agrees that the Purchasing Company or the Individual Purchaser shall comply with the Voucher Incentive Program requirements as specified herein.
3. The Purchasing Company or the Individual Purchaser shall apply the voucher funds to the purchase price of one or more eligible zero-emission trucks, as identified in the HVIP vehicle list of zero-emission trucks, and will use the truck(s) for port drayage operations at the Port of Los Angeles and Port of Long Beach.
4. The Purchasing Company or Individual Purchaser shall register the truck(s) in the San Pedro Bay Ports Drayage Truck Registry (PDTR) and provide drayage services to POLA container terminals within 60 days of delivery of the truck(s) (<https://pdtr.cleanairactionplan.org/Default.aspx>).
5. The Purchasing Company or Individual Purchaser shall remain registered, and in good standing, with the PDTR for three years from the Date of Voucher Redemption. In order to remain in good standing within the PDTR, the Purchasing Company or Individual Purchaser shall:
 - A. Comply with all local, state, and federal rules and regulations applicable to drayage truck operations including but not limited to labor, safety, and transportation requirements; and
 - B. Comply with PDTR insurance requirements.
6. The Purchasing Company or Individual Purchaser shall provide drayage services at the San Pedro Bay Ports (defined as the Port of Los Angeles and the Port of Long Beach) by performing at least 50 trips a year, per participating truck, for three years following the date of voucher redemption.
 - A. A trip is defined as a single loaded gate entry to a container terminal at the San Pedro Bay Ports.
 - B. At least half (i.e., 25 trips) of each annual 50 trip minimum shall be calls at POLA container terminals.
7. The Purchasing Company or Individual Purchaser shall complete the HVIP annual usage survey, including any additional questions from the POLA Voucher Incentive Program for each year during the three years following the Date of Voucher Redemption.
8. The Purchasing Company or Individual Purchaser shall provide written responses to all reasonable written requests for additional information submitted by the City of Los Angeles Harbor Department, or its designee, about the zero-emission truck(s) for three years following the Date of Voucher Redemption.

Voucher ID:

Port of Los Angeles (POLA) Zero-Emission Truck Voucher Incentive Program Voucher Agreement

9. The Purchasing Company or Individual Purchaser agrees that the voucher(s) issued pursuant to this Voucher Request Form shall be applied solely toward the purchase of the truck(s) approved under the Voucher Incentive Program. Voucher(s) shall be null and void if used for purchase/lease of different truck(s) than as approved under this Voucher Agreement, if a different dealer/manufacturer is used than as set forth herein, or if Purchasing Company or Individual Purchaser fails to comply with the Voucher Incentive Program requirements.
10. The Purchasing Company or Individual Purchaser agrees that the City of Los Angeles reserves all rights and remedies available under law to enforce the terms of this Voucher Agreement and recoup from the Purchasing Company or Individual Purchaser any or all incentive funding it received pursuant to the Voucher Incentive Program.

PURCHASING COMPANY OR INDIVIDUAL PURCHASER SIGNATURE

The undersigned, a representative of the Purchasing Company authorized to execute this Voucher Agreement, or the Individual Purchaser, hereby certifies that the Purchasing Company or the Individual Purchaser agrees to comply with all POLA Zero-Emission Truck Voucher Incentive Program Terms and Conditions set forth herein. The undersigned signatory affirms that the above information is true and correct and that the Purchasing Company or Individual Purchaser will notify the City of Los Angeles Harbor Department, or its designee, if any of the information set forth herein changes or otherwise ceases to be true and correct.

**Purchasing Company
or Individual Purchaser Name:**

Date:

Owner/Officer Signature:

Print Name:

CITY OF LOS ANGELES HARBOR DEPARTMENT SIGNATURE

Title:

Date:

Signature:

Print Name:

Administrative Purposes Only

Initial Review

POLA Internally Reviewed By:

Voucher ID:

Port of Los Angeles (POLA) Zero-Emission Truck Voucher Incentive Program Voucher Agreement

Final Review

Final Voucher Amount:	VIN:
Date of Voucher Redemption:	POLA Internally Reviewed By:

Voucher ID: