



South Coast Air Quality Management District

Contract No. 20169
Standard

This Contract consists of 21 pages.

1. PARTIES

The parties to this contract ("Contract") are the South Coast Air Quality Management District (referred to here as "SCAQMD") whose address is 21865 Copley Drive, Diamond Bar, California 91765-4178, and the City of Los Angeles, acting by and through its Board of Harbor Commissioners (referred to here as "CONTRACTOR") whose address is 425 South Palos Verdes Street, San Pedro, California 90731.

2. RECITALS

- A. SCAQMD is the local agency with primary responsibility for regulating stationary source air pollution within the geographical boundaries of the South Coast Air Quality Management District in the State of California. SCAQMD desires to contract with CONTRACTOR for, and CONTRACTOR desires to provide, the services described in Attachment 1 - Statement of Work, attached here and made a part here by this reference. CONTRACTOR warrants that it is well-qualified and has the experience to provide such services on the terms set forth here.
- B. CONTRACTOR is a California municipal corporation and tax-exempt from state taxes.
- C. All parties to this Contract have had the opportunity to have this Contract reviewed by their attorney.

3. PERFORMANCE REQUIREMENTS

- A. CONTRACTOR agrees to obtain and maintain the required licenses, permits, and all other appropriate legal authorizations from all applicable federal, state and local jurisdictions and pay all applicable fees. CONTRACTOR further agrees to immediately notify SCAQMD in writing of any change in its licensing status which has a material impact on the CONTRACTOR's performance under this Contract.
- B. CONTRACTOR shall submit reports to SCAQMD as outlined in Attachment 1 - Statement of Work. Unless otherwise stated herein, all reports shall be submitted in an environmentally friendly format: recycled paper; stapled, not bound; black and white, double-sided print; and no three-ring, spiral, or plastic binders or cardstock covers. SCAQMD reserves the right to review, comment, and request changes to any report produced as a result of this Contract.
- C. CONTRACTOR shall perform all tasks set forth in Attachment 1 - Statement of Work, and CONTRACTOR represents and warrants that it has no business, professional, personal or other interest that would conflict in any manner or degree with the performance of its obligations under this Contract. If any such actual or potential conflict of interest arises during the term of this Contract, CONTRACTOR shall immediately inform SCAQMD in writing, and SCAQMD may, in its sole judgment, terminate this Contract immediately upon written notice to CONTRACTOR.
- D. CONTRACTOR shall be responsible for exercising the degree of skill and care customarily required by accepted professional practices and procedures subject to SCAQMD's final approval which SCAQMD will not unreasonably withhold. Any costs incurred due to the failure to meet the foregoing standards, or otherwise defective services which require re-performance, as directed by SCAQMD, shall be the responsibility of CONTRACTOR. If CONTRACTOR is deemed by SCAQMD to have failed the foregoing standards of performance, the SCAQMD may request re-performance.
- E. CONTRACTOR shall require its subcontractors to abide by the requirements set forth in this Contract.

4. TERM

This Contract will become effective when signed by both parties and shall remain in effect until November 30, 2022, unless terminated as specified herein or extended by amendment of this Contract in writing.

5. TERMINATION

A. In the event any party fails to comply with any term or condition of this Contract, or fails to provide services in the manner agreed upon by the parties, including, but not limited to, the requirements of Attachment 1 - Statement of Work, this failure shall constitute a breach of this Contract. The non-breaching party shall notify the breaching party that it must cure this breach or provide written notification of its intention to terminate this contract. Notification shall be provided in the manner set forth in Clause 14. The non-breaching party reserves all rights under law and equity to enforce this Contract and recover damages.

B. SCAQMD reserves the right to terminate this Contract, in whole or in part, without cause, upon thirty (30) days' written notice. Once such notice has been given, CONTRACTOR shall, except as and to the extent or directed otherwise by SCAQMD, discontinue any work being performed under this Contract and cancel any of CONTRACTOR's orders for materials, facilities, and supplies in connection with such work, and shall use its best efforts to procure termination of existing subcontracts upon terms satisfactory to SCAQMD. Thereafter, CONTRACTOR shall perform only such services as may be necessary to preserve and protect any work already in progress and to dispose of any property as requested by SCAQMD.

C. CONTRACTOR shall be paid in accordance with Attachment 2 – Payment Schedule for work performed before the effective date of termination under Clause 5.B. Before expiration of the thirty (30) days' written notice, CONTRACTOR shall promptly deliver to SCAQMD all copies of documents and other information and data prepared or developed by CONTRACTOR under this Contract with the exception of a record copy of such materials, which may be retained by CONTRACTOR.

6. STOP WORK

SCAQMD may, at any time, by written notice to CONTRACTOR, require CONTRACTOR to stop all or any part of the work tasks in this Contract. A stop work order may be issued for reasons including, but not limited to, the project exceeding the budget, out of scope work, delay in project schedule, or misrepresentations. Upon receipt of the stop work order, CONTRACTOR shall immediately take all necessary steps to comply with the order. CONTRACTOR shall resume the work only upon receipt of written instructions from SCAQMD cancelling the stop work order. CONTRACTOR agrees and understands that CONTRACTOR will not be paid for performing work while the stop work order is in effect, unless SCAQMD agrees to do so in its written cancellation of the stop work order.

7. INSURANCE

A. CONTRACTOR shall furnish evidence to SCAQMD of workers' compensation insurance for each of its employees, in accordance with either California or other states' applicable statutory requirements prior to commencement of any work on this Contract.

B. CONTRACTOR shall furnish evidence to SCAQMD of general liability insurance with a limit of at least \$1,000,000 per occurrence, and \$2,000,000 in a general aggregate prior to commencement of any work on this Contract. SCAQMD shall be named as an additional insured on any such liability policy, and thirty (30) days written notice prior to cancellation of any such insurance shall be given by CONTRACTOR to SCAQMD.

- C. CONTRACTOR shall furnish evidence to SCAQMD of automobile liability insurance with limits of at least \$100,000 per person and \$300,000 per accident for bodily injuries, and \$50,000 in property damage, or \$1,000,000 combined single limit for bodily injury or property damage, prior to commencement of any work on this Contract. SCAQMD shall be named as an additional insured on any such liability policy, and thirty (30) days written notice prior to cancellation of any such insurance shall be given by CONTRACTOR to SCAQMD.
- D. If CONTRACTOR fails to maintain the required insurance coverage set forth above, SCAQMD reserves the right either to purchase such additional insurance and to deduct the cost thereof from any payments owed to CONTRACTOR or terminate this Contract for breach.
- E. All insurance certificates must be sent to SCAQMD Risk Management, by email (insurancecertificate@aqmd.gov) or by fax (909-396-3979). **The SCAQMD Contract Number must be included on the face of the certificate.**
- F. CONTRACTOR must provide updates on the insurance coverage throughout the term of the Contract to ensure that there is no break in coverage during the period of contract performance. Failure to provide evidence of current coverage shall be grounds for termination for breach of Contract.

8. INDEMNIFICATION

Except where caused by the active negligence, sole negligence or willful misconduct of SCAQMD, CONTRACTOR agrees to hold harmless, defend and indemnify SCAQMD, its officers, employees, agents, representatives, and successors-in-interest against any and all loss, damage, costs, lawsuits, claims, demands, causes of action, judgments, attorney's fees, or any other expenses arising from or related to any third party claim against SCAQMD, its officers, employees, agents, representatives, or successors in interest that arise or result in whole or in part, from any actual or alleged act or omission of CONTRACTOR, its employees, subcontractors, agents or representatives in the performance of this Contract. This Indemnification Clause shall survive the expiration or termination (for any reason) of the Contract and shall remain in full force and effect.

9. RECORDS RETENTION, ON-SITE INSPECTIONS AND AUDIT

- A. CONTRACTOR agrees to the following Records Retention Period: maintain records related to this Contract during the Contract term and continue to retain these records for a period of three years beyond the Contract term.
- B. SCAQMD, or its designee(s), shall have the right to conduct on-site inspections of the project and to audit records related to this Contract during the Records Retention Period. CONTRACTOR agrees to include a similar right for SCAQMD to conduct on-site inspections and audits in any related subcontract.
- C. If an amount is found to be inappropriately expended, CONTRACTOR shall reimburse SCAQMD, or SCAQMD may withhold payment from CONTRACTOR, as applicable, in the amount equal to the amount which was inappropriately expended. Such withholding or reimbursement shall not be construed as SCAQMD's sole remedy and shall not relieve CONTRACTOR of its obligation to perform under the terms of this Contract.

10. COST-SHARE

- A. CONTRACTOR shall obtain cost-share as follows: California Air Resources Board (CARB), Forty-One Million One Hundred Twenty-Two Thousand Two Hundred Sixty Dollars (\$41,122,260). If CONTRACTOR fails to obtain cost-share in the amount(s) referenced above, then SCAQMD reserves the right to renegotiate or terminate this Contract.

- B. CONTRACTOR and other partners shall provide cash and in-kind contributions in the amount of Forty-One Million Four Hundred Twenty-Six Thousand Six Hundred Twelve Dollars (\$41,426,612) for this project. If CONTRACTOR and other partners fail to provide this cash and in-kind contributions, then SCAQMD reserves the right to renegotiate or terminate this Contract.

11. PAYMENT

- A. SCAQMD shall pay CONTRACTOR up to the not-to-exceed amount of One Million Dollars (\$1,000,000) for work performed under this Contract in accordance with Attachment 2 - Payment Schedule, attached here and included here by reference. Payment shall be made by SCAQMD to CONTRACTOR within thirty (30) days after approval by SCAQMD of an invoice prepared and furnished by CONTRACTOR showing services performed and referencing tasks and deliverables as shown in Attachment 1 - Statement of Work, and the amount of charge claimed. Each invoice must be prepared in duplicate, on company letterhead, and list SCAQMD's Contract number, period covered by invoice, and CONTRACTOR's social security number or Employer Identification Number and submitted to: South Coast Air Quality Management District, Attn: Veronica Tejada, Technology Advancement.
- B. A withhold amount or percentage (if any) shall be identified in the Payment Schedule, and such amount shall be withheld from payment from each invoice. Upon satisfactory completion of the project and final acceptance of work and the final report, the withheld amount shall be released for payment to CONTRACTOR.
- C. Upon completion or termination of the Contract, CONTRACTOR shall submit the final invoice (if any) no later than ninety (90) days after such completion or termination date. The invoice shall be clearly marked as "FINAL" and prepared as indicated in 11A. above.
- D. SCAQMD reserves the right to disallow charges when the invoiced services are not performed satisfactorily in SCAQMD's sole judgment, and CONTRACTOR has not met other terms of the Contract.

12. COMPLIANCE WITH APPLICABLE LAWS

CONTRACTOR agrees to comply with all federal, state, and local laws, ordinances, codes and regulations and orders of public authorities in the performance of this Contract. CONTRACTOR must also ensure that the vehicles and/or equipment to be purchased, leased or installed in the performance of this Contract are in compliance with all applicable federal, state, and local air quality rules and regulations, and that it will maintain compliance for the full Contract term. CONTRACTOR shall ensure that the provisions of this clause are included in all subcontracts.

13. INTELLECTUAL PROPERTY RIGHTS

Title and full ownership rights to any documents or reports developed under this Contract and submitted to SCAQMD shall at all times remain with SCAQMD. Such material is agreed to be SCAQMD proprietary information. SCAQMD acknowledges that CONTRACTOR's ownership and use rights are subject to intellectual property rights of Project subcontractors (e.g. Shell-Equilon and NREL), which may limit SCAQMD's use of certain technical data such as trade secrets or patents.

- A. Rights of Technical Data - SCAQMD shall have the unlimited right to use technical data, including material designated as a trade secret, resulting from the performance of services by CONTRACTOR under this Contract. CONTRACTOR shall have the right to use technical data for its own benefit.
- B. Copyright - CONTRACTOR agrees to grant SCAQMD a royalty-free, nonexclusive, irrevocable license to produce, translate, publish, use, and dispose of all copyrightable material first produced or composed in the performance of this Contract.

14. NOTICES

All notices that are required under this Contract shall be provided in the manner set forth herein, unless specified otherwise. Notice to a party shall be delivered to the attention of the person listed below, or to such other person or persons as may hereafter be designated by that party in writing. Notice shall be in writing sent by email, U.S. Mail, express, certified, return receipt requested, or a nationally recognized overnight courier service. In the case of email communications, valid notice shall be deemed to have been delivered upon sending, provided the sender obtained an electronic confirmation of delivery. Email communications shall be deemed to have been received on the date of such transmission, provided such date was a business day (Tuesday-Friday) and delivered prior to 5:30pm Pacific Standard Time. Otherwise, receipt of email communications shall be deemed to have occurred on the following business day. In the case of U.S. Mail notice, notice shall be deemed to be received when delivered or five (5) business days after deposit in the U. S. Mail. In the case of a nationally recognized overnight courier service, notice shall be deemed received when delivered (written receipt of delivery).

SCAQMD: South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765-4178
Attn: Lisa Mirisola, email: LMirisola@aqmd.gov

CONTRACTOR: City of Los Angeles, acting by and through its Board of Harbor Commissioners
425 S. Palos Verdes St.
San Pedro, CA 90731
Attn: Jacob Goldberg, email: jgoldberg@portla.org

15. INDEPENDENT CONTRACTOR

CONTRACTOR is an independent contractor. CONTRACTOR, its officers, employees, agents, representatives, or subcontractors shall in no sense be considered employees or agents of SCAQMD, nor shall CONTRACTOR, its officers, employees, agents, representatives, or subcontractors be entitled to or eligible to participate in any benefits, privileges, or plans, given or extended by SCAQMD to its employees. SCAQMD will not supervise, direct, or have control over, or be responsible for, CONTRACTOR's or subcontractor's means, methods, techniques, work sequences or procedures or for the safety precautions and programs incident thereto, or for any failure by them to comply with any local, state, or federal laws, or rules or regulations, including state minimum wage laws and OSHA requirements. CONTRACTOR shall promptly notify SCAQMD of any material changes to subcontracts that affect the Contract's scope of work, deliverable schedule, and/or payment/cost schedule.

16. CONFIDENTIALITY

It is expressly understood and agreed that SCAQMD may designate in a conspicuous manner the information which CONTRACTOR obtains from SCAQMD as confidential. CONTRACTOR agrees to:

- A. Observe complete confidentiality with respect to such information, including without limitation, agreeing not to disclose or otherwise permit access to such information by any other person or entity in any manner whatsoever, except that such disclosure or access shall be permitted to employees or subcontractors of CONTRACTOR requiring access in fulfillment of the services provided under this Contract.
- B. Ensure that CONTRACTOR's officers, employees, agents, representatives, and independent contractors are informed of the confidential nature of such information and to assure by agreement

or otherwise that they are prohibited from copying or revealing, for any purpose whatsoever, the contents of such information or any part thereof, or from taking any action otherwise prohibited under this clause.

- C. Not use such information or any part thereof in the performance of services to others or for the benefit of others in any form whatsoever whether gratuitously or for valuable consideration, except as permitted under this Contract.
- D. Notify SCAQMD promptly and in writing of the circumstances surrounding any possession, use, or knowledge of such information or any part thereof by any person or entity other than those authorized by this clause.
- E. Take at CONTRACTOR expense, but at SCAQMD's option and in any event under SCAQMD's control, any legal action necessary to prevent unauthorized use of such information by any third party or entity which has gained access to such information at least in part due to the fault of CONTRACTOR.
- F. Take any and all other actions necessary or desirable to assure such continued confidentiality and protection of such information.
- G. Prevent access to such information by any person or entity not authorized under this Contract.
- H. Establish specific procedures in order to fulfill the obligations of this clause.
- I. Notwithstanding the above, nothing herein is intended to abrogate or modify the provisions of Government Code Section 6250 et.seq. (Public Records Act).

17. PUBLICATION

- A. SCAQMD shall have the right of prior written approval of any document which shall be disseminated to the public by CONTRACTOR in which CONTRACTOR utilized information obtained from SCAQMD in connection with performance under this Contract.
- B. Information, data, documents, or reports developed by CONTRACTOR for SCAQMD, pursuant to this Contract, shall be part of SCAQMD public record unless otherwise indicated. CONTRACTOR may use or publish, at its own expense, such information provided to SCAQMD. The following acknowledgment of support and disclaimer must appear in each publication of materials, whether copyrighted or not, based upon or developed under this Contract.

"This report was prepared as a result of work sponsored, paid for, in whole or in part, by the South Coast Air Quality Management District (SCAQMD). The opinions, findings, conclusions, and recommendations are those of the author and do not necessarily represent the views of SCAQMD. SCAQMD, its officers, employees, contractors, and subcontractors make no warranty, expressed or implied, and assume no legal liability for the information in this report. SCAQMD has not approved or disapproved this report, nor has SCAQMD passed upon the accuracy or adequacy of the information contained herein."

- C. CONTRACTOR shall inform its officers, employees, and subcontractors involved in the performance of this Contract of the restrictions contained herein and require compliance with the above.

18. NON-DISCRIMINATION

In the performance of this Contract, CONTRACTOR shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment on the basis of race, religious creed, color, national origin, ancestry, sex, sexual orientation, age, mental status, medical condition, physical or mental disability, or allow unlawful denial of family and medical care leave, denial of pregnancy disability leave, or reasonable accommodations. CONTRACTOR shall comply with the provisions of the California Fair Employment & Housing Act (Government Code Section 12900 et seq.), the Federal Civil

Rights Act of 1964 (P.L. 88-352) and all amendments thereto, Executive Order No. 11246 (30 Federal Register 12319), and all administrative rules and regulations issued pursuant to said Acts and Order.

19. SOLICITATION OF EMPLOYEES

CONTRACTOR expressly agrees that CONTRACTOR shall not, during the term of this Contract, nor for a period of six months after termination, solicit for employment, whether as an employee or independent contractor, any person who is or has been employed by SCAQMD during the term of this Contract without the consent of SCAQMD.

20. PROPERTY AND SECURITY

Without limiting CONTRACTOR obligations with regard to security, CONTRACTOR shall comply with all the rules and regulations established by SCAQMD for access to and activity in and around SCAQMD premises.

21. ASSIGNMENT

The rights granted hereby may not be assigned, sold, licensed, or otherwise transferred by either party without the prior written consent of the other, and any attempt by either party to do so shall be void upon inception.

22. NON-EFFECT OF WAIVER

The failure of CONTRACTOR or SCAQMD to insist upon the performance of any or all of the terms, covenants, or conditions of this Contract, or failure to exercise any rights or remedies hereunder, shall not be construed as a waiver or relinquishment of the future performance of any such terms, covenants, or conditions, or of the future exercise of such rights or remedies, unless otherwise provided for herein.

23. ATTORNEYS' FEES

In the event any action is filed in connection with the enforcement or interpretation of this Contract, each party shall bear its own attorneys' fees and costs.

24. FORCE MAJEURE

A party shall not be liable or deemed to be in default for any delay or failure in performance under this Contract or interruption of services resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, war, strikes, labor disputes, shortages of suitable parts, materials, labor or transportation, or any similar cause beyond the party's reasonable control.

25. SEVERABILITY

In the event that any one or more of the provisions contained in this Contract shall for any reason be held to be unenforceable in any respect by a court of competent jurisdiction, such holding shall not affect any other provisions of this Contract, and the Contract shall then be construed as if such unenforceable provisions are not a part hereof.

26. HEADINGS

Headings on the clauses of this Contract are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Contract.

27. SIGNATURES

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute together one and the same instrument. Further, the parties agree that this Contract or any counterpart may be executed and delivered by transmitting a manual signature by fax or .pdf, which shall have the same force and effect as copies executed and delivered with original manual signatures.

28. GOVERNING LAW

This Contract shall be construed and interpreted and the legal relations created thereby shall be determined in accordance with the laws of the State of California. Venue for resolution of any disputes under this Contract shall be Los Angeles County, California.

29. PRE-CONTRACT COSTS

Any costs incurred by CONTRACTOR prior to CONTRACTOR receipt of a fully executed Contract shall be incurred solely at the risk of the CONTRACTOR. In the event that this Contract is not executed, the SCAQMD shall not be liable for any amounts expended in anticipation of a fully executed Contract. If this Contract is fully executed, pre-contract cost expenditures authorized by the Contract will be reimbursed in accordance with the Payment Schedule and payment provision of the Contract.

30. CITIZENSHIP AND ALIEN STATUS

- A. CONTRACTOR warrants that it fully complies with all laws regarding the employment of aliens and others, and that its employees performing services hereunder meet the citizenship or alien status requirements contained in federal and state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986 (P.L. 99-603). CONTRACTOR shall obtain from all covered employees performing services hereunder all verification and other documentation of employees' eligibility status required by federal statutes and regulations as they currently exist and as they may be hereafter amended. CONTRACTOR shall have a continuing obligation to verify and document the continuing employment authorization and authorized alien status of employees performing services under this Contract to ensure continued compliance with all federal statutes and regulations. Notwithstanding the above, CONTRACTOR, in the performance of this Contract, shall not discriminate against any person in violation of 8 USC Section 1324b.
- B. CONTRACTOR shall retain such documentation for all covered employees for the period described by law. CONTRACTOR shall indemnify, defend, and hold harmless SCAQMD, its officers and employees from employer sanctions and other liability which may be assessed against CONTRACTOR or SCAQMD, or both in connection with any alleged violation of federal statutes or regulations pertaining to the eligibility for employment of persons performing services under this Contract.

31. PUBLIC WORKS PROJECTS

CONTRACTOR is alerted to the prevailing wage requirements in California Labor Code section 1770 et seq., the working hours requirements in California Labor Code section 1810 et seq., and the compliance monitoring and enforcement of such requirements by the Department of Industrial Relations ("DIR"). CONTRACTOR and all of CONTRACTOR's subcontractors must comply with the California Public Works Contractor Registration Program and must be registered with the DIR to participate in public works projects. CONTRACTOR shall be responsible for determining the applicability of the provisions of California Labor Code and complying with the same, including, without limitation, obtaining from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the

general prevailing rate for holiday and overtime work, making the same available to any interested party upon request, paying any applicable prevailing rates, posting copies thereof at the job site and flowing all applicable prevailing wage rate requirements to its subcontractors. Proof of compliance with these requirements must be provided to SCAQMD upon request. CONTRACTOR shall indemnify, defend and hold harmless the SCAQMD against any and all claims, demands, damages, defense costs or liabilities based on failure to adhere to the above referenced statutes.

32. SUBCONTRACTOR APPROVAL

If CONTRACTOR intends to subcontract all or a portion of the work under this Contract, then CONTRACTOR must first obtain written approval from SCAQMD's Executive Officer or designee prior to subcontracting any work. Such prior approval applies only to subcontractors not already included in Attachment 1, Statement of Work. Any material changes to the subcontract(s) that affect the scope of work, deliverable schedule, and/or payment/cost schedule shall also require the prior written approval of the Executive Officer or designee. No subcontract charges will be reimbursed unless the required approvals have been obtained from SCAQMD.

33. ENTIRE CONTRACT

This Contract represents the entire agreement between the parties hereto related to CONTRACTOR providing services to SCAQMD and there are no understandings, representations, or warranties of any kind except as expressly set forth herein. No waiver, alteration, or modification of any of the provisions herein shall be binding on any party unless in writing and signed by the party against whom enforcement of such waiver, alteration, or modification is sought.

34. AUTHORITY

The signator hereto represents and warrants that he or she is authorized and empowered and has the legal capacity to execute this Contract and to legally bind CONTRACTOR both in an operational and financial capacity and that the requirements and obligations under this Contract are legally enforceable and binding on CONTRACTOR.

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IN WITNESS WHEREOF, the parties to this Contract have caused this Contract to be duly executed on their behalf by their authorized representatives.

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

THE CITY OF LOS ANGELES, A MUNICIPAL CORPORATION BY ITS BOARD OF HARBOR COMMISSIONERS

By: _____
Dr. William A. Burke, Chairman, Governing Board

By: _____
EUGENE D. SEROKA, Executive Director

Date: _____

Date: _____

ATTEST:
Faye Thomas, Clerk of the Board

Attest: _____
AMBER M. KLESGES, Board Secretary

By: _____

APPROVED AS TO FORM:
Bayron T. Gilchrist, General Counsel

APPROVED AS TO FORM AND LEGALITY:
Date: November 20, 2020
MICHAEL N. FEUER, City Attorney
Janna B. Sidley, General Counsel

By: Barbara Baird

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

//Standard Boilerplate
Revised: January 10, 2020, February 12, 2020, October 6, 2020, November 17, 2020

**ATTACHMENT 1
STATEMENT OF WORK FOR
PORT OF LOS ANGELES**

ZERO-EMISSION FREIGHT SHORE TO STORE (S2S)

CONTRACTOR's Zero Emissions Freight "Shore To Store" Project (S2S) will demonstrate zero- and near zero-emission freight facilities (ZANZEFF) to structure operations for future goods movement, reduce greenhouse gases (GHG), criteria pollutant, and toxic air contaminant emissions in and around freight facilities; and provide economic, environmental, and public health benefits to disadvantaged communities (DAC).

CONTRACTOR shall be responsible for overall administration of this project, which will include demonstration of ten Kenworth zero-emission Class 8 hydrogen fuel cell electric on-road trucks on the Kenworth T680 platform, integrated with Toyota's fuel cell drive technology, along with two new large-capacity, heavy-duty hydrogen fueling stations that will be built by Equilon Enterprises LLC (d/b/a Shell Oil Products USA) (Shell) in Ontario and Wilmington, CA.

The hydrogen fuel cell electric trucks will be operated in revenue service: three by the United Parcel Services (UPS), two by Total Transportation Services Inc. (TTSI), one by Southern Counties Express (SCE), and four by Toyota Logistics Services (TLS) throughout the Los Angeles basin ports, inland locations such as Riverside County, and the Port of Hueneme (POH). Additionally, POH will demonstrate two electric yard tractors, and TLS will demonstrate two zero-emission forklifts at their facility.

The two new hydrogen stations will join three additional stations at Toyota facilities around Los Angeles to form an integrated, five-station, heavy-duty hydrogen fueling network. Together, they will provide multiple sources of hydrogen throughout the region, including over 1 ton of 100% renewable hydrogen per day at the heavy-duty station to be operated by Shell, enabling zero-emissions freight transport. Stations supplied by Air Liquide at Toyota Logistics Services in Long Beach and Toyota Technical Center in Gardena will serve as important research and development locations. The fifth heavy-duty station is planned on Port of Long Beach property leased to Toyota at 785 Edison Ave., Long Beach, CA 90813 (as an in-kind match share).

Review and input on project implementation will be provided by the National Renewable Energy Laboratory and the SCAQMD. The Coalition for A Safe Environment, an important community activist group in the Port area, will attend project meetings to monitor potential community benefits, and overall provide input on strategy and project management.

The initiative is expected help reduce emissions by 465 metric tons of greenhouse gases (GHG) and 0.39 tons of NOx, 0.04 tons of ROG and 0.015 tons of PM10.

The emission reductions reflect an estimate (using CARB's Appendix D methodology) of the project equipment relative to the CARB-prescribed Tier 4 baseline (for off-road equipment) and 2017 engine standards for on-road Class 8 trucks.

The emissions reduction benefits quantified for the S2S project do not double count the emissions reductions for the California Energy Commission (CEC) funded project Renewable Hydrogen Fueling at Scale for Freight (H2Freight), which is being provided by Shell as in-kind match share. The H2Freight project is supporting the development of a heavy-duty hydrogen fueling station at the Toyota facility in the Port of Long Beach. The emissions reductions claimed within H2Freight only claimed the potential emissions benefits for a total of 100,000 kg of hydrogen by the end of the project demonstration period in April 2022. This amount of hydrogen only assumes 250 total days of fueling at an average of 400 kg/ day demand to fuel Fuel Cell Electric Truck (FCETs). After the conclusion of the proposed S2S project in April 2021, the H2Freight fueling station is projected to exceed 400 kg/day of demand for the next year of project life to achieve the quantified emissions reductions outside the scope of the S2S project.

CONTRACTOR shall complete the following tasks:

Task 1 – Project Management and Grant Administration

Task 1.1.0 and Task 1.2.0 CONTRACTOR shall execute subcontracts with the project team and comply with The California Environmental Quality Act (CEQA) requirements.

Deliverables: Copies of executed agreements between CONTRACTOR and CARB, CEC, Toyota, Kenworth and Shell. Copy of Notice of Determination for CEQA provided to CARB.

CARB Grant¹ Reference: Task 1.1 & 1.2

Task 1.3.0 CONTRACTOR shall provide monthly progress reports until hydrogen stations in Ontario and Wilmington are operational then CONTRACTOR shall provide quarterly status reports.

Deliverables: Copies of agendas, presentations, minutes, copies of quarterly status reports provided to CARB.

CARB Grant Reference: Task 1.3 (quarterly reports)

Task 1.3.5 CONTRACTOR shall provide a copy of the draft final report as provided to CARB.

Deliverable: CONTRACTOR shall provide a copy of the draft CARB final project report.

CARB Grant Reference: (draft final report)

Task 1.4.0 CONTRACTOR shall provide a copy of final report to SCAQMD as provided to CARB.

Deliverables CONTRACTOR shall provide a copy of the CARB final project report

CARB Grant Reference: Task 1.4 (final report)

¹ CARB Grant refers to CARB Grant No. G17-ZNZE-10 to CONTRACTOR.

Task 2 – Hydrogen Infrastructure: Design, Build, Commissioning

Task 2.1.0 CONTRACTOR shall, working with Shell, ensure that hydrogen fueling infrastructure constructed at Travel Center of America retail station located at, 4325 E. Guasti Road., Ontario, CA 91761 shall comply with relevant Society of Automotive Engineers (SAE) codes and standards for hydrogen fueling and communication. Fueling protocols, dispenser design, station throughput, and station reliability are just some examples that can be evaluated through this project. This station will provide lessons learned for fueling requirements of heavy-duty trucks, which will help inform and develop the appropriate protocols for safe and fast fueling of heavy-duty trucks. Considering the longer refueling times and the need for higher flow nozzles, dispenser design can also be integrated and tested as innovative technologies are developed.

CONTRACTOR shall, working with Shell, ensure that the station is open to fueling other hydrogen-fueled trucks fueling with 350 bar and/or 700 bar pressure in addition to trucks developed for this project.

Each heavy-duty hydrogen station shall be capable of an initial average daily demand of 400 kg/ day and will increase as the project matures:

- fueling up to four trucks every hour at peak capacity from two fueling positions working simultaneously and 10 - 15 trucks in a 12-hour shift per weekday.
- Each fill is expected to be 30+ kg initially, with the potential for 50+ kg fills that should take between 20 to 30 minutes.

Deliverable: Final photos and commissioning report including proof of operation of the new hydrogen refueling station in Ontario. Station photographs/videos include showing evidence of filling one FCET with hydrogen, the vehicle identification number (VIN), the 700 bar and 350 bar system components installed at the station, and SCAQMD logo displayed with logos of other co-funders.

CARB Grant Reference: Task 2.1

Task 2.2.0 CONTRACTOR shall, working with Shell, ensure that hydrogen fueling infrastructure constructed at Shell Lubricant Blending Plant, 1926 East Pacific Coast Hwy., Wilmington, CA 90744 shall comply with relevant SAE codes and standards for hydrogen fueling and communication. Fueling protocols, dispenser design, station throughput, and station reliability are just some examples that can be evaluated through this project. This station will provide lessons learned for fueling requirements of heavy-duty trucks, which will help inform and develop the appropriate protocols for safe and fast fueling for the heavy-duty market. Considering the longer refueling times and the need for higher flow nozzles, dispenser design can also be integrated and tested as innovative technologies are developed.

CONTRACTOR shall, working with Shell, ensure that the station is open to fueling other hydrogen-fueled trucks fueling with 350 bar and/or 700 bar pressure in addition to trucks developed for this project.

Each heavy-duty hydrogen station shall be capable of an initial average daily demand of 400 kg/ day and will increase as the project matures:

- fueling up to four trucks every hour at peak capacity from two fueling positions working simultaneous and 10 - 15 trucks in a 12- hour shift per weekday.

- Each fill is expected to be 30+ kg initially, with the potential for 50+ kg fills that should take between 20 to 30 minutes.

Deliverable: Final photos and commissioning report including proof of operation of the new hydrogen refueling station in Wilmington. Station photographs/videos include showing evidence of filling one FCET with hydrogen, VIN, the 700 bar and 350 bar system components installed at the station, and SCAQMD logo displayed with logos of other co-funders.

CARB Grant Reference: Task 2.2

Task 3 – Class 8 FCET - Design, Build, and Validation

Task 3.1.0 CONTRACTOR shall, working with Kenworth and Toyota, review build specifications, order required components, complete quality testing, fabrication and assembly of components, integration of components into Class 8 Kenworth body, and complete required testing to meet technical specifications listed below for fuel cell electric on-road truck Phase 1 units 1 - 5 to support the required duty cycles of operators for the project equipment for at least a six month demonstration period. The project team will collect valuable data from the trucks' operation to identify system components that need improvement. The durability of the powertrain is an important factor which can be tracked throughout the life of the project as the trucks accrue much higher annual mileage than their light-duty Fuel Cell Electric Vehicles (FCEV) counterparts. As these FCETs are demonstration, as opposed to production units, they will follow the standard production CARB certification process but meet less stringent or less parameters that will be negotiated with United States Environmental Protection Agency (US EPA), CARB and Kenworth representatives. All aspects of the agreed upon certification process will be tested for adherence to federal and state emissions certifications.

Deliverable: Copy of Internal test reports, proof of delivery and operation, and truck photos/video clip with SCAQMD logo. CONTRACTOR agrees to acknowledge SCAQMD as a funding source whenever projects are publicized in any news media, websites, brochures, publications, audiovisuals or other types of promotional material. CONTRACTOR shall coordinate with SCAQMD staff to include SCAQMD's cofunding of the station for any grand opening/project kickoff event, press release or press conference. CONTRACTOR shall notify SCAQMD staff at least 14 days prior to any outreach event.

CARB Grant Reference: Task 3.1

Task 3.2.0 CONTRACTOR shall, working with Kenworth and Toyota, review build specifications, order required components, complete quality testing, fabrication and assembly of components, integration of components into Class 8 Kenworth body, and complete required testing to meet technical specifications listed below for fuel cell electric on-road truck Phase 2 units 6 – 10 to support the required duty cycles of operators for the project equipment for at least a six month demonstration period. The project team will collect valuable data from the trucks' operation to identify system components that need improvement. The durability of the powertrain is an important factor which can be tracked throughout the life of the project as the trucks accrue much higher annual mileage than their light-duty FCEV counterparts. As these FCETs are demonstration, as opposed to production units, they will follow the standard production CARB certification process but meet less stringent or less parameters that will be

negotiated with US EPA, CARB and Kenworth representatives. All aspects of the agreed upon certification process will be tested for adherence to federal and state emissions certifications.

Deliverable: None

CARB Grant Reference: Task 3.2

Task 3.3.0 CONTRACTOR shall, working with OEMs, provide final documentation to demonstrate readiness with vehicle operation and support.

Deliverable: None

CARB Grant Reference: Task 3.3

Task 4 – Yard Tractors, Charging

Task 4.0.0 CONTRACTOR shall complete requirements for deployment of yard tractors and charging infrastructure at the Port of Hueneme and at Toyota in Long Beach.

Deliverables: None

CARB Grant Reference: Task 4

Task 5 – Technology Demonstrations

Task 5.1.0 CONTRACTOR shall, working with FCET operators, demonstrate zero emission on-road phase one trucks for at least a six-month demonstration period in normal revenue service. This demonstration period shall include training of end user personnel in operation and maintenance of the equipment, providing technical support as needed.

Deliverables: None

CARB Grant Reference: Task 5.1.1

Task 5.2.0 CONTRACTOR shall, working with FCET operators, demonstrate zero emission on-road Phase 2 trucks for at least a six-month demonstration period in normal revenue service. This demonstration period shall include training of end user personnel in operation and maintenance of the equipment, providing technical support as needed.

Deliverables: None

CARB Grant Reference: Task 5.1.2

Task 6 – Data Collection and Analysis

Task 6.1.0 CONTRACTOR shall, working with hydrogen station operator, operate the hydrogen refueling stations in Ontario and Wilmington, accessible to 350 bar and 700 bar FCETs, on a 24/7 basis, unless restricted by local ordinance, at the specified locations from the date each station begins dispensing fuel in order to collect fueling data for both phases of truck demonstration.

Deliverables: Copy of Data Collection Plan as provided to CARB.

CARB Grant Reference: Task 6.1

Task 6.2.0 CONTRACTOR shall collect data according to the Data Collection Plan and conduct analysis to include in the Quarterly Reports.

Deliverables: None (analysis included in Quarterly Reports)

CARB Grant Reference: Task 6.2

Task 6.3.0 CONTRACTOR shall collect data according to the Data Collection Plan and conduct analysis to include in the Final Report.

Deliverables: None (analysis included in Final Report)

CARB Grant Reference: Task 6.3

Task 7 – Project Synopsis: South Coast AQMD 2-pager

Task 7.0.0 CONTRACTOR shall provide a two-page project synopsis as described in the Deliverables section of this Statement of Work.

Deliverables: CONTRACTOR shall provide a copy of the two-page project synopsis.

CARB Grant Reference: none

DELIVERABLES

In addition to the deliverables set forth in the above-referenced Statement of Work, CONTRACTOR shall supply the following reports to the SCAQMD under this Contract.

1. CONTRACTOR shall update SCAQMD Project Officer by voice or email whenever significant achievements or problems occur.
2. CONTRACTOR shall provide progress reports at completion of major tasks and milestones and quarterly during the demonstration period.
CONTRACTOR shall email each progress report to all program participants and to SCAQMD's Project Officer and Contract Administrator-Technology Advancement with the invoice for the same period). A copy of the quarterly report submitted to CARB is acceptable, each progress report shall include, but not be limited to, the following:
 - a) Reference to SCAQMD Contract number, title of project and reporting time period, and the following subheadings and description thereof.
 - b) Description of work completed during the reporting period, including a discussion of problems encountered and how those problems were resolved; and other relevant activities.
 - c) When available, color photographs of the experimental apparatus and any results that can be better transmitted photographically.
 - d) During the demonstration period, quarterly data reports will be provided.
 - e) A discussion of the work planned for the next reporting period shall also be included. This information can be found in the monthly status reports.
3. CONTRACTOR shall email a Draft Final Report to SCAQMD's Project Officer and Contract Administrator- Technology Advancement for review. This report is due by February 16, 2021. This document will be considered in the public domain, in conformance with the California Public Records Act (Government Code Section 6250 et seq.). Any trade secret information may be submitted to SCAQMD in a separate report in which the trade secret information is specifically identified. SCAQMD agrees to treat such trade secret information in accordance with its Public Records Act guidelines relating to trade secret information. SCAQMD shall complete its review of the draft final report within two weeks of its receipt from CONTRACTOR. The draft final report shall include reference to SCAQMD contract number, title of project, and project period.
4. CONTRACTOR shall email a copy of the Final Report, incorporating SCAQMD's comments on the draft, by March 2021. This document shall be considered in the public domain, in conformance with the California Public Records Act (Government Code Section 6250 et seq.). Any trade secret information may be submitted to SCAQMD in a separate report in which the trade secret information is specifically identified. SCAQMD agrees to treat trade secret information in accordance with its Public Records Act guidelines relating to trade secret information. CONTRACTOR agrees to acknowledge the SCAQMD Clean Fuels program fund as a funding source whenever projects funded, in whole or in part by this Agreement, are publicized in any news media, websites, brochures, publications, audiovisuals, or other types of

promotional material and invite SCAQMD representative to all public events promoting this project.

5. Photo Documentation

CONTRACTOR shall email to SCAQMD a set of color photographs, documenting the entire development and testing.

6. Two-Page Project Synopsis

CONTRACTOR shall email a two-page project synopsis, along with the Final Report. Attachment 3 to this Contract provides the format and content to be used for this synopsis. All color photographs and images shall be embedded within the synopsis AND provided separately in digital format, such as .ppt, .tif. or .jpg, on a CD or sent electronically.

**ATTACHMENT 2
PAYMENT SCHEDULE FOR
PORT OF LOS ANGELES
ZERO-EMISSION FREIGHT SHORE TO STORE (\$2S)**

The total project cost is \$83,548,872, of which \$1,000,000 is payable under this Contract upon completion of the tasks as indicated below. The project will be cost-shared by the project partners: CARB (\$41,122,260); CONTRACTOR and Other Partners (\$41,426,612 cash and in-kind); and SCAQMD (\$1,000,000). All invoices shall include documentation of completed tasks and deliverables as stated in this SOW. Payment may be delayed if progress is insufficiently documented. Five percent (5%) shall be withheld from payment from each invoice, and such withhold amounts shall be paid to CONTRACTOR upon SCAQMD receipt and approval of all deliverables listed in the Statement of Work.

Task	CARB (\$)	POLA Cash (\$)	POLA in-kind	SCAQMD (\$)	Total	Task Completion Date
Task 1: Project Management						
1.1.0 Copies of subcontracts CEQA final, CARB grant	-	-	-	-	-	Ongoing
1.2.0 CEC grant match	-	-	25,999,331	-	25,999,331	June 2022
1.3.0 Quarterly Reports	-	-	-	-	-	June 2022
1.3.5 Draft Final Report	-	-	-	-	-	May 13, 2022
1.4.0 Final Report	100,000	-	-	-	100,000	June 2022
Task 2: Hydrogen Infrastructure: Design, Build, Commissioning						
2.1.0 Hydrogen Refueling Station in Ontario	9,250,000	-	-	-	9,250,000	December 2020
2.2.0 Hydrogen Refueling Station in Wilmington	7,850,000	1,400,000	-	-	9,250,000	December 2020
Task 3: Class 8 FCET: Design Build, and Validation						
3.1.0 FCET Build units 1 – 5	9,500,000	5,810,000	-	1,000,000	16,310,000	December 2020
3.2.0 FCET Design updates & build units 6-10	8,830,000	4,810,000	-	-	13,640,000	April 2021
3.3.0 Demonstrate Readiness, Vehicle operation & Support	2,100,000	200,000	-	-	2,300,000	September 2021
Task 4: Yard Tractors, Charging						
4.0.0 Yard Tractors, Charging	3,000,000	-	200,000	-	3,200,000	March 2022
Task 5: Technology Demonstrations						
5.1.1 Phase 1 Truck Demo	-	1,531,848	-	-	1,531,848	September 2021
5.1.2 Phase 2 Truck Demo	-	545,433	930,000	-	1,475,433	September 2021
5.2.0 Port of Hueneme Demo	(Included in Task 4)	-	(Included in Task 4)	-	-	-
5.3.0 Toyota Forklift Demo		-		-	-	-
Task 6: Data Collection and Analysis						
6.1.0 Data Collection plan	193,794	-	-	-	193,794	July 2020
6.2.0 Data Analysis, ongoing	131,630	-	-	-	131,630	June 2022
6.3.0 Data Analysis, final	166,836	-	-	-	166,836	June 2022
Task 7: SCAQMD Synopsis						
7.0.0 SCAQMD Synopsis	-	-	-	-	-	July 14, 2022
Total Not to Exceed Contract Amount:	41,122,260	14,297,281	27,129,331	1,000,000	83,548,872	-

CARB Grantee: City of Los Angeles Harbor Department (Port of Los Angeles)
Grant No.: G17-ZNZE-10

SCAQMD Contract #

Contract End Date (as month year)

Project Title

Contractor

Prime contractor and significant subcontractors

Cosponsors

List cosponsors from highest contributor to lowest

Project Officer

SCAQMD project manager name

Background

This section is a brief introduction describing the need for the technology and/or clean fuel, as defined by rules and regulations / mandates of SCAQMD, CARB, EPA, DOE, etc. If applicable, describe other relevant factors, such as economic issues, energy savings, etc.

Project Objective

This section should briefly describe the project objectives as originally stated in the Board (or EO) letter. If the objective evolved significantly during the contracting procedure, it should be noted how and why.

Technology Description

This section describes the general principles of operation and emissions control approach of the technology and/or clean fuel involved in the project.

If applicable, discuss how the principle of operation differs from other, currently available equipment. This includes describing what the "advancement" actually is over currently available technologies.

Status

This section describes the status or progress of the project. If the project was completed, provide the date of completion and note that the final report is on file with complete technical details of the project. Describe major project events, such as

the development / testing / delivery of hardware (if applicable). If the project was terminated or ended prematurely you still need to file this report. Regardless of how it ended, per SB 199 you must describe any unanticipated problems that were encountered during the project, and how they were (or were not) resolved. If "fatal" problems were encountered, this section will be the heart of the report, since it would be unlikely that major benefits or emissions reductions were realized in a terminated project.

Picture of technology that has been supported with SCAQMD/Technology Advancement cosponsorship, if applicable. The picture, preferably a photograph, should clearly illustrate the technology. The size of the image should be about 3x3 to fit this two column format. The picture of the technology should be positioned on the front page

Results

This section summarizes all available emissions results and key performance characteristics. Performance is meant in the broadest terms, including (as applicable) emissions, energy efficiency, operation and maintenance requirements, overall environmental impacts, and performance tradeoffs. The primary emphasis of this section is the presentation of project data.

Performance results should be summarized using clear, graphical depictions whenever possible:

Graph or table summarizing key performance characteristics. Graphs are preferred over tables when possible. Graphical data presented should show the most representative data of the project's/technology's performance. One graph would be preferred, but no more than two data presentations in this document.

Measured performance is to be compared with the objectives/goals set for the project. Comparisons should focus on targeted emissions reductions and/or other key performance goals (e.g. range for electric vehicles). If this project built an alternative fuel station, include estimated annual

throughput and if available at time of preparation throughput to date (e.g., first three months).

There should also be a brief discussion of performance tradeoffs. That is, did achieving one performance characteristic goal, such as emissions, compromise another performance characteristic, such as efficiency.

Benefits

This section crystallizes the above-noted performance characteristics into project benefits, e.g., reduced emissions, increased efficiency, reduced global warming gases, or other environmental benefits. The potential emissions inventory impact of this technology applied in the South Coast Air Basin must be estimated based on performance results of this project and some estimate of market penetration (concisely state assumptions).

It clearly describes how those actual benefits compare with the benefits that were anticipated at the project's start. Be as detailed as possible, including discussion of overall environmental impacts and benefits. Address the question of whether the technology may reduce an air pollutant while improving (or worsening) problems with water pollution, solid waste, global warming, toxic emissions, etc.

Project Costs

This brief section describes the actual costs of the program (SCAQMD's funding contribution and any other public funds as well as the overall cost sharing) and how they compare with the originally projected costs of the project as stated in the Board (or EO) letter. Cost information can be presented graphically, in a table, or in paragraph form. It's helpful to note anticipated costs vs actual and why there may have been a savings or cost overrun. This section does not address cost effectiveness or cost of commercialization.

Commercialization and Applications

This section describes the anticipated or potential applications of the demonstrated technology and/or clean fuel. If applicable, discuss follow on projects to further improve the technology. If available or applicable, discuss expected costs of control and cost-effectiveness in the context of currently available technologies. Cost data should

be noted as estimates or projections, especially since TA projects are often "first of a kind."

Prospects for commercialization should include a discussion of the potential size of the target or primary market, and if there is another market segment or application that could use the technology. Discussion of the commercial status of the technology should address questions such as: (1) how close to a commercial product is it; (2) what work remains to bring it to market; (3) when could it be made commercially available and competitive; and (4) what barriers remain before the technology can be commercialized.