



**THE PORT
OF LOS ANGELES**
Executive Director's
Report to the

Board of Harbor Commissioners

DATE: MAY 8, 2013

FROM: ENVIRONMENTAL MANAGEMENT

SUBJECT: RESOLUTION NO. _____ - THIRD AMENDMENT TO CALIFORNIA AIR RESOURCES BOARD ADVANCED TECHNOLOGY DEMONSTRATION AGREEMENT NO. 10-2920, THIRD AMENDMENT TO JOHNSON MATTHEY, INC. SUBRECIPIENT AGREEMENT NO. 10-2919 FOR THE DIESEL PARTICULATE FILTER SWITCHER LOCOMOTIVE DEMONSTRATION PROJECT AND FIRST AMENDMENT TO JOHNSON MATTHEY, INC. TECHNOLOGY ADVANCEMENT PROGRAM AGREEMENT NO. 11-3020

SUMMARY:

On November 18, 2010, the City of Los Angeles Harbor Department (Harbor Department) entered into Agreement No. 10-2920 (Project Grant Agreement) with the California Air Resources Board (CARB) to partially fund the demonstration of a Tier IV Diesel Particulate Matter (DPM) Retrofit System on a Tier III Genset Switcher Locomotive (Project) to be operated by Union Pacific Railroad. The Harbor Department also entered into Agreement No. 10-2919 (Subrecipient Agreement) with Johnson Matthey, Inc. (Johnson Matthey) located in Malvern, Pennsylvania, to fulfill the technical aspects of the Project's scope of work. Due to delays in durability and emissions testing, a Second Amendment to the Project Grant Agreement and the Subrecipient Agreement were necessary to complete the Project. With the durability hours now completed, a Third Amendment for both Agreements is now necessary to extend the term for an additional six months to allow completion of the emissions testing and final report. There is no additional cost. The scope of work and the total grant amount remain the same. The total contract term of the Project Grant Agreement exceeds three years but does not require City Council approval because the agreement is with a public agency. The total contract term of the Subrecipient agreement does not exceed three years.

In addition, on November 9, 2011, the Harbor Department entered into Agreement No.11-3020 with Johnson Matthey for CARB verification of the Tier IV Locomotive DPF used in the Project as part of the Technology Advancement Program (TAP). A First Amendment to this Agreement is necessary to extend the agreement term for one year to allow adequate time for CARB verification. There is no additional cost. The scope of work and the total grant amount remain the same. The total contract term of TAP Agreement No.11-3020 does not exceed three years.

Staff is recommending the Board of Harbor Commissioners (Board) approve the Third Amendment to the Project Grant Agreement, Third Amendment to the Subrecipient Agreement and the First Amendment to the TAP Agreement.

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RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Approve the Third Amendment to Agreement No. 10-2920 between the Harbor Department and the California Air Resources Board extending the contract term for six months to December 2, 2013, for a total contract term of three (3) years, five (5) months and four (4) days;
2. Approve the Third Amendment to Subrecipient Agreement No. 10-2919 between the Harbor Department and Johnson Matthey, Inc. extending the contract term for six months to December 2, 2013; for a total contract term of two (2) years, eleven (11) months and twenty-three (23) days;
3. Approve the First Amendment to the TAP Agreement No.11-3020 between the Harbor Department and Johnson Matthey, Inc. extending the contract term for one year to November 8, 2014, for a total contract term of two (2) years, eleven (11) months and thirty (30) days;
4. Authorize the Executive Director to execute and the Board Secretary to attest to said Amendments for and on behalf of the Board; and
5. Adopt Resolution No. _____.

DISCUSSION:

Background and Context – In 2007, the California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act (AB 118) was signed into law. AB 118 monies are administered by the California Air Resources Board (CARB) and fund clean vehicle and equipment projects, assess air quality impacts of alternative fuels, and promote workforce training.

On May 28, 2010, the Harbor Department and the Port of Long Beach jointly submitted a proposal to CARB for AB 118 Air Quality Improvement Program (AQIP) grant funding for the Project. The Project partners included Johnson Matthey, Inc. (Johnson Matthey), the technology provider, and Union Pacific Railroad (Union Pacific), which is using the retrofit system on a switcher locomotive operating in the San Pedro Bay Ports. The retrofit is expected to achieve greater than 85% DPM reductions from Tier III levels, achieving the U.S. Environmental Protection Agency's (EPA) Tier IV requirements for DPM, with additional carbon monoxide and hydrocarbon reductions. On November 18, 2010, the Harbor Department entered into the Project Grant Agreement with CARB to fund the Project. The total cost of the Project is \$692,356, with CARB providing

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\$346,178 in grant funding or 50% of the total cost. Johnson Matthey is providing \$146,246 in cash costs and \$158,532 in in-kind costs, and Union Pacific is providing \$41,400 in in-kind costs. \$20,000 of the grant amount is allocated to the Harbor Department for grant administration. The Harbor Department has received \$10,000 to date and will receive the balance of \$10,000 at the completion of the Project.

On November 9, 2011, the Harbor Department and Johnson Matthey entered into Agreement No.11-3020 under the TAP to obtain CARB verification of the Tier IV PM DPF system. A barrier to entry of the Johnson Matthey retrofit in the commercial market is the lack of CARB verification. Successful demonstration of the Johnson Matthey switcher locomotive system, as meeting EPA Tier IV locomotive emissions standards, will ensure the durability testing data needed to fulfill requirements of the CARB verification application process. The TAP grant in the amount of \$150,000 is to be used solely for verification-related expenses incurred from emissions testing, data gathering and analysis efforts, and formal reporting. Johnson Matthey is tasked with submission of the necessary documentation for CARB verification and upon receipt of the CARB determination letter by Harbor Department staff. Johnson Matthey will receive total compensation not to exceed \$150,000.

Prior Amendments to Project Grant Agreement - In April 2011, the Board approved the first amendment to modify the Project scope of work. Project participants Johnson Matthey, Union Pacific and CARB reached early consensus regarding changes to the original Project scope of work during the December 10, 2010 Project kick-off meeting. Specifically, the parties agreed to remove the baseline emissions testing and proceed with complete installation of all three retrofit systems on three Genset engines for the entire demonstration period.

In June 2012, the Board approved the second amendment to extend the term of the agreement to fulfill the remaining milestones under the AQIP grant. The extension allowed another fiscal year to continue in-use service of the test unit to meet the total 3,000 hour objective, plus a second round of emissions testing and development of a final report to summarize results.

Third Amendment to Project Grant Agreement - In April 2013, the switcher unit successfully accrued the 3,000 engine run hour milestone and underwent a second round of emissions testing in April 2013. Throughout the demonstration period, the Union Pacific switcher locomotive experienced a number of mechanical failures resulting in periods of service downtime, which significantly delayed the overall Project schedule. The mechanical failures experienced during the demonstration have been deemed unrelated to the installation and independent of the use of the Johnson Matthey DPF retrofit by Union Pacific mechanical staff.

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CARB has approved an extension to Project term until December 2, 2013 to fulfill the remaining testing, analysis and reporting milestones under the AQIP grant. The requested changes will allow completion of the existing Project scope of work and will result in reimbursement of the balance of the CARB grant. To date, \$207,706 of the total grant has been expended, leaving a balance of \$138,472.

Appropriate modifications to the Project Grant Agreement and description of its provisions are contained in the AQIP Grant Summary and Authorization Form, Third Amendment No.1 (Transmittal 1).

Amendments to Subrecipient Agreement - As the recipient and the fiduciary party of the grant award from CARB, the Harbor Department entered into the Subrecipient Agreement to distribute funds. Similar changes to the Project term will be reflected in the Subrecipient Agreement's Third Amendment (Transmittal 2) since the Subrecipient Agreement was Board approved in tandem with and is subject to the terms of the Project Grant Agreement, an amendment to the Subrecipient Agreement is also required.

Amendment to the TAP Agreement - A First Amendment to the TAP Agreement No. 11-3020 (Transmittal 3) is necessary to allow adequate time for CARB verification, which cannot begin until the Project is completed. Upon receipt of the CARB determination letter by the Harbor Department staff, Johnson Matthey will receive total compensation not to exceed \$150,000. The scope of work and the total grant amount remain the same.

Consent to Assignment - Due to internal corporate restructuring, Johnson Matthey, Inc. has requested consent to assign both Agreement Nos. 10-2919 and 11-3020 to its subsidiary Johnson Matthey Stationary Emissions Control LLC. Staff recommends consenting to this request and the proposed amendments incorporate the City's consent to this assignment.

ENVIRONMENTAL ASSESSMENT:

The proposed action is a Third Amendment to Agreement Nos. 10-2920 and 10-2919 with CARB and Johnson Matthey for CARB AB 118 grant funding for the Project to extend the term of the Agreements by six months and a First Amendment to Agreement No. 11-3020 to extend the term of the Agreement by one year. As an administrative activity, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

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FINANCIAL IMPACT:

In November 2010, the Board approved Agreement No. 10-2920 with CARB receiving grant funds in the amount of \$346,178. At the same time, the Harbor Department entered into Agreement No. 10-2919 with Johnson Matthey, Inc. to fulfill the technical aspects of the Project's scope of work. The total Project cost is \$692,356 and is funded by CARB, Johnson Matthey, and Union Pacific.

The Project Grant Agreement is due to expire June 2, 2013 and the Subrecipient Agreement is due to expire on June 30, 2013. Mechanical failures have delayed the completion of the Project. CARB has approved extending the grant by six months. Therefore, this Board item requests approval of a six month contract extension for both agreements to December 2, 2013.

To date, \$207,706 has been received by the Harbor Department, \$197,706 has been passed through to Johnson Matthey for implementing the Project and \$10,000 has been retained by the Harbor Department for grant administration. The grant balance of \$138,472 will be requested from CARB within six months and \$128,472 will be distributed to Johnson Matthey upon completion of Project milestones.

In November 2011, the Board approved Agreement No. 11-3020 with Johnson Matthey to receive a TAP grant not to exceed \$150,000 upon completion of CARB verification of the Tier IV DPM System in a locomotive. The TAP grant amount is to be used solely for verification-related expenses incurred from emissions testing, data gathering and analysis and formal reporting. Johnson Matthey is tasked with submission of the necessary documentation for CARB verification and upon receipt of the CARB determination letter by Harbor Department staff, Johnson Matthey will receive total compensation not to exceed \$150,000.

ECONOMIC BENEFITS:

This Board action will have no employment impact.

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CITY ATTORNEY:

The Office of the City Attorney has reviewed and approved the proposed Amendments as to form and legality.

TRANSMITTALS:

1. Photo of Diesel Particulate Filter System
2. AQIP Amended Grant Summary and Authorization
3. Subrecipient Agreement No.10-2919 with Johnson Matthey, Inc.
4. TAP Agreement No. 11-3020 with Johnson Matthey, Inc.

FIS Approval:  (initials)

CA Approval:  (initials)



CHRISTOPHER CANNON
Director of Environmental Management



MICHAEL R. CHRISTENSEN
Deputy Executive Director

APPROVED:



GERALDINE KNATZ, Ph.D.
Executive Director

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BOARD MEETING: 05/16 /13