

**AGREEMENT BETWEEN
THE CITY OF LOS ANGELES
AND THE CITY OF LONG BEACH**

**TRANSPORTATION POWER, INC.
ELECTRIC DRAYAGE INFRASTRUCTURE AND IMPROVEMENT PROJECT**

THIS AGREEMENT is made and entered into by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Harbor Commissioners, at its meeting of _____, 2015, and the CITY OF LONG BEACH, a municipal corporation, acting by and through its Board of Harbor Commissioners, at its meeting of _____, 2015.

WHEREAS, the Cities of Los Angeles and Long Beach, acting by their respective Boards of Harbor Commissioners ("Ports") have entered into Los Angeles Agreement No. 2546/ Long Beach Agreement No. HD-7173 ("Master Cost Sharing Agreement") expressing their desire to share the costs of certain contracts related to the San Pedro Bay Ports Clean Air Action Plan; and

WHEREAS, the Ports are interested in sharing the cost of an agreement for the Transportation Power, Inc. Electric Drayage Infrastructure and Improvement Project ("EDII Project") in accordance with the terms of the Master Cost Sharing Agreement.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

Section 1. POLB-Transportation Power, Inc. Agreement, Scope of Work and Funding Disbursement

The City of Long Beach, acting through its Board of Harbor Commissioners, has entered into or intends to enter into an agreement with Transportation Power, Inc. ("TransPower") to provide grant funding for the EDII Project. A copy of the agreement ("POLB-TransPower Agreement"), with the proposed scope of work and funding disbursement schedule, is attached hereto as Exhibit A.

With respect to the POLB-TransPower Agreement, the City of Long Beach shall be the "contracting Port" as that term is used in the Master Cost Sharing Agreement and shall carry out the responsibilities and obligations required of the contracting Port therein.

Section 2. EDII Project Funding and Reimbursement Amount

The total amount of grant funding to be provided by the Ports to TransPower for the EDII Project shall be Six Hundred Thousand Dollars (\$600,000). The Ports shall each contribute 50% of this amount. The maximum total not to exceed amount for each Port shall be Three Hundred Thousand Dollars (\$300,000), which shall be the maximum amount payable under this Agreement by the City of Los Angeles to the City of Long Beach. TransPower shall be responsible for any and all other costs of the EDII Project.

Section 3. Term of the Agreement

The term of this Agreement shall be two years, effective upon the date last signed by either the Executive Director of the Port of Los Angeles or the Chief Executive of the Port of Long Beach. The Agreement may be terminated earlier by either party as provided for in this Agreement.

Section 4. Notices

Any notices to be given under or pursuant to this Agreement shall be served by mail or by personal delivery. When so given, such notice shall be effective two calendar days after the date of mailing or upon personal delivery, if not mailed. For the purpose hereof, unless otherwise provided in writing by the parties hereto, the address of the Port of Los Angeles and the proper person to receive any such notice on its behalf is the Executive Director, Port of Los Angeles, P.O. Box 151, San Pedro, California, 90733. For the Port of Long Beach, the proper person to receive notices on its behalf is the Chief Executive, Port of Long Beach, P.O. Box 570, Long Beach, California 90802.

Section 5. Termination

Either Port shall have the right to terminate this Agreement upon ten calendar days written notice to the other Port provided, however, such termination shall not affect the respective obligations of the Ports for any payments due to TransPower for the POLB-TransPower Agreement (or any reimbursement due from the Port of Los Angeles to the Port of Long Beach) accrued through the effective date of termination. If termination of this Agreement occurs, the Port of Long Beach agrees to notify TransPower of said termination and carry out any necessary changes in the POLB-TransPower Agreement's scope of work or specific work tasks, which may result from such termination.

Section 6. Amendments

The terms of this Agreement shall be amended only in writing and signed by both parties.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date to the left of their signatures.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Harbor Commissioners

Date: _____, 2015

By: _____
Eugene D. Seroka
Executive Director

Attest: _____
Secretary

APPROVED AS TO FORM AND LEGALITY

_____, 2015

MICHAEL N. FEUER, City Attorney
Janna B. Sidley, General Counsel

By _____
Heather M. McCloskey, Deputy

Account #			W.O. #	
Ctr/Div #			Job Fac. #	
Proj/Prog #				
		Budget FY:	Amount:	
		TOTAL		
For Acct/Budget Div. Use Only:				
Verified by:				
Verified Funds Available:				
Date Approved:				

THE CITY OF LONG BEACH, a municipal corporation, acting by and through its Board of Harbor Commissioners

Date: _____, 2015

By: _____
Jon W. Slangerup
Chief Executive

APPROVED AS TO FORM
CHARLES PARKIN, City Attorney

By: _____
Barbara McTigue, Deputy

Date: _____, 2015

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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FUNDING CONTRACT
BETWEEN THE CITY OF LONG BEACH AND
TRANSPORTATION POWER, INC.
13000 DANIELSON STREET, SUITE D
POWAY, CALIFORNIA 92064
TELEPHONE NO. (858) 248-4255

THIS CONTRACT is made and entered into, in duplicate, as of the date executed by the Chief Executive of the Long Beach Harbor Department (“Chief Executive”), by and between the CITY OF LONG BEACH, a municipal corporation, acting by and through its Board of Harbor Commissioners (“City”), pursuant to authority granted by said Board at its meeting of _____, 2015; and TRANSPORTATION POWER, INC., a California corporation (“Recipient”).

1. This contract is made with reference to the following facts and objectives:

(a) City wishes to reduce air pollutant emissions from the goods movement system that services the Port of Long Beach. City is prepared to fund certain projects that help develop technologies to achieve this goal.

(b) Recipient submitted a grant funding proposal to the Technology Advancement Program (TAP) administered by the Port of Long Beach and the Port of Los Angeles for an Electric Drayage Infrastructure and Improvement Project. This proposal is a follow-up to the TAP funding that was approved in 2013 for Recipient’s Electric Drayage Pre-Commercial Demonstration Project.

(c) City wishes to fund the project set forth in this contract under the terms set forth herein and Recipient wishes to use these funds for such project.

2. Recipient agrees to complete the project set forth in Exhibit A (the “Project”), in accordance with generally accepted professional and technical standards

1 currently in effect and the specifications in Exhibit A, which is attached hereto and
2 incorporated by this reference.

3 (a) Any contractor performing any construction, alteration,
4 demolition, installation or repair work funded pursuant to the contract shall be
5 licensed by the State Contractor's License Board in conformance with the
6 provisions of the California Business and Professions Code.

7 (b) Recipient agrees that all public work (as defined in California
8 Labor Code Section 1720) performed pursuant to this contract (the "work") shall
9 comply with the requirements of California Labor Code Sections 1770 et seq. In
10 all bid specifications, contracts and subcontracts for the work, Recipient (or its
11 general contractor, in the case of subcontracts) shall obtain the general prevailing
12 rate of per diem wages and the general prevailing rate for holiday and overtime
13 work in this locality for each craft, classification or type of worker needed to
14 perform the work, and shall include such rates in the bid specifications, contract or
15 subcontract. Such bid specifications, contract or subcontract must contain the
16 following provision:

17 It shall be mandatory for the contractor to pay not less than
18 the said prevailing rate of wages to all workers employed by
19 the contractor in the execution of this contract. The contractor
20 expressly agrees to comply with the penalty provisions of
21 California Labor Code Section 1775 and the payroll record
22 keeping requirements of California Labor Code Section 1771.

23 3. The term of this contract shall commence on the date executed by
24 the Chief Executive of the Long Beach Harbor Department and, subject to the provisions
25 of paragraph 6, shall expire two years later.

26 4. All disbursements of funds pursuant to this contract shall be made in
27 accordance with the schedule set forth in Exhibit B which is attached hereto and
28 incorporated by this reference. In connection with each disbursement, Recipient shall

1 submit to City the “Deliverable” set forth in Exhibit B to demonstrate that a “Task” has
2 been completed. Before City processes such disbursement for payment, City shall have
3 the right to verify the amounts requested and that the “Task” has been completed as
4 described in Exhibit A.

5 5. The total amount which shall be payable by City to Recipient for the
6 Project during the term of this contract shall not exceed **\$600,000**.

7 6. City shall have the right to terminate this contract at any time upon
8 ten (10) days’ written notice to Recipient. If this contract is so terminated prior to the
9 expiration of the term, Recipient shall be paid for those “Tasks” in Exhibit B which have
10 been completed as of the effective date of termination. Recipient agrees to accept such
11 amount, plus all amounts previously paid, as full payment and satisfaction of all
12 obligations of City to Recipient.

13 7. Any notices to be given under this contract shall be given in writing.
14 Such notices may be served by personal delivery, facsimile transmission or by first class
15 regular mail, postage prepaid. Any such notice, when served by mail, shall be effective
16 two (2) calendar days after the date of mailing of the same, and when served by facsimile
17 transmission or personal delivery shall be effective upon receipt. For the purposes
18 hereof, the address of City, and the proper person to receive any such notices on its
19 behalf, is: Chief Executive, Long Beach Harbor Department, P.O. Box 570, Long Beach,
20 California 90801; and the address of Recipient as indicated above.

21 8. Neither this contract nor any interest therein may be assigned or
22 delegated by Recipient. Any attempted assignment or delegation without such consent
23 shall be void, and any assignee or delegate shall acquire no right or interest by reason of
24 such attempted assignment or delegation.

25 9. (a) Recipient shall indemnify, protect and hold harmless City, the
26 Board of Harbor Commissioners, and their officials, employees and agents
27 (“Indemnified Parties”), from and against any and all liability, claims, demands,
28 damage, loss, obligations, causes of action, proceedings, awards, fines,

1 judgments, penalties, costs and expenses, including attorneys' fees, court costs,
2 expert and witness fees, and other costs and fees of litigation, arising or alleged to
3 have arisen, in whole or in part, out of or in connection with (1) Recipient's breach
4 or failure to comply with any of its obligations contained in this contract, or (2)
5 negligent or willful acts, errors, omissions or misrepresentations committed by
6 Recipient, its officers, employees, agents, subcontractors, or anyone under
7 Recipient's control, in the performance of work or services under this contract
8 (collectively "Claims" or individually "Claim").

9 (b) In addition to Recipient's duty to indemnify, Recipient shall
10 have a separate and wholly independent duty to defend Indemnified Parties at
11 Recipient's expense by legal counsel approved by City, from and against all
12 Claims, and shall continue this defense until the Claims are resolved, whether by
13 settlement, judgment or otherwise. No finding or judgment of negligence, fault,
14 breach, or the like on the part of Recipient shall be required for the duty to defend
15 to arise. City shall notify Recipient of any Claim, shall tender the defense of the
16 Claim to Recipient, and shall assist Recipient, as may be reasonably requested, in
17 the defense.

18 (c) If a court of competent jurisdiction determines that a Claim
19 was caused by the sole negligence or willful misconduct of Indemnified Parties,
20 Recipient's costs of defense and indemnity shall be (1) reimbursed in full if the
21 court determines sole negligence by the Indemnified Parties, or (2) reduced by the
22 percentage of willful misconduct attributed by the court to the Indemnified Parties.

23 (d) The provisions of this paragraph shall survive the expiration or
24 termination of this contract.

25 10. In the event of any conflict or ambiguity between this written contract
26 and any exhibit hereto, the provisions of this contract shall govern.

27 11. This contract shall not be amended, nor any provision or breach
28 hereof waived, except in writing signed by the parties which expressly refers to this

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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contract.

12. This contract, including all exhibits, constitutes the entire understanding between the parties and supersedes all other agreements, oral or written, with respect to the subject matter herein.

TRANSPORTATION POWER, INC., a California corporation

_____, 2015

By: _____
Name: _____
Title: _____

_____, 2015

By: _____
Name: _____
Title: _____

RECIPIENT

CITY OF LONG BEACH, a municipal corporation, acting by and through its Board of Harbor Commissioners

_____, 2015

By: _____
Jon W. Slangerup
Chief Executive
Long Beach Harbor Department

CITY

The foregoing document is hereby approved as to form.

CHARLES PARKIN, City Attorney

_____, 2015

By: _____
Barbara McTigue, Deputy

BJM:cao 03/23/15 #A15-00384

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____ before me, _____,
Date Here Insert Name and Title of the Officer

personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

EXHIBIT A SCOPE OF WORK

ELECTRIC DRAYAGE INFRASTRUCTURE AND IMPROVEMENT (EDII)

The EDII project will build on the successes to date of the Electric Drayage Pre-Commercial Demonstration (EDPCD) Project, which is being funded by a variety of sources including an earlier TAP grant awarded in 2013 for the development and demonstration of seven trucks. This has created new needs which the team proposes to address, in part, with funding from this EDII proposal. The result will be a combined EDPCD/EDII project that will result in establishment of capabilities substantially beyond those targeted by the initial program. More information on the initial program, or the EDPCD Project, may be found in the contract agreement between the Port of Los Angeles and TransPower (POLA Agmt No. 13-3139).

The seven EDPCD/EDII trucks, four of which have already been manufactured and three of which will be produced during the first half of 2015, feature a high-power ElecTruck™ electric drive system design developed by TransPower for use in Navistar International ProStar® trucks. TransPower's ElecTruck™ powered trucks have consistently shown hauling capacity and road performance equal to or surpassing that of conventional vehicles, with greater operating range and energy efficiency than any other heavy EVs built by competing firms. However, it will require evolution of fleet support architecture and TransPower manufacturing capabilities to bring ElecTruck™ products to the point where they can provide the reliability level of diesel trucks and be deployed in large, commercial-scale quantities.

As discussed in the following tasks, the requested EDII funds will be used to partially fund installing electrical charging infrastructure for the seven EDPCD/EDII trucks, to achieve important incremental improvements in the management of the vehicle batteries to be recharged using this infrastructure, to initiate the manufacturing engineering process that must be undertaken to achieve cost-effective production of future electric trucks, and to improve overall vehicle reliability through improved diagnostics. More information regarding funding disbursement may be found in Exhibit B of this document.

Tasks 1 through 4 were previously funded by the CEC, DOE, SCAQMD, and a TAP grant awarded in 2013. Tasks 5 – 8 are new tasks to be funded with this TAP grant as follows:

Task 5 – Charging Infrastructure Installation

The goal of this task is to design, develop, and deploy the battery charging infrastructure required to support the seven electric drayage trucks. This task will address new needs identified during development and initial testing of the first four electric drayage trucks in 2013-14, including the need for a separate Electric Vehicle Support Equipment (EVSE) console to improve charging safety and installation of enhanced electrical service at fleet operator sites. Interim charging infrastructure deployed at TTSI and SA Recycling to support the first three trucks will be maintained and utilized to enable early experience to be gained with these trucks, in parallel with design and installation of

permanent charging infrastructure for all seven trucks. The permanent charging infrastructure will be installed at TTSI, SA Recycling and other fleet operator(s) as required to support all seven trucks.

TransPower shall:

- Perfect the design of a custom EVSE console to improve charging control and safety.
- Manufacture EVSE consoles for all seven electric trucks.
- Work with TTSI and SA Recycling to install and maintain interim charging infrastructure at their facilities to expedite deployment of the first three trucks.
- Coordinate installation of permanent charging infrastructure for all seven electric trucks with TTSI, SA Recycling, other fleet operator(s) as required, and the Ports.
- Cover the costs of electrical contractors hired by fleet operators to install charging infrastructure.
- Fully validate functionality of charging infrastructure for all seven electric trucks.

Products:

- EVSE consoles for seven electric trucks
- Maintenance/improvement of interim charging infrastructure for first three trucks
- Permanent charging infrastructure for seven electric trucks

Task 6 – Next Generation Battery Management System

The goal of this task is to build on promising battery management system (BMS) R&D performed by TransPower and EPC Power during the first two years of the project, which resulted in a first generation advanced BMS sensor/balancing board which showed the ability to more accurately monitor batteries and to actively balance cells during tests with the second electric truck (EDD-2). This task will enable design of a next generation version of this BMS board that will monitor more cells and be less complex than the first generation BMS board currently being used on EDD-2. The specific objectives of this redesign effort are to improve the reliability of the BMS boards and to reduce the cost of installing the advanced BMS by a factor of four.

TransPower shall:

- Evaluate the performance of the first generation advanced BMS in operation on EDD-2 and develop a product improvement plan to improve the robustness of the sensor/balancing boards and to reduce their parts count and manufacturing costs.
- Design a next generation sensor/balancing board, using either the EPC boards on EDD-2 or the Flux Power boards on EDD-3 and EDD-4 as a starting point.
- Manufacture and test five prototypes of the next generation sensor/balancing board.
- Following any necessary hardware and software fixes, manufacture a set of next generation sensor/balancing boards for EDD-7.
- Install a new BMS using the next generation sensor/balancing boards on EDD-7.
- Test operate EDD-7 to validate the performance of the next generation BMS using the improved sensor/balancing boards.

Products:

- Next generation BMS design
- Prototype next generation BMS sensor/balancing boards
- Perfected next generation BMS sensor/balancing boards for EDD-7
- Results of testing of EDD-7 with next generation BMS

Task 7 – Manufacturing Engineering

The goal of this task is to take the critical next steps toward commercial-scale manufacturing of electric drayage trucks by developing methods of manufacturing ElecTruck™ drive system components and installing them into trucks in increased scale. The costs of manufacturing the seven electric demonstration trucks will be reviewed in detail to identify the largest areas of potential cost reduction through employment of new manufacturing methods and economies of scale. Components, subsystems, and integration procedures with high cost reduction potential will be identified and new designs and integration methods will be developed, along with estimates of cost reduction potential. The specific objective of these efforts will be to develop updated designs and assembly methods that can reduce the cost of manufacturing an electric drayage truck by one-third.

TransPower shall:

- Review current ElecTruck™ component and subsystem designs with respect to their impacts on manufacturing methods and costs.
- Review current ElecTruck™ vehicle integration procedures and costs.
- Identify new manufacturing methods and integration procedures that can reduce costs.
- Select highest priority cost reduction strategies, based on cost reduction potential and return on investment.
- Develop new component and subsystem designs compatible with larger scale, low-cost manufacturing.
- Develop lower cost component and subsystem manufacturing methods and vehicle integration procedures.

Products:

- Manufacturing cost study
- Updated component and subsystem designs
- High-volume component and subsystem manufacturing procedures
- High-volume, efficient vehicle integration procedures

Task 8 – Improved Diagnostics and Reliability

The goal of this task is to take the critical next steps toward commercial-scale manufacturing of electric drayage trucks by improving the reliability of the ElecTruck™ drive system components by conducting a Failure Mode Effects Analysis (FMEA). The findings of this analysis will be used to improve the diagnostic capabilities and install infrastructure to enable fleet operators and maintenance personnel to immediately identify and address problems. The specific objective of these efforts will be to develop diagnostic capabilities and infrastructure so as to reduce the down time of an electric drayage truck by 50 percent.

TransPower shall:

- Conduct an FMEA to identify the current and future possible failures.
- Improve control software to precisely identify the failure so as to reduce the time needed for troubleshooting.
- Implement the industry standard diagnostic protocol.
- Install an interface on the ElecTruck™ to interact with maintenance personnel and pinpoint the exact source of the problem.

- Install telemetry hardware and remote data processing capabilities to enable engineers assist the maintenance personnel remotely in real time.

Products:

- Failure Mode Effects Analysis (FMEA)
- Updated ElecTruck™ control software with diagnostic protocol built in
- Installation and integration of interface screen on the ElecTruck™
- Installation and integration of telemetry and real time remote data processing infrastructure

EXHIBIT B
FUNDING DISBURSEMENT SCHEDULE

Payments shall be disbursed according to the “Milestones” set forth below. Upon completion of each “Milestone” and delivery of the corresponding “Deliverable” set forth below, together with a letter from Recipient certifying completion of the “Milestone,” Recipient may request disbursement of grant funds in the indicated “Amount.” Regardless of the expenses incurred by Recipient, in no event shall the funds disbursed pursuant to this contract exceed the amount of the grant award which is \$600,000.

TASK NO.	TASK DESCRIPTION	TAP PAYABLE MILESTONE	DELIVERABLE	COMPLETION DATE	AMOUNT
5.1	Charging Infrastructure Installation	Charging Infrastructure Progress Payment <i>Use of TAP-EDII funds: Support manufacturing of EVSE consoles and related charging components for seven permanent charging installations</i>	EVSE Design & Procurement Report documenting final design of EVSE console and listing of key EVSE components ordered	3/31/2015	\$100,000
6.1	Next Generation Battery Management System (NGBMS)	NGBMS Design <i>Use of TAP-EDII funds: Design new, reliable, low-cost NGBMS board based on results of testing of first generation advanced BMS</i>	Concise design report showing design of new BMS board and describing its features	4/30/2015	\$50,000
6.2	Next Generation Battery Management System (NGBMS)	NGBMS Development & Validation <i>Use of TAP-EDII funds: Retrofit 7th truck with new, reliable, low-cost NGBMS boards and evaluate NGBMS in drayage service</i>	Photos showing installation of new BMS boards on truck and brief BMS status report	6/30/2015	\$50,000
5.2	Charging Infrastructure Installation	Charging Infrastructure Completion <i>Use of TAP-EDII funds: Completion of manufacturing of EVSE and installation of charging infrastructure for 7 trucks at TTSI, SA Recycling, and other fleet(s) TBD</i>	Report documenting installation of charging infrastructure including photos of each installation	7/31/2015	\$100,000
7.1	Manufacturing Engineering	Manufacturing Requirements Assessment <i>Use of TAP-EDII funds: Complete</i>	Interim report documenting key lessons learned from	9/30/2015	\$50,000

		<i>manufacturing requirements assessment based on first six months of operations of drayage trucks</i>	first six months of operation and recommended design approaches		
7.2	Manufacturing Engineering	Manufacturing Redesign <i>Use of TAP-EDII funds: Complete manufacturing redesign of critical components based on requirements assessment</i>	Updated report with final design approaches resulting from EDD operational experience	12/31/2015	\$50,000
8.1	Improved Diagnostics and Reliability	Complete Failure Modes and Effects Analysis <i>Use of TAP-EDII funds: Complete a Failure Modes and Effects Analysis (FMEA) that identifies potential failures modes and their severity</i>	FMEA Report documenting results of FMEA and any recommended improvements	12/31/2015	\$100,000
8.2	Improved Diagnostics and Reliability	Demonstrate Improved Control Software with Advanced Diagnostic Capabilities <i>Use of TAP-EDII funds: Complete installation and demonstration of improved software in all seven trucks with advanced diagnostic capabilities</i>	Report documenting control software upgrades and identifying specific improvements in diagnostics	3/31/2016	\$100,000

The Deliverable(s) for each Task shall be submitted to:

Port of Long Beach
Attn: Rose Siengsubcharti
4801 Airport Plaza Drive
Long Beach, CA 90815

Or

Via email as a PDF document to rose.sieng@polb.com.

All Deliverables must include documentation to indicate or prove the successful completion of task(s).
All Deliverables are subject to the Ports' review and approval before payment is made.

**CLEAN AIR ACTION PLAN
MASTER COST SHARING AGREEMENT**

This agreement (the "Master Agreement") is entered into this 14 day of May, 2007, by the City of Long Beach, a municipal corporation, acting through its Board of Harbor Commissioners ("Long Beach") and by the City of Los Angeles, a municipal corporation, acting through its Board of Harbor Commissioners ("Los Angeles") (collectively, the "Ports").

Section 1. Recitals

A. On November 20, 2006, Long Beach and Los Angeles adopted the San Pedro Bay Ports Clean Air Action Plan ("CAAP").

B. The CAAP contains a number of joint strategies and initiatives to reduce emissions from port-related sources.

C. Concurrently with this Master Agreement, Long Beach and Los Angeles are entering into a memorandum of understanding regarding CAAP joint defense and legal cost sharing.

D. With this Master Agreement, Long Beach and Los Angeles wish to establish a master cost sharing arrangement for all joint non-legal CAAP expenditures.

E. Attached to this Master Agreement as an exhibit is a form for supplemental agreements for sharing specific costs pursuant to the terms and conditions of this Master Agreement.

Section 2. Term

This Master Agreement shall commence on the date last signed by either the Executive Director of the Port of Los Angeles or the Executive director of the Port of Long Beach. It shall terminate upon completion of the last agreement entered into to accomplish work described in Section 1 of this Master Agreement or upon termination by either party as provided in this Master Agreement.

Section 3. Preparation of Scope of Work and Award of Contract

A. The Coordinating Committee shall consist of the Executive Directors of the Ports, the Director of Environmental Management of Los Angeles and the Managing Director of Environmental Affairs and Planning of Long Beach, or their respective designees. The Coordinating Committee shall establish a mutually satisfactory scope of work, budget, and terms of compensation, with each selected consultant or contractor for each separable element of work to be undertaken.

B. The third-party contracts shall be in the format of the contracting Port's procurement requirements. The non-contracting Port shall not be obligated to commit to share any costs under this Master Agreement unless the non-contracting Port is satisfied with the scope of work and the consultant organization or contractor selected for the study and has so indicated in writing and the Ports have executed an agreement to share costs in the form attached hereto as Exhibit "A."

Section 4. Responsibility for Administration of Third-Party Contracts

A. Contract administration shall be the responsibility of the contracting Port. However, the contracting and non-contracting Ports agree to meet in good faith through the Coordinating Committee to discuss progress and to resolve any disputes which may arise as to the quality or quantity of the work or questions regarding other contract terms.

B. If members of the Coordinating Committee cannot resolve a given dispute, then the dispute shall be resolved by the Executive Directors of the two Ports. If the Executive Directors cannot reach agreement, then either Port may withdraw from participation in the sharing of costs under that contract upon ten days notice and shall be liable only for its share of costs accrued through the effective date of such withdrawal.

C. Each third-party contract shall contain a provision which allows for termination upon ten days notice and for payment to the consultant or contractor for work performed before termination. The third-party contract shall require that the consultant or contractor deliver to the contracting Port, all data gathered and all reports prepared prior to termination of the contract. All such data shall be shared through the Coordinating Committee.

D. All correspondence from the consultant or contractor to the contracting Port shall also be copied to the non-contracting Port. Any instructions from the contracting Port to the consultant or contractor shall also be copied to the non-contracting Port.

Section 5. Reimbursement of Monies Between Ports

It shall be the responsibility of the contracting Port to pay all monies due the consultant or contractor under the terms of the third-party contract. Subject to the provisions of Section 6 below, the non-contracting Port agrees to reimburse the contracting Port its share of the contracting costs actually paid to the consultant or contractor within 45 days of the receipt of a billing statement or invoice from the contracting Port.

Section 6. Limitations on Reimbursement

A. The contracting Port shall not be entitled to reimbursement for the cost of any extra work requested by the consultant or contractor unless the Ports have executed an amendment to the agreement in the form attached as Exhibit "A." If the consultant requests any extra work or extra monies, both Ports agree that this request shall be directed by the contracting Port to the Coordinating Committee, which shall recommend to the Ports whether payment for such extra work is appropriate.

B. If a dispute arises between the Ports, the non-contracting Port shall have the right to veto any proposed payment to the consultant or contractor for extra work conducted on behalf of the non-contracting Port, provided that the non-contracting Port agrees to defend, indemnify and hold harmless, the contracting Port, from any claims of the consultant or contractor arising from a veto by the non-contracting Port. If the non-contracting Port refuses to provide such written indemnity assurances, the contracting Port may pay the cost of such extra work and will be entitled to reimbursement from the non-contracting Port.

C. The non-contracting Port shall not be responsible for any extra costs resulting from the negligence of the contracting Port in the administration of the third-party contract.

Section 7. Rights and Obligations

A. **Ownership of Data and Records.** Both Ports agree that all records, exhibits, work product and all related data collected or reproduced by a consultant or contractor ("data and records"), for which the costs are shared pursuant to this Master Agreement, are to be the joint property of the Ports. The data and records shall not be released to any one nor used by anyone other than the Ports for any purpose or project without the express written authorization of the Executive Directors of the Ports, except to the extent that such data and records may be classified as public records under the California Government Code and except for use and release of such data and records for the direct benefit of either Port.

B. **Notices.** Any notices to be given under or pursuant to this Master Agreement shall be served by mail or by personal delivery. When so given, such notice shall be effective two calendar days after the date of mailing or upon personal delivery, if not mailed. For the purpose hereof, unless otherwise provided in writing by the parties hereto, the address of the Port of Long Beach and the proper person to receive any such notice on its behalf is the Executive Director, Port of Long Beach, P.O. Box 570, Long Beach, California 90802. For the Port of Los Angeles, the proper person to receive notices on its behalf is the Executive Director, Port of Los Angeles, P.O. Box 151, San Pedro, California 90733.

C. **Termination.** Either Port shall have the right to terminate this Master Agreement upon ten calendar days written notice to the other Port provided, however, such termination shall not affect the respective obligations of the Ports for any reimbursement due for third-party contract costs accrued through the effective date of termination. If termination of the Master Agreement occurs, each Port agrees to notify its consultants and contractors of any change in the scope of work or specific work tasks, which may result from such termination.

D. Cooperation and Port Staff Costs. Both Ports pledge to cooperate with each other and the consultant(s) selected to conduct the work. Both Ports agree that each will absorb its respective staff costs necessary to implement and meet the obligations of this Master Agreement.

CITY OF LOS ANGELES BY ITS BOARD OF HARBOR COMMISSIONERS

By: *M. Christensen for*
Name: GERALDINE KNATZ
Title: EXECUTIVE DIRECTOR

Date: JUNE 21, 2007

ATTEST: *Rose M. Dworshak*
Name: Rose M. Dworshak
Title: Acting Board Secretary

Date: June 27, 2007

CITY OF LONG BEACH BY ITS BOARD OF HARBOR COMMISSIONERS

By: *Jim Rubin for*
Name: Pick Steink
Title: Executive Director

Date: 6/7, 2007

ATTEST: *Gustav T Hein*
Name: Gustav T Hein
Title: Executive Officer

Date: June 7, 2007

APPROVED AS TO FORM:
ROCKARD J. DELGADILLO, City Attorney
City of Los Angeles

By: *Joy M. Crose*
Joy M. Crose
Assistant General Counsel

Date: June 14, 2007

APPROVED AS TO FORM:
ROBERT E. SHANNON, City Attorney
City of Long Beach

By: *Dominic T. Holzhaus*
Dominic T. Holzhaus,
Principal Deputy City Attorney

Date: 6/5, 2007

AGREEMENT BETWEEN THE CITY OF LOS ANGELES
AND THE CITY OF LONG BEACH

ESTABLISHING SPECIFIC CLEAN AIR ACTION PLAN
COSTS TO BE SHARED

[TITLE OF THIRD-PARTY CONTRACT]

WHEREAS, the Cities of Los Angeles and Long Beach, acting by their respective Boards of Harbor Commissioners ("Ports") have entered into Los Angeles Agreement No. _____ / Long Beach Agreement No. _____ ("Master Cost Sharing Agreement") expressing their desire to share the costs of certain contracts related to the San Pedro Bay Ports Clean Air Action Plan.

WHEREAS, Ports are interested in sharing the cost of the contract for [describe purpose of contract].

NOW, THEREFORE, PORTS AGREE AS FOLLOWS:

1. The City of [insert] has retained [third-party] to undertake the following work: [describe]. The term of this contract is [term]. The total contract amount is [\$_____]. The share of the City of Los Angeles shall be [___%] percent; the share of the City of Long Beach shall be [___%] percent.

2. The terms and conditions of the Master Agreement are incorporated by reference into this agreement and Ports agree to abide by all the terms and conditions of said agreement.

CITY OF LOS ANGELES BY ITS BOARD OF
HARBOR COMMISSIONERS

By: _____
Name
Title

Date

ATTEST:
Name
Title

Date

CITY OF LONG BEACH BY ITS BOARD OF
HARBOR COMMISSIONERS

By: _____
Name: Dick Stenke
Title: Executive Director

Date: 6/7, 2007

ATTEST: _____
Name: Gustav T Hein
Title: Executive Officer

Date: June 7, 2007

*Exhibit is a
sample not
for signature*

APPROVED AS TO FORM:
ROCKARD J. DELGADILLO, City Attorney
City of Los Angeles

APPROVED AS TO FORM:
ROBERT E. SHANNON, City Attorney
City of Long Beach

By: _____
Joy M. Crose
Assistant General Counsel

By: _____
Dominic T. Holzhaus,
Principal Deputy City Attorney

Date: _____, 2007

Date: _____, 2007

*This is a
sample agreement
Dominic's signature
not required.*