

File No. 170766

Committee Item No. 6
Board Item No. 41

COMMITTEE/BOARD OF SUPERVISORS AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date June 29, 2017

Board of Supervisors Meeting

Date July 11, 2017

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Grant Information Form |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Award Letter |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

- | | | |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Post Commission Resolution</u> |
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Completed by: Linda Wong Date June 22, 2017
Completed by: Linda Wong Date July 6, 2017

1 [Accept and Expend Grant - Bay Area Air Quality Management District - Proposition 1B:
2 Goods Movement Emission Reduction Program - \$1,371,250]

3 **Resolution retroactively authorizing the Port of San Francisco to accept and expend a**
4 **grant in the amount of \$1,371,250 from the Bay Area Air Quality Management's**
5 **Proposition: 1B Goods Movement Emission Reduction Program to purchase a new**
6 **Tier 4 low emission locomotive for the period of May 1, 2017, through December 31,**
7 **2018.**

8
9 WHEREAS, In January 2016 the Bay Area Air Quality Management District (BAAQMD)
10 announced it was accepting applications for "green" locomotive projects through its Goods
11 Movement Emission Reduction Grant Program Locomotive Project (the "BAAQMD grant
12 program"); and

13 WHEREAS, The "green" Knoxville locomotive can reduce particulate emissions and
14 carbon dioxide by more than 85%, and reductions in locally-generated particulate emissions
15 and carbon dioxide will benefit the local Bayview-Hunters Point community and the Port; and

16 WHEREAS, On January 28, 2016, the Port submitted its grant application requesting
17 funds under the BAAQMD grant program to purchase a new Tier 4 state-of-the-art low-
18 emissions locomotive to replace a 60-year old Port ALCO locomotive; and

19 WHEREAS, This BAAQMD grant program is funded by and follows the guidelines of
20 the, and was additionally funded by; and

21 WHEREAS, On July 18, 2016, BAAQMD notified the Port of its decision to award the
22 Port grant funds of \$937,500 under California Air Resources Board's Proposition 1B (Prop 1B)
23 Goods Movement Emission Reduction Program and \$433,750 under the U.S. Environmental
24 Protection Agency's Diesel Emission Reduction Act (DERA) 2016 National Clean Diesel
25 Funding Assistance Program for a total of \$1,371,250 in grant funding; and

1 WHEREAS, The grant funds will be applied to the purchase of the new Tier 4 state-of-
2 the-art low-emissions diesel locomotive through Knoxville Locomotive Works of Knoxville,
3 Tennessee at a total project cost of \$1,886,813; and

4 WHEREAS, The BAAMQD grant award leaves a remaining sum of \$515,562 to acquire
5 the Tier 4 locomotive, for which the Port has identified previously appropriated funding; and

6 WHEREAS, The grant performance period requires delivery of the new locomotive and
7 decommissioning of the Port's ALCO locomotive engine by December 31, 2018; and

8 WHEREAS, This grant does not create any new positions and will not require an
9 amendment to the Annual Salary Ordinance; and

10 WHEREAS, The grant terms prohibit including any indirect costs in the grant budget;
11 and

12 WHEREAS, On February 14, 2017, through Resolution No. 17-08, the Port
13 Commission authorized the Executive Director to seek the Board of Supervisors' approval to
14 accept and expend the grant, including any extensions, augmentations or amendments
15 thereof; now, therefore be it

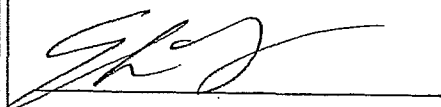
16 RESOLVED, That the Board of Supervisors hereby authorizes the Port of San
17 Francisco to accept and expend \$1,371,250 in grant funding from the Bay Area Air Quality
18 Management District towards the procurement of a low emission locomotive; and, be it

19 RESOLVED, That the Board of Supervisors hereby waives inclusion of indirect costs in
20 the grant budget; and, be it

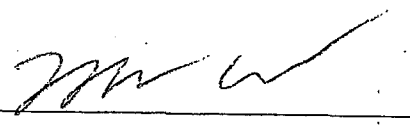
21 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes the
22 Executive Director or her designee to execute for and on behalf of the City and County, any
23 documents necessary to enter into the grant agreement with the Bay Area Air Quality
24 Management District, including any extensions, augmentations or amendments, thereof.
25

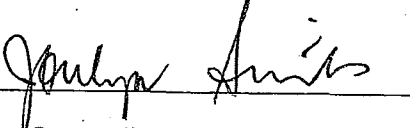
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Recommended:



Department Head

Approved: 
for Mayor

Approved: 
for Controller

File Number: 170766
(Provided by Clerk of Board of Supervisors)

Grant Resolution Information Form
(Effective July 2011)

Purpose: Accompanies proposed Board of Supervisors resolutions authorizing a Department to accept and expend grant funds.

The following describes the grant referred to in the accompanying resolution:

1. Grant Title: **Proposition 1B: Goods Movement Emission Reduction Grant Program/
National Clean Diesel Funding Assistance**
2. Department: **Port of San Francisco**
3. Contact Person: **Meghan Wallace** Telephone: **415-274-0426**
4. Grant Approval Status (check one):
 Approved by funding agency Not yet approved
5. Amount of Grant Funding Approved or Applied for: **\$ 1,371,250**
6. a. Matching Funds Required: **\$515,563**
b. Source(s) of matching funds (if applicable): **Port Project Funding**
7. a.(i) Grant Source Agency: **California Air Resource Board (CARB)**
a.(ii) Grant Pass-Through Agency: **Bay Area Air Quality Management District (BAAQMD)**
b.(i) Grant Source Agency: **United States Environmental Protection Agency (EPA)**
b.(ii) Grant Pass-Through Agency: **Bay Area Air Quality Management District (BAAQMD)**

8. Proposed Grant Project Summary: **\$1,886,813 for the procurement and delivery of a new Tier 4 low emissions locomotive to replace existing 1946 locomotive for transport of freight at the Port's rail facility. Funding includes \$1,371,250 BAAQMD grant funding and a \$515,563 contribution from the Port of San Francisco.**

9. Grant Project Schedule, as allowed in approval documents, or as proposed:

Start-Date: **May 1, 2017** End-Date: **December 31, 2018**

10. a. Amount budgeted for contractual services: **\$0**
b. Will contractual services be put out to bid? **N/A**
c. If so, will contract services help to further the goals of the Department's Local Business Enterprise (LBE) requirements? **N/A**
d. Is this likely to be a one-time or ongoing request for contracting out? **N/A**
11. a. Does the budget include indirect costs?
 Yes No
b. 1. If yes, how much?
b. 2. How was the amount calculated?
c. 1. If no, why are indirect costs not included?
 Not allowed by granting agency To maximize use of grant funds on direct services
 Other (please explain):
c. 2. If no indirect costs are included, what would have been the indirect costs?

12. Any other significant grant requirements or comments: **Disposal of engine of the locomotive that will be replaced and rendering the old locomotive unable to operate.**

****Disability Access Checklist***(Department must forward a copy of all completed Grant Information Forms to the Mayor's Office of Disability)**

13. This Grant is intended for activities at (check all that apply):

- | | | |
|--|---|---|
| <input type="checkbox"/> Existing Site(s) | <input type="checkbox"/> Existing Structure(s) | <input checked="" type="checkbox"/> Existing Program(s) or Service(s) |
| <input type="checkbox"/> Rehabilitated Site(s) | <input type="checkbox"/> Rehabilitated Structure(s) | <input type="checkbox"/> New Program(s) or Service(s) |
| <input type="checkbox"/> New Site(s) | <input type="checkbox"/> New Structure(s) | |

14. The Departmental ADA Coordinator or the Mayor's Office on Disability have reviewed the proposal and concluded that the project as proposed will be in compliance with the Americans with Disabilities Act and all other Federal, State and local disability rights laws and regulations and will allow the full inclusion of persons with disabilities. These requirements include, but are not limited to:

1. Having staff trained in how to provide reasonable modifications in policies, practices and procedures;
2. Having auxiliary aids and services available in a timely manner in order to ensure communication access;
3. Ensuring that any service areas and related facilities open to the public are architecturally accessible and have been inspected and approved by the DPW Access Compliance Officer or the Mayor's Office on Disability Compliance Officers.

If such access would be technically infeasible, this is described in the comments section below:

Comments: N/A

Departmental ADA Coordinator or Mayor's Office of Disability Reviewer:

Wendy Proctor

(Name)

Senior Architect, ADA Coordinator

(Title)

Date Reviewed: 4/25/2017

Wendy Proctor
(Signature Required)

Department Head or Designee Approval of Grant Information Form:

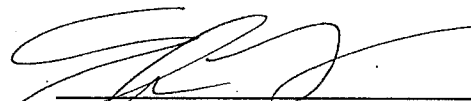
Elaine Forbes

(Name)

Executive Director

(Title)

Date Reviewed: April 25, 2017


(Signature Required)



TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Meghan Wallace, Port of San Francisco
DATE: May 2, 2017
SUBJECT: Budget Breakdown - \$1,886,813 grant award including \$1,371,250 from the Bay Area Air Quality Management District (BAAQMD) and the Port's \$515,563 match.

The Port's Grant Application

The Port was awarded a 1,371,250 grant from the Bay Area Air Quality Management District (BAAQMD), including \$937,500 under California Air Resources Board's Proposition 1B (Prop 1B) Goods Movement Emission Reduction Program and \$433,750 under the U.S. Environmental Protection Agency's Diesel Emission Reduction Act (DERA) 2016 National Clean Diesel Funding Assistance Program. These funds, along with the Port's \$515,563 match, will allow the Port to invest \$1,886,813 for the procurement and delivery of a new Tier 4 low emissions locomotive to replace existing 1946 locomotive for transport of freight at the Port's rail facility. These funds will be used solely on equipment and must be expended prior to the end of the grant term, December 31, 2018.

Budget Category	Amount		
	Total	BAAQMD	Port
A. Personnel	-	-	-
B. Fringe Benefits	-	-	-
C. Travel	-	-	-
D. Equipment	\$1,886,813	\$1,371,250	\$515,563
E. Supplies	-	-	-
F. Consultants/Contracts	-	-	-
G. Other	-	-	-
Total Direct Costs	-	-	-
H. Indirect Costs	-	-	-
Federal Request		\$1,371,250	
Non-Federal Amount			\$515,563
Combined Total Project Costs	\$1,886,813		



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

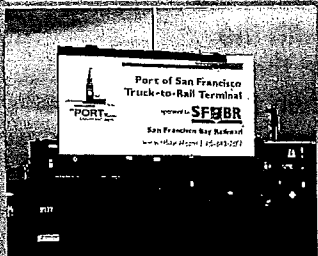
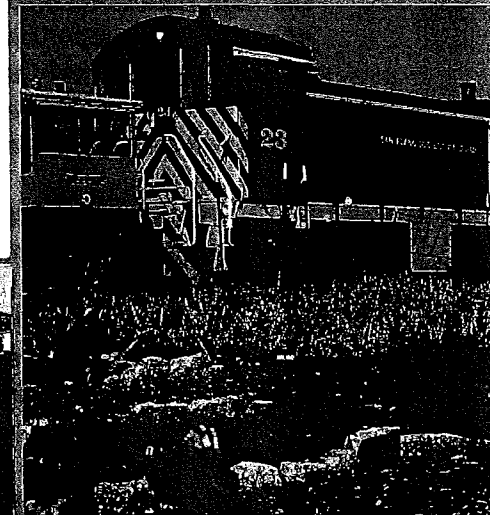
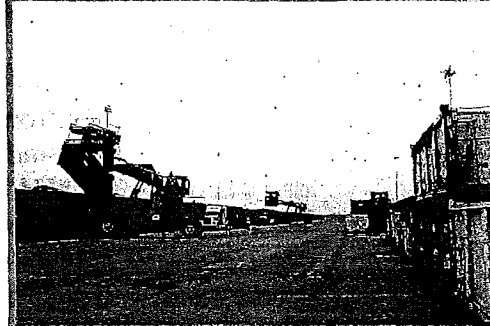
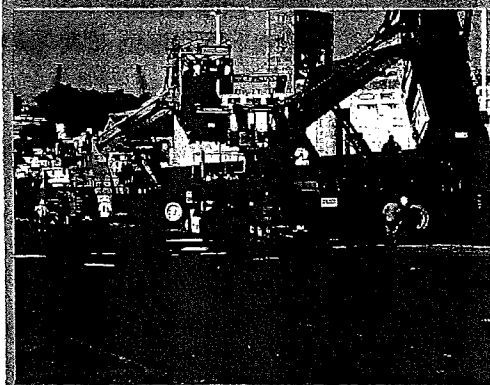


Application for Prop 1B Funding for New Low-Emissions Locomotive in Port of San Francisco Railyard

Submitted By
Port of San Francisco

Pier 1 The Embarcadero
San Francisco, CA 94111

January 29, 2016





January 28, 2016

Mr. Anthony Fournier
Air Quality Program Manager
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

Re: *Prop 1B Application for Low-Emissions Locomotive at Port of San Francisco*

Dear Mr. Fournier:

I am the Executive Director of the Port of San Francisco and I write to submit our application for Prop 1B funding to purchase a state-of-the-art low-emissions locomotive for moving freight in and around the Port of San Francisco.

The Port of San Francisco has regular rail traffic through our railyard situated on our Southern Waterfront. For more than a decade, we have contracted with San Francisco Bay Railroad (SFBR) to provide shortline freight railroad and rail terminal operations. SFBR also leases for their operation the Port's two 60-year old ALCO locomotives. Based along the Southern Waterfront within the Bayview-Hunters Point community, SFBR has strived to be a good steward of the neighborhood by maintaining a very clean and environmentally-compliant operation, by hiring its employees, management and subcontractors almost exclusively from the local community, and by seeking every opportunity to improve the environment at the Port and in the local community. Toward that end, SFBR (under its prior name, LB Railco) applied for and received two Carl Moyer grants in 2005 to install new, clean-burning engines in its mobile lift cranes, thereby replacing old, polluting engines.

In the economically-disadvantaged neighborhood of Bayview-Hunters Point, which has had and continues to have its fair share of environmental impacts, the BAAQMD grants have made a difference. Moreover, SFBR partnered with the California Air Resources Board to study the benefits of using biodiesel in the Port's aging ALCO locomotives, and then implemented the use of biodiesel when the findings of the CARB report said that the fuel would yield improved air quality.

The Port's Prop 1B grant application for a low-emission locomotive to replace the Port's old (1946 vintage) ALCO locomotive is the logical next step along the path of cleaning up the air in the Bayview-Hunters Point neighborhood.

Mr. Anthony Fournier
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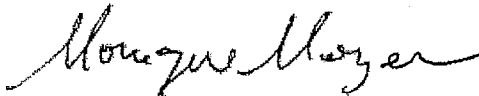
This grant request comes at a very propitious time, as we are about to begin \$3-4 million in construction improvements to the freight rail infrastructure between the Caltrain mainline and the Port. These improvements will expand freight rail operations and more extensive use of the new locomotive. I understand that the "green" locomotive can reduce particulate emissions and CO₂ by more than 90%. Reductions in locally-generated particulate emissions and CO₂ will greatly benefit the local Bayview-Hunters Point community, the Port, and the Bay Area as a whole.

A low-emissions locomotive operating in San Francisco will attract attention from around the State, the Country, and the world. If one of the goals of the BAAQMD and CARB is to spread best practices about new technologies available to clean-up diesel emissions, there could be no better place to "showcase" that technology than right here in the City of San Francisco. I can speak for the Port in saying that, should this Prop 1B grant be awarded to the Port for purchase of a low-emission locomotive, we and SFBR will be proud to do whatever we can to host representatives from other ports and urban areas when they come to the City to view this innovative technology in operation.

The structure of the arrangement between the Port and SFBR for the Prop 1B funding will be that the Port will agree to retire and destroy the engine in the old ALCO locomotive in exchange for taking title and ownership to the new green locomotive based at the Port. SFBR will provide the 15% matching funds for the new engine and Port staff will recommend to the Port Commission a 15-year operating agreement with the Port that will coincide with the 15-year use agreement required by the BAAQMD.

The Port of San Francisco is extremely excited at the prospect for the BAAQMD to help bring this modern "green" technology to San Francisco, and we are hopeful that you will look favorably upon this application. Please don't hesitate to call upon us if you have any questions or if you need any other information concerning our application.

Sincerely,



Monique Moyer
Executive Director



January 28, 2016

Mr. Anthony Fournier
Air Quality Program Manager
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

Re: SFBR Support for Port of San Francisco Prop 1B Funding Application

Dear Mr. Fournier:

San Francisco Bay Railroad (SFBR) is very grateful for the opportunity to support the application for Prop 1B funding that is being submitted by the Port of San Francisco for purchase of a new low-emissions locomotive. As you may already know, for more than 15 years SFBR has operated the Port's 1946 ALCO diesel locomotive. That locomotive was one of the very first diesel units to operate in the U.S., ushering out the age of the steam engine. Although the ALCO has been a reliable workhorse over the years for both SFBR and the Port, and although SFBR has done a great deal of work to restore and maintain this ALCO unit, including converting it to the use of biodiesel fuel, it is nonetheless a 1946 engine that is far from a low-emissions or "green" locomotive.

Against that background, BAAQMD is providing the Port and SFBR with a rare opportunity to retire this old engine, and to replace it with a locomotive that can reduce emissions by in excess of 95%. Moreover, by funding this request the BAAQMD will be implementing this drastic reduction of emissions in one of the most environmentally impacted neighborhoods in Northern California, the Bayview-Hunters Point community. This is the community where many of our employees live. Lowering the emissions from our railroad and railyard switching operations would directly benefit both our employees and their neighbors.

Regarding the structure of our Port-SFBR Rail Agreement, the Port is applying for the funding and will own the new green locomotive, as they are the current owner of the ALCO locomotive that is being retired from service. If the Port is awarded Prop 1B funding, SFBR has committed to provide the 15% matching share for the purchase of the locomotive, to cover the sales tax, and to operate and maintain the locomotive for a period of at least 15 years under an updated Rail Agreement with the Port. This public-private partnership has worked very well for the past 15 years, and we are committed to and excited about the prospects for our working together to expand rail freight in and out of the Port over the next 15 years.

Mr. Anthony Fournier
January 28, 2016
Page Two

Toward that end, the Port is about to expend \$4 million of Federal and local funds to improve the Quint Street rail line which runs from the Caltrain mainline to the Port-SFBR railyard along Cargo Way. This will greatly enhance our interchange capabilities with the Union Pacific Railroad, and we expect it to expand the freight rail business at the Port. This, in turn, will further enhance the use of the new "green" locomotive for SFBR's switching of railcars throughout the Port.

SFBR is committed to join with the Port to make sure that the BAAQMD funding goes a long way to promoting this new low-emissions locomotive technology. As a magnet for both leisure and business travelers from throughout the globe, San Francisco is the perfect place for BAAQMD, CARB, the Port, and SFBR to demonstrate this green locomotive. We are committed to working with BAAQMD to hosting and demonstrating the operation of the new locomotive for visitors who are considering converting to this technology.

In summary, we think the Port of San Francisco is the perfect place for the BAAQMD and CARB to get the largest "bang for the buck" from its Prop 1B funding. Not only will you be facilitating the retirement of one of the oldest diesel engines operating anywhere today, but you will be doing it in an already impacted neighborhood, and in a City where this new technology will be on display to the greatest amount of people. We at SFBR are grateful for your consideration of the Port's application for Prop 1B funding.

Please don't hesitate to contact me or SFBR General Manager, Nick Kendall, if you have any questions whatsoever about SFBR's role in this process.

Sincerely,

A handwritten signature in black ink, appearing to read "David Gavrich", followed by a long horizontal line extending to the right.

David A. Gavrich
President & CEO

cc: Monique Moyer - Executive Director, Port of SF

BAAQMD Goods Movement Locomotive Project Application

Part 1: Applicant Information

1. Legal name of organization/agency/company: Port of San Francisco

2. Railroad class (1, 2, or 3): Class 3 - San Francisco Bay Railroad

3. Mailing Address: Port of San Francisco

Street Address/P.O. Box: Pier One

State: Ca. County: San Francisco

City: San Francisco Zip: 94111

4. Business information:

Number of locomotives: Two

Number of employees: 240

5. Contact information:

	Name	E-Mail	Phone number	Fax number
Primary Project Contact	Peter Dailey	Peter.dailey@sfport.com	415-274-0517	415-544-1717
Person(s) with equipment / property contract signing authority (owner).	Peter Dailey	Same as Above	Same as Above	Same as Above
Person who Completed Application	Peter Dailey	Same as Above	Same as Above	Same as Above

If a *Third Party* (e.g., engine dealer, distributor or consultant, etc.) assisted the Applicant to complete the application, complete questions 6-9 below:

6. What is your position?

7. How much are you being paid to complete this application for the owner or to assist in the proposed project?
\$ _____

8. What is the source of funds being used to pay you?

9. Third Party Signature and Date

Name:

Signature:

Date:

Applicant must read and initial each item below to indicate understanding and agreement:

- a. I certify that I am the legal owner of the equipment described in this application or that I have the legal authority to apply for funding for this equipment as or on behalf of the equipment owner and that I am authorized to sign this application as or on behalf of the equipment owner.
Initial:
- b. I certify that I have reviewed the application and to the best of my knowledge, the information contained in this application and in any documentation submitted in furtherance of this application is true and accurate.
Initial:
- c. I understand that an incomplete or illegible application or the absence of any required documentation may cause this application to be considered incomplete, and this application may be rejected by the Air District at its discretion.
Initial:
- d. I agree to comply with all requirements of the Proposition 1B Goods Movement Emission Reduction Program Guidelines and terms & conditions of the grant agreement signed in furtherance of the proposed Project.
Initial:
- e. I certify that I have not applied for or received additional grant funds from any other public entity (including any air district, the California Air Resources Board (CARB), or any Federal agency) or public program for the equipment described in this application and I agree that, if in the future, I submit an application for or receive additional grant funds from other public entities that would be used for the same equipment, I will disclose the name of the funding source(s), the full grant amount(s) and purpose(s) of that additional funding.
Initial:
- f. I certify that if previous Goods Movement Program, Carl Moyer Program, or other incentive funds have been used on the same equipment described in this application, I have indicated this in the application form.
Initial:
- g. (If applicable) I hereby disclose the value of any existing financial incentive that directly reduces the Project cost (including tax credits or deductions, grants, or other financial assistance) for the same equipment described in this application:
Existing financial incentive: \$
Initial:
- h. I certify that the equipment owner will pay any project costs beyond the grant amount awarded for this Project and that these matching funds will be available within a reasonable timeframe to complete this Project.
Initial:
- i. I certify that neither the equipment owner nor the equipment described in this application has any outstanding (meaning "unpaid") violations of ARB regulations.
Initial:
- j. I understand and agree that the Air District or its designees must conduct inspections of the equipment that is the subject of this application prior to an award in order to verify eligibility and compliance with requirements of the Goods Movement Program.
Initial:
- k. I certify that the proposed project is not required by any local, State or Federal rule or regulation; judicial order, or agreement, memorandum of understanding, contract, or other binding obligation that requires the project

equipment to implement any portion of the project that would be funded by the Air District under the Goods Movement Program.

Initial:

- i. I certify that I have been provided information outlining equipment owner responsibilities to maintain eligibility for grant funds, including maintaining required vehicle registration and ownership; keeping equipment in legal operating condition, satisfying outstanding air pollution citations, complying with all ARB regulations, and reporting, replacing or repairing equipment that has been damaged, destroyed, stolen or had a change of usage from that described in this application.

Initial:

- m. I certify that I have attached documentation to this application showing that my organization carries at least the minimum insurance (e.g., Workers Compensation, Vehicle Liability, and Vehicle Physical Damage Insurance) as required by law for my fleet or company and that this insurance is held with a carrier rated A.M. Best's rating of no less than A: VII

Initial:

- n. I understand that new equipment purchased outside of California may be subject to California sales and/or use tax.

Initial:

- o. I understand that this application is for evaluation purposes only and does not guarantee that grant funding will be awarded to any or all of the equipment described in this application.

Initial:

- p. I understand and agree that replacement equipment funded by the Goods Movement Program can only be purchased or placed into operation after the grant agreement has been fully-executed between the equipment owner and the Air District and a "start-work" order has been issued in writing to the equipment owner by the Air District.

Initial:

- q. I certify that replacement equipment purchased as part of this Project must be used only within the state of California (meaning 100% travel within California) unless I selected the 90% in-state operation option or the project equipment is a line-haul locomotive funded at a reduced amount, and I will comply with the appropriate usage and vehicle registration requirements for the duration of the Project Term outlined in the grant agreement (e.g., fifteen (15) years for locomotive projects).

Initial:

- r. I certify that the replacement equipment purchased as part of this Project will operate a minimum of 50% of its usage in California's major trade corridors for the duration of the Project Term outlined in the grant agreement. (map: <http://www.arb.ca.gov/bonds/gmbond/docs/gmtradecorridors.jpg>).

Initial:

- s. I certify that I have attached all the required Attachments to this application.

Initial:

- t. I certify that all the equipment for which I will be applying during this solicitation period has been included in this application.

Initial:

- u. I understand and certify that accepting grant funds from the Goods Movement Program may lead to tax liability and that by signing the grant agreement for the Project, agree to accept this liability.

Initial:

v. I understand and certify that if the Air District receives a Public Records Request requiring release of information about my Project, that the Air District may release a business address but not a personal or home address; since business addresses are considered to be publically-available (directory) information.

Initial: PD

w. I certify that, if selected for funding, the Program-funded equipment shall be placed into operation and post-inspected prior to the applicable operational deadlines to remain eligible for funding.

Initial: PD

I certify that I have the legal authority to apply for funding on behalf of the applicant entity, and that I am authorized to sign and submit this application on behalf of the applicant/equipment owner.

Signed: Peter Dailey
(Authorized Representative of Applicant/ Equipment Owner)

Date: 1/20/16

Name (Please Print): Peter Dailey

Title: Maritime Director

Part 2: Project equipment information (Complete Part 2 for each locomotive in this application)

Type of project (ONLY CHECK ONE)

Locomotive replacement

Locomotive retrofit (retrofit includes rebuild, repower, remanufacture, filter installation, and all other modifications other than replacement)

Emission control and capture system (Please contact the Air District if interested in this project option)

Existing Equipment and Activity Information

	Existing Locomotive	Proposed (New) Locomotive/Equipment
Locomotive Information		
Type of locomotive: (select one)	1. <input checked="" type="checkbox"/> Switcher (1,006-2,300 hp) <input type="checkbox"/> Medium hp (2,300-4,000 hp) <input type="checkbox"/> Line-haul (4,001 hp +)	24. <input checked="" type="checkbox"/> Switcher (1,006-2,300 hp) <input type="checkbox"/> Medium hp (2,300-4,000 hp) <input type="checkbox"/> Line-haul (4,001 hp +)
Build number:	2. N/A	n/a
Build date:	3. July 1945	n/a
Builder:	4. MLW	25. Knoxville Locomotive Works (KLW)
Locomotive #/identifier:	5. SFBR 25	n/a
Locomotive make:	6. ALCO	26. Knoxville Locomotive Works (KLW)
Locomotive model:	7. S2 Switcher	27. SE10B T4
Locomotive serial number:	8. 73603	n/a
Engine configuration (roots blown, turbo-charged, other):	9. TURBO-CHARGED	28. TURBO-CHARGED
Electronic monitoring unit device type and model (if equipped):	10. N/A	29. TMV TECU GPS INTEGRATED
Name and location of home railyard:	11. San Francisco Bay Railroad (SFBR)	30. Knoxville, TN
Engine information (for each engine - copy and complete for equipment with multiple engines)		
Number of engines:	12. One	31. ONE
Emission control level (uncontrolled, Tier 0 through Tier 2):	13. Uncontrolled	32. Tier 4i/4f (2016)
EPA engine family name (if applicable):	14. n/a	33. n/a
Engine make:	15. Mcintosh & Seymore	34. MTU
Engine model:	16. 539T	35. 12V2000
Engine type:	17. 6-12 ¹ / ₂ x13 - 39	36. SERIES 2000
Engine model year:	18. 1945	37. 2016
Engine serial number:	19. 4363	n/a
Engine horsepower:	20. 1,000 HP	38. 1,050 BHP
# of cylinders:	21. 6	39. 12
Engine fuel type:	22. Diesel	40. DYED DIESEL FUEL #3 PG3
Emissions control equipment:	23. N/A	41. N/A

42. Locomotive activity

Year	Total number gallons of fuel consumed by this locomotive	Megawatt hours of operation for this locomotive
2013	n/a	n/a
2014	12,206 Gallons	n/a
2015 (to date)	14,124 Gallons	n/a
2016 (to date)	n/a	n/a
Estimated future annual operation of the new locomotive/equipment	15,000-20,000 Gallons Annually	n/a

43. Locomotive operation in California trade corridors:

<http://www.arb.ca.gov/bonds/gmbond/docs/gmtradecorridors.jpg>

Trade corridor	Current % operation	Estimated future % operation for the new locomotive/equipment
Bay Area	100%	100%
Central Valley	0%	0%
Los Angeles/ Inland Empire	0%	0%
San Diego/ Imperial	0%	0%

44. Locomotive operation in California

	Current % operation	Estimated future % operation for the new locomotive/equipment
California operation	100%	100%

45. Project costs

Total project equipment cost	\$	1,735,000
Labor (if applicable)	\$	n/a
Program funds requested	\$	1,474,750
Please list any other funding sources for this project		n/a

46. Estimated project schedule

	Estimated date
Equipment order placed	April - 2016
Expected equipment delivery date	December - 2016
Installation completion (if applicable)	n/a
New equipment enters operational service	December - 2016
Destruction of the existing locomotive	December - 2016
Request for Program reimbursement	April - 2016

Attachments: Please submit the following documents with the signed and completed application forms.

- Documentation of current ownership and Proof of identity of equipment owner
- Activity documentation for past 2 years (for existing unit or units of comparable horsepower and function)
 - Fuel consumption or Megawatt hours of operation
- Documentation of percentage of operation within the four California trade corridors
- Insurance documentation for the existing equipment
- New equipment information - Quote/estimate and equipment description
- EPA and ARB Emissions certification documentation. Certification/verification may be pending at time of application; however, prior to payment the equipment must be certified/verified

SEE FOLLOWING PAGES FOR DESCRIPTION OF ATTACHED DOCUMENTS

DESCRIPTION OF REQUESTED DOCUMENTS

- 1. Documentation of current ownership and Proof of identity of equipment owner.**
This 1946 ALCO Locomotive has been owned by the Port of San Francisco and its predecessor for the past 70 years. Although there is currently no official title available, a search of historical records can provide proof of ownership, if needed.
- 2. Activity documentation for the past 2 years for existing ALCO locomotive unit.**
Please see Attachment A - SFBR Fuel Records.
- 3. Documentation of percentage of operation within the four California trade corridors.**
The 1946 ALCO locomotive has operated exclusively within the borders of San Francisco for at least the past 60 years.
- 4. Insurance documentation for the existing equipment.**
Please see Attachment B - SFBR Rail Equipment Insurance Policy
- 5. New equipment information - Quote/estimate and equipment description**
Please see Attachment C - KLW Series 10B Description & Price Quote
- 6. EPA and ARB Emissions certification documentation.**
The EPA and CARB certifications of the KLW Series 10B locomotive are currently pending. Certification/verification is expected sometime in 2016.

ATTACHMENT A

**Activity Documentation for Port Locomotive
2014-2015**

**Fuel Use Spreadsheet
Copies of Fuel Receipts**

Use Spreadsheet - San Francisco Bay Railroad
2014-2015

<u>Date</u>	<u>Cost</u>	<u>Gals</u>
12/9/15	\$2,305.98	1002
11/19/15	\$2,462.02	1070
10/31/15	\$3,384.28	1318
10/30/15	\$3,154.25	1428
8/27/15	\$2,518.60	1169
8/14/15	\$2,667.11	1127
6/17/15	\$2,927.90	1170
5/16/15	\$3,924.76	1417
4/21/15	\$3,565.07	1285
3/12/15	\$2,455.97	990
2/9/15	\$3,260.85	1254
12/10/14	\$2,324.72	894
11/4/14	\$3,304.84	996
10/8/14	\$4,120.46	1250
9/11/14	\$3,521.16	900
7/31/14	\$6,162.01	1649
7/14/14	\$2,328.39	637
6/26/14	\$4,969.13	1356
5/29/14	\$5,117.33	1311
5/16/14	\$2,387.96	600
1/14/14	\$3,603.81	1036
1/7/14	\$2,971.63	700
11/13/13	\$3,130.84	877
Total:	\$76,569.07	25436

Attachment C

KLW Series 10B Locomotive Description & Price Quote



KLW SE Series 10B & 15B Switcher Locomotives

Product Features & Benefits

MTU 2000 Series Engines

- World class supplier of heavy duty diesel engines for the locomotive, military, marine, off-road equipment and heavy industries. Headquartered in Friedrichshafen, Germany, MTU is a Rolls-Royce and Daimler Benz company which manufactures and load box tests each of its 2000 Series engines in Aiken, South Carolina for the North American rail markets.
- MTU engines are applied globally in new, remanufactured and repowered locomotives. In the most recent 10 year period, there are more than 1,500 locomotives worldwide operating with these MTU prime mover diesel engines.
- The range of MTU engine models for the locomotive switching and road-switching markets includes 1050 BHP to 1560 BHP.
- Newly manufactured locomotives or repower capabilities for existing four axle EMD, GE, Alco and genset locomotives.
- 30,000 hour product life cycle between overhauls with a two year parts and labor warranty and 3 years or 9,000 hours parts warranty on the engine block / crank case / crankshaft / camshafts / connecting rods. Alternatively, a 40,000 hour product life cycle can be achieved with a mid-life main & rod bearing change-out and utexed cylinder heads and high pressure common rail injector replacements at 20,000 hours.
- Use of the incremental oil reservoir (an enlarged capacity sump) extends the 92 day oil and filter change to 184 days, saving maintenance parts & labor costs and locomotive out of service time while improving equipment asset utilization (fewer shop transfer movements for the locomotive). Eliminates the need for checking engine oil dip sticks; oil is simply added to the reservoir sump and topped-off through periodic visual inspections.
- By design, MTU Series 2000 engines do not “soup”. This is accomplished in part through higher block temperatures (24V engine block heaters) and the TECU AESS feature.
- Push button start-up within the locomotive cab or in the engine room.
- These locomotives improve upon accelerated engine throttle response times for yard switching and car kicking operations compared to gen set locomotives.
- Low noise decibels (78dba or less) for quiet engine start-up and operation in any throttle notch setting.

- The fuel savings for the MTU Series 2000 engine product line ranges between 25% to 60%+ in switching and road-switching duty cycles compared to traditional SW and GP Series EMD switcher and road-switcher locomotives.
- The MTU Series 2000 engines carry a standard two year parts and labor warranty and an extended four year major mechanical and electrical parts warranty, excluding the labor costs for engine removal and reinstallation.
- MTU technical support, remote and/or localized trouble shooting and field application services are normally available from within a 25 mile radius of the installation site.
- There are 170+ MTU distribution centers and parts warehousing facilities located throughout North America.
- Knoxville Locomotive Works has trained service technicians for field commissioning and follow-up technical services.

ZF Heavy Duty Marine Gearbox

- The ZF reduction gearbox is designed for a 2:1 ratio to adapt the higher speed MTU engines to the intermediate speed original equipment alternators; e.g.: AR10 / AR11 / AR15.
- The MTU engine and ZF gearbox are resiliently mounted to a skid mounted frame to isolate locomotive vibration for crew cab comfort and to eliminate torsional stresses to the engine when exposed to hard couplings and to mitigate damage from frame bending and distortions caused by collision impacts.
- The ZF gearbox and Geislinger couplings are designed to exceed the product life cycle of the engine and include a standard two year parts and labor warranty which may be extended to four years parts and labor, excluding the labor costs for gearbox removal and reinstallation.

Retaining OEM Critical Parts

- OEM alternators, including the AR10, AR11 and AR15 models are normally retained from the originating locomotive main frames. These electrical-rotating assemblies are manufactured as new (when specified) or completely remanufactured with the availability of rebuildable cores. Traction motors are also available as new or completely remanufactured. Alternator and traction motor cores for the remanufacture process can be free issued by the end-user or supplied by KLW.
- Locomotive cabs and high voltage cabinets are replaced as new. The electrical cabinets are pressurized and air filtered to eliminate dust, debris and water contamination while cooling against excessive heat build-up. Cabs and electrical cabinets may remain original, dependent on the condition, age and last state of remanufacture for the locomotive core.
- Locomotive long hoods are new replacement fabrications to adapt to the KLW-MTU drive train system and the Rocore radiant cooling package.
- Main frames, lower deck truck assemblies and traction motors are retained and completely remanufactured unless otherwise specified. All trucks include new Fat 40 wheels.

Modular Concept

- The engine, gear box, air compressor, fuel filtration, oil reservoir and battery charging systems are modularized on a single platform for placement onto the remanufactured locomotive main frame.
- New cooling systems are modular for fitting onto the existing remanufactured main frame.
- Locomotive switcher core main frames and trucks are completely remanufactured for the 1050 BHP and 1560 BHP Series 2000 engine models. These include EMD, GE, Alco and gen set main frames and typically GP series trucks to reduce operator fatigue compared to conventional AAR SW series rigid switcher trucks.
- New S-5506 crash worthy / anti-rollover fuel tanks are manufactured in standardized 1000-2000-3000-4000 gallon capacities and include built-in high capacity (60-100 gallon) retention reservoirs.
- Clean, modular low-profile design creates added envelope space in the long hood for convenient maintenance accessibility to the KLV-MTU drive train system.

TMV Traction and Engine Control Unit (TECU)

- An expanded and advanced micro-processor based locomotive control system for up to 65%+ improvement in anti-wheel slip adhesion capacities for switcher locomotives.
- Typically, KLV SE Series switcher locomotives are ballasted to 270,000-275,000 pounds to enhance tractive effort capacities.
- Automatic engine start-stop is standard equipment to eliminate unnecessary idling and fuel waste.
- Minimum fuel savings of between 25% to 60%+ with the inclusion of the TECU AESS system based on switching and road-switching locomotive duty cycles.
- Interfaces with the MTU engine ECM-9 electronic control system (ADEC) to maximize fuel economy and to mitigate NO_x, PM, HC and CO emissions.
- Additional controls include: alternator, rpm and hp, cooling fans, engine heater, forward / reverse, transition, air compressor, auto ground relay set and load meter.
- Modular TECU design fits within a compact space (12 inches H x 14 inches W x 10 inches D).
- Flexible system with I/O board expandability to handle additional functions and controls.
- The TMV TECU is a highly reliable and user friendly locomotive control system with easy to read screens which do not "fault out".
- Durable electronic components which carry a standard two year parts and labor warranty and may be extended to four years for parts replacement.

Other Equipment Specifications

- The 1050 BHP MTU Series 12V2000 C66R and the 1560 BHP MTU Series 16V2000 S96 engines to be supplied will be EPA Tier 4 locomotive certified and ARB verified.
- Due to the MTU fail safe high-pressure common rail injection system, new S-5506 crash worthy and anti-rollover compliant fuel tanks are included with the KLV SE Series locomotives.

- The low profile Sullair rotatory air compressor is a low maintenance product (annualized oil change and air in-take filter replacements) which creates a significant increase in envelope space for additional cooling capacity for the MTU engine. A world class leader in air compressor manufacturing, this Sullair product generates a 310+ CFM output (50% greater total CFM output than traditional reciprocating, high maintenance air compressors).

Equipment Options

Locomotive mounted security cameras, front and rear.

ECP& EAB Equipment: Electronically controlled pneumatic braking with CCB26 electronic air brake. This is a Knorr-Bremse product which is currently utilized on a limited basis in the United States but more typically for the international rail markets. It is a reasonably mature product which may require some adjustments in the field for full performance and operability. In order to utilize the ECP with the new rail cars, the locomotives must be equipped with ECP equipment for car interface and operation. Knorr-Bremse is an ISO certified company.

Automatic-Release Couplers: Air-over-electric system which utilizes pneumatic cylinders, allowing the operator to press a button in the cab (on the control stand) to energize a solenoid air valve. Energizing the solenoid valve facilitates main reservoir air to the cylinder and actuates the cut lever. This system would be an FRA approved KLV design.

Specialty Corrosion Protectants: Custom epoxy coatings can be used on specific components, including the cooling fan blades, locomotive exterior prime sealant, etc. to minimize sand and/or salt air erosion of critical components on the locomotive structure.

EI DuPont and PPG Pittsburgh Paints are the suppliers. Both are ISO certified companies.

On-Site Commissioning and Training

KLW will provide 4-5 business days of on-site supervision, instruction and on-site operational training following arrival of the locomotives to the point of delivery. Since KLW SE Series locomotive models incorporate many of the traditional mechanical and electrical rotating systems of EMD and GE series style units, the majority of the training focuses upon the operation and maintenance of the MTU engine.

Locomotive Warranty

Each Locomotive shall meet the warranties of parts and labor for a period of twenty-four (24) months from the date of Final Acceptance; provided, however, that the electronic control system, drive train system, radiator, traction motor and alternator of each Locomotive shall meet the warranties for a period of forty-eight (48) months from the date of Final Acceptance. Seller shall be responsible for performing the warranty work of parts and labor during the first twenty-four months from date of locomotive commissioning at the project site. Normal consumable items such as wheels, brake shoes, locomotive fluids, fuel, oil, anti-freeze, sand, water, bulbs, lights, fuses and filters are exempt from this twenty-four month warranty in addition to the normal replacement consumables called-out by the maintenance manuals for this equipment. The forty-eight month warranty extends exclusively to the electronic control system, drive train system, radiator, traction motors and alternator of each Locomotive as parts replacement only and specifically excludes labor. Outgoing shipment transportation costs of the warranted replacement parts are to the account of Seller; return shipment transportation costs of damaged cores (as applicable) are to the account of Buyer. Repair or replacement shall be initiated promptly, and shall be pursued diligently and continuously in order to minimize the impact of such deficiencies on the Buyer's operations.

About Knoxville Locomotive Works

- 34 years of experience in the railway industry and locomotive remanufacturing, rebuilding and service repairs under the Gulf & Ohio Railways umbrella.
- Strong financial balance sheet and long term business stability.
- Patented KLV design bearing adapter to support the existing alternator and patented MTU design for high speed engines driving intermediate and low speed alternators.
- Engine, gear box, couplings, radiator, electronic controls, electrical cabinet, HVAC, alternator, traction motors, auxiliary generator, air compressor, fuel tank and bearing adapter sub-contract manufacturers are ISO 9001:2008 certified. KLV has initiated an ISO 9001:2008 program through the University of Tennessee for the KLV expansion facilities in Knoxville.
- Advanced EPA, ULEL and CARB verified Tier 3 and Tier 4 emissions certifications combined with U.S. manufacturing qualify KLV SE Series locomotive products for federal, state and local grant funding.
- Customer accounts include Class I railroads, short lines, industrials, equipment leasing companies, government and international clients.

Pricing

Tier 4 1050 BHP 12V2000 C66R Utilizing GP9 Locomotive Main Frames & GP Trucks

KLW SE10B Tier 4 at \$1,735,000 with a two year parts and labor warranty and a four year major mechanical and electrical parts warranty as identified above.

Payment Terms

15% with issuance of physical purchase order and official notice to proceed

15% at time of locomotive inspection and acceptance in Knoxville, Tennessee

70% net 15 days at time of locomotive start-up, commissioning and acceptance at the project site and grant payment issuance by ARB

Delivery

12-14 months from date of notification to proceed, equipment specifications review and payment deposit subject to prior orders.

Proposal Validity Period

December 2015 through June 2016

MEMORANDUM

February 9, 2017

TO: MEMBERS, PORT COMMISSION
Hon. Willie Adams, President
Hon. Kimberly Brandon, Vice President
Hon. Leslie Katz
Hon. Eleni Kounalakis
Hon. Doreen Woo Ho

FROM: Elaine Forbes
Executive Director

SUBJECT: Request authorization to accept and expend \$1,371,250 from the Bay Area Air Quality Management District Goods Movement Emission Reduction Grant Program Locomotive Project and to appropriate \$515,562 in available Fund Balance as the Port's funding contribution for the procurement of a \$1,886,813 state-of-the-art low-emissions locomotive to replace a 60-year old Port ALCO locomotive, subject to Board of Supervisors' approval

DIRECTOR'S RECOMMENDATION: Approve the Attached Resolution

EXECUTIVE SUMMARY

The Port's rail tenant, San Francisco Bay Railroad (SFBR), currently leases two Port owned locomotives under Locomotive Agreement No. L-14502. SFBR pays \$1 per year for the use of these 68 year old locomotives and are fully responsible for the fuel and maintenance costs. SFBR relies solely on these two Port owned locomotives for their rail operations. The locomotives, built in 1946, have an emission rating of "Tier 0".

In January 2016, the Bay Area Air Quality Management District (BAAQMD) announced it was accepting grant applications for locomotive projects through its Goods Movement Emission Reduction Grant Program. This program is funded by and follows the guidelines of the California Air Resources Board's (CARB) Proposition 1B (Prop 1B) Goods Movement Emission Reduction Program. BAAQMD was additionally awarded grant funding from the U.S. Environmental Protection Agency's (EPA) Diesel Emission Reduction Act (DERA) 2016 National Clean Diesel Funding Assistance program to fund locomotive projects.

THIS PRINT COVERS CALENDAR ITEM NO. 13A

On January 28, 2016, the Port submitted its grant application to BAAQMD for consideration to use grant funds to purchase a "Tier 4" "green" locomotive and replace an existing "Tier 0" 1946 locomotive which is currently in use. The cost of the new locomotive is \$1,886,813. On July 18, 2016, BAAQMD notified the Port of its decision to award the Port grant funds of \$937,500 under Prop 1B and \$433,750 under DERA for a total of \$1,371,250.

The BAAQMD grant funds will allow the Port to acquire a new "Tier 4" low-emissions diesel locomotive through Knoxville Locomotive Works (KLW) of Knoxville, Tennessee where it will be manufactured. Total purchase and delivery cost will be \$1,886,813. The Port intends to cover the remaining balance, as part of the grant approval process. Port staff will seek the Board of Supervisors' appropriation of \$515,562 in available Fund Balance.

In order to recoup the Port's \$515,562 grant match, the Port will lease the new low emission locomotive to SFBR at market rates. Port staff will be bringing a revised rail locomotive lease agreement with SFBR to the Port Commission for consideration later in 2017. The grant performance period requires delivery of the new locomotive and destruction of the Port's ALCO locomotive engine by the end of 2018.

The "green" Knoxville locomotive can reduce particulate emissions and carbon dioxide by more than 85% compared to the current 1946 "Tier 0" ALCO locomotive. Reductions in locally-generated particulate emissions and carbon dioxide will benefit the local environment in the Bayview-Hunters Point community. A low-emissions locomotive operating in San Francisco will attract positive attention from around the country and will advance the Port's mission of environmental stewardship.

In order for the Port to accept and expend grant funds of \$100,000 or more, the Port must receive Board of Supervisors' approval to accept and expend the funds. Therefore, Port staff seek Commission authorization to seek Board of Supervisors' approval to accept and expend these grant funds and to appropriate \$515,562 of Fund Balance.

STRATEGIC OBJECTIVE

The proposed resolution supports the goals of the Port's Strategic Plan as follows:

Sustainability:

The new "green" locomotive can reduce particulate emissions and carbon dioxide by more than 85%. Reductions in locally-generated particulate emissions will benefit Port staff, tenants and the public, including the neighboring Bayview-Hunters Point community. Additionally, a reduction in carbon dioxide emission supports the Port's goals to reduce its contribution to climate change.

Livability:

Purchasing a new locomotive will help sustain the Port's freight rail operator's ability to ease traffic congestion along the waterfront while using state-of-the-art locomotive technology to reduce air emissions.

BACKGROUND

The Port of San Francisco has regular rail traffic through its railyard situated on Cargo Way in the Southern Waterfront, based along the Southern Waterfront within the Bayview-Hunters Point community. For more than a decade the Port has contracted with San Francisco Bay Railroad (SFBR) to provide shortline freight railroad services and rail terminal operations. The Port owns two 60-year old ALCO locomotives which are leased to SFBR for their operations. SFBR has strived to be a good steward of the neighborhood by maintaining a clean and environmentally-compliant operation, by hiring its employees and subcontractors almost exclusively from the local community, and by seeking opportunities to improve the environment at the railyard and in the local community.

Toward that end, SFBR (under its prior name, LB Railco) applied for and received two BAAQMD-sponsored Carl Moyer grants in 2005 to install new, clean-burning engines in its mobile lift cranes, thereby replacing old, polluting engines. In 2008, SFBR partnered with CARB to study the benefits of using biodiesel in the Port's aging ALCO locomotives, and then implemented the use of biodiesel when the finding of the CARB report indicated that the fuel would yield improved air quality.

The Port applied for BAAQMD grant funding to purchase a low-emission locomotive to replace one of the Port's old (1946 vintage) ALCO locomotives to further improve the air quality at the railyard and in the Bayview-Hunters Point neighborhood.

BAAQMD GRANT PROGRAM

BAAQMD's Goods Movement Emission Reduction Grant Program Locomotive Project is a partnership between CARB and the local air quality agencies to quickly reduce diesel emissions and health risk from freight movement along California trade corridors. Projects funded under this program must achieve early or extra emission reductions not otherwise required by law or regulation. BAAQMD has at least \$15 million in California Prop 1B funding available for projects.

Equipment eligible to receive BAAQMD grant funding includes replacement locomotives for diesel-powered freight locomotives with no or minimal emissions control technology (i.e., uncontrolled, or meeting "Tier 0" through "Tier 2" standards). The Port's 1946 ALCO locomotives are considered "Tier 0" meaning they were produced prior to 1973 and are not required to meet current U.S. EPA air emissions standards. Tier 4 emissions control requirements came into effect in 2015 and are required for all new locomotives.

In January 2016, the Bay Area Air Quality Management District (BAAQMD) announced it was accepting applications for locomotive projects through its Goods Movement Emission Reduction Grant Program. This program is funded by and follows the guidelines of the California Air Resources Board's (CARB) Proposition 1B (Prop 1B)

Goods Movement Emission Reduction Program. BAAQMD was additionally awarded grant funding from the U.S. Environmental Protection Agency's (EPA) Diesel Emission Reduction Act (DERA) 2016 National Clean Diesel Funding Assistance program to fund locomotive projects.

GRANT AWARD & USE

On July 18, 2016, BAAQMD notified the Port of its decision to award the Port grant funds of \$937,500 under Prop 1B and \$433,750 under DERA. The Port will be required to contribute the remaining \$515,562 required to purchase the \$1,886,813 "green" locomotive.

The grant performance period requires delivery of the new locomotive and decommissioning of the Port's ALCO locomotive engine by the end of 2018.

Terms and Conditions of Grant

The Grant agreement with the BAAQMD contains the following material terms and conditions for use of the grant funds:

- 15 year use of the new locomotive
- Locomotive to be maintained according to manufacturer warranty requirements.
- Locomotive to be insured.
- Port must indemnify BAAQMD and CARB (Grantor) for use of the grant funds and implementation of the grant-funded project.
- Port to decommission old "Tier 0" Alco locomotive engine.
- Completion of new locomotive delivery and testing as well as decommissioning of old Alco engine by December 2018.
- BAAQMD logo shall be affixed to the locomotive

The locomotive will be acquired through Knoxville Locomotive Works (KLW) of Knoxville, Tennessee where it will be manufactured. KLW began designing its line of green locomotives in 2008. KLW's goal was to manufacture a simple locomotive that provides superior benefits and economic value in comparison to other low-emissions locomotives. Some of the features of the KLW "green" locomotives include: Single-engine design that is simple, reliable, and preferred over multi-engine alternatives; EPA compliance with emissions reductions of up to 85%; reductions of up to 65% in fuel consumption; reductions in oil consumption by up to 75%; increasing starting tractive effort up to 40%. The Richmond Pacific Railroad is in the process of acquiring two of the same model KLW locomotives through this grant program.

This grant comes at a propitious time, as the Port has nearly completed \$4 million in construction improvements to the freight rail infrastructure between the Caltrain mainline and the Port, largely funded through a Federal Railroad Administration grant. These improvements will facilitate expanded freight rail operations and more extensive use of the new locomotive. A low-emissions locomotive operating in San Francisco will attract

positive attention from around the state, the country, and the world. If one of the goals of BAAQMD and CARB is to spread best practices about new technologies available to clean up diesel emissions, the City and Port of San Francisco would be an excellent place to "showcase" that technology.

FUNDING

The \$1,886,813 locomotive will be funded by \$937,500 Prop 1B and \$433,750 DERA grants, and \$515,562 proposed funding from the Port's available Fund Balance. Staff proposes recovering the Port's capital investment through monthly use payments by the operator. Port staff will separately recommend to the Port Commission an updated lease agreement with terms for SFBR to operate, maintain, and lease the new locomotive.

PROJECT SCHEDULE

The anticipated schedule is as follows:

Port Commission Accept & Expend approval	February 14, 2017
Board of Supervisors' Accept & Expend approval	March 2017
Negotiate new Locomotive Lease Agreement with SFBR	March 2017
Negotiate locomotive purchase contract with KLW	March 2017
Finalize and Execute Grant and Use Agreement with BAAQMD	March 2017
Locomotive delivery to Port, tests, inspections, etc.	Summer 2018
Destruction of ALCO engine from Locomotive SFBR 25	Fall 2018

RECOMMENDATION

Port staff requests Port Commission authorization to accept and expend grant funds of \$1,371,250 from the Bay Area Air Quality Management District, Goods Movement Emission Reduction Grant Program Locomotive Project, to purchase a state-of-the-art low-emissions locomotive to replace an existing 60-year old Port ALCO locomotive and to seek Board of Supervisors' approval to accept and expend the grant funds. Additionally, staff requests authorization to appropriate \$515,562 in available Fund Balance as the Port's funding contribution.

Prepared by: Brendan O'Meara
Maritime Marketing Manager

Prepared for: Peter Dailey
Deputy Director, Maritime

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 17-08

- WHEREAS, In January 2016 the Bay Area Air Quality Management District (BAAQMD) announced it was accepting applications for “green” locomotive projects through its Goods Movement Emission Reduction Grant Program Locomotive Project (the “BAAQMD grant program”); and
- WHEREAS, This BAAQMD grant program is funded by and follows the guidelines of the California Air Resources Board’s Proposition 1B (Prop 1B) Goods Movement Emission Reduction Program, and was additionally funded by the U.S. Environmental Protection Agency’s Diesel Emission Reduction Act (DERA) 2016 National Clean Diesel Funding Assistance Program; and
- WHEREAS, On January 28, 2016, the Port submitted its grant application requesting funds under the BAAQMD grant program to purchase a new Tier 4 state-of-the-art low-emissions locomotive to replace a 60-year old Port ALCO locomotive; and
- WHEREAS, The Port’s BAAQMD grant application is the logical next step along the path of cleaning up the air at the railyard and in the Bayview-Hunters Point neighborhood; and
- WHEREAS, On July 18, 2016, BAAQMD notified the Port of its decision to award the Port grant funds of \$937,500 under Prop 1B and \$433,750 under DERA for a total of \$1,371,250 in grant funding; and
- WHEREAS, The grant funds will be applied to the purchase of the new Tier 4 state-of-the-art low-emissions diesel locomotive through Knoxville Locomotive Works of Knoxville, Tennessee at a total project cost of \$1,886,813; and
- WHEREAS, The BAAMQD grant award leaves a remaining sum of \$515,562 to acquire the Tier 4 locomotive, which the Port will fund from its available Fund Balance; and
- WHEREAS, The “green” Knoxville locomotive can reduce particulate emissions and carbon dioxide by more than 85%, and reductions in locally-generated particulate emissions and carbon dioxide will benefit the local Bayview-Hunters Point community and the Port; and
- WHEREAS, The grant performance period requires delivery of the new locomotive and decommissioning of the Port’s ALCO locomotive engine by the end of 2018; and

WHEREAS, In order for the Port to accept grant funds of \$100,000 or more, the Port must obtain the Board of Supervisors' approval to accept and expend the funds; now therefore be it

RESOLVED, That the Port Commission hereby authorizes the Executive Director to seek the Board of Supervisors' approval to accept and expend the BAAQMD grant program funds; and be it further

RESOLVED, That the Port Commission hereby authorizes the Executive Director to seek the Board of Supervisors' appropriation of \$515,563 in available Fund Balance from the Harbor Fund for acquisition of the new Tier 4 locomotive; and be it further

RESOLVED, That the Port Commission hereby urges the Board of Supervisors to approve the Port's request for approval to accept and expend the BAAQMD grant and to appropriate the Port's capital contribution; and be it further

RESOLVED, That the Port Commission, subject to the Board of Supervisors' approval, hereby authorizes Port staff to accept and expend the BAAQMD grant, and to execute and enter into the grant agreement with the Bay Area Air Quality Management District consistent with the material terms and conditions recited in the accompanying staff report, and any additions, amendments, or modifications to the grant agreement that do not materially decrease the Port's benefits or increase the Port's obligations or liabilities, and are appropriate and advisable to complete the proposed transaction, in such form as approved by the City Attorney.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of February 14, 2017.

Amy Quesada Digitally signed by Amy Quesada
DN: cn=Amy Quesada, o=Port of San Francisco, ou=Port
Commission, email=amy.quesada@portcom.org, c=US
Date: 2017.02.14 14:33:10 -0800

Secretary

Sole Source Waiver Request

Administrative Code Section 21.5(b) provides that commodities or services available only from a sole source shall be procured in accordance with Purchaser's regulations. Purchaser's regulations provide that, "If a department needs a commodity or service which is unique and which is known to be provided by only one vendor, then only one price quotation is solicited from the single vendor. The requesting department must submit documentation to the Purchaser justifying the transaction as a sole source. From time to time, the Purchaser may conduct a formal bid to determine the continuing validity of the sole source determination." (Procurement Instruction 12.06, Exhibit A, Section IX.D, dated April 28, 1989)

Directions: Use this form to justify a sole source transaction. The department requestor must complete the information below and attach a written memo with appropriate supporting documentation to justify this request. The memo must provide specific and comprehensive information that explains why the requested transaction should be considered a sole source. Departments are encouraged to consult with the Human Rights Commission and the City Attorney prior to submitting this request.

Department: Port of San Francisco Date Submitted: February 2, 2017
Contact: Boris Delepine Phone: (415) 571-6626
Vendor Name: Knoxville Locomotive Works Vendor # TBD
Type of Contract: Commodity Professional Service _____ Non-Professional Service _____
Other _____
Amount: \$ 1,886,813 ADPICS Doc #: _____

Describe the product or service:
Tier 4 Locomotive Low Emissions Diesel Locomotive (See Attached Memo)

Has the Human Rights Commission granted a sole source waiver on this transaction? _____
If yes, when was the sole source granted? _____ Please attach a copy of the HRC Waiver.

Check the appropriate statement. Attach a memo and documentation to address the questions following each statement.

Goods or services are available from only one source.

Explain why this is the only product or service that will meet the City's needs. Why is this the only vendor or contractor that can provide the services or products? What steps were taken to verify that the goods or services are not available from another source? Explain what efforts were made to obtain the best possible price. Why do you feel the price to be fair and reasonable? How was this vendor chosen? How long has the vendor been providing goods or services for your department?

Only one prospective vendor is willing to enter into a contract with the City.

Explain why no other vendors are willing to contract with the City. If there are compliance issues, what have you done to get other possible sources to become compliant? Have you contacted HRC? Have you received a waiver from HRC?

Item has design and/or performance features that are essential to the department, and no other source satisfies the City's requirements.

Explain why the design/performance features are essential. Have you contacted other suppliers to evaluate items/services with similar features and capabilities? If no, explain why not. If yes, list the suppliers and explain why their goods or services do not meet the department's needs.

Licensed or patented good or service.

Provide proof that the license or patent limits the availability of the product or service to only one source.

Other: _____

INSTRUCTIONS:

The Sole Source request must be approved before the department makes a commitment to the vendor, and before funds are encumbered. If the Sole Source request is denied, the department will be advised to conduct a competitive process to select the vendor/contractor. If the Sole Source request is to extend an existing professional service contract, attach a copy of the original contract and any prior sole source determinations made by HRC or Purchasing. When processing professional service contracts and modifications for signature, attach the approved sole source waiver form to the contract documents.

This form is required for every transaction, contract, or contract modification that the department wishes to be treated as a sole source. For additional information call the Purchaser assigned to your department.

The Department Head must sign this request before it is sent to OCA-Purchasing.

This Sole Source request is being submitted by

Department Head Signature: _____

Date: _____

2/2/2017

Name of Department: _____

Port

OCA Review and Approval:

Sole Source Approved:

Sole Source Denied:

Reason for Determination

OCA Staff: _____

Date: _____

OCA Staff: _____

Date: _____

for OCA Director: _____

Date: _____

[Handwritten Signature] K. D. ...

2/14/17



Interdepartmental Memorandum

Date: February 2, 2017

To: Jaci Fong, Director
Office of Contract Administration

From: Peter Dalley, Deputy Director of Maritime
Port of San Francisco

RE: **OCA Sole Source Waiver Request**
Knoxville Locomotive Works – “Tier 4” low-emissions diesel locomotive

The Port of San Francisco has regular rail traffic through its railyard situated on Cargo Way in the Southern Waterfront. For more than a decade the Port has contracted with San Francisco Bay Railroad (SFBR) to provide shortline freight railroad services and rail terminal operations. SFBR also leases for their operation the Port's two 60-year old ALCO locomotives. SFBR maintains a clean and environmentally-compliant operation, hires its employees and subcontractors almost exclusively from the local community, and seeks opportunities to improve the environment at the railyard and in the local community.

In January of 2016 the Port submitted a grant application to the Bay Area Air Quality Management District (BAAQMD) on behalf of SFBR for a low-emission locomotive to replace one of the Port's old (1946 vintage) ALCO locomotives to improve the air quality at the railyard and in the Bayview-Hunters Point neighborhood. BAAQMD awarded the Port with two grants worth \$1,371,250 to purchase a new locomotive and for decommissioning of the Port's aging ALCO locomotive engine.

Through the available grant funds the Port is required to purchase a “Tier 4” low-emissions diesel locomotive to meet emissions standards established by the Environmental Protection Agency (EPA) and California Air Resources Board (CARB). There are only two locomotive suppliers with “Tier 4” locomotive availability in the subject horsepower class required for the Port's service operation. One supplier provides multi-engine Gen Sets. SFBR operators and staff do not possess the knowledge and experience to operate multi-engine Gen Set locomotives. Knoxville Locomotive Works is the sole locomotive supplier that offers single engine “Tier 4” low-emissions diesel locomotives that meet emissions standards established by the EPA and CARB and is serviceable by locomotive operators at SFBR.

Based on the requirements describe above the Port of San Francisco respectfully requests the approval of a sole source waiver in an amount not-to-exceed \$1,886,813 to purchase a new "Tier 4" low emissions diesel locomotive from Knoxville Locomotive Works.

If you have any questions, please contact Boris Delepine at (415) 274-0443.

Thank you for your consideration of this request. Below are answers to the questions addressed in the Sole Source Wavier Request Form:

- 1) Explain why the design/performance features are essential.

As mentioned in the memorandum above, the Port won a grant from BAAQMD to decommission an aging diesel locomotive situated on the Port's railyard near Cargo Way on the Southern Waterfront. Through the available grant funds the Port is required to purchase a "Tier 4" low-emissions diesel locomotive to meet emissions standards established by the Environmental Protection Agency (EPA) and California Air Resources Board (CARB). There are only two locomotive suppliers with "Tier 4" locomotive availability in the subject horsepower class required for the Port's service operation. One supplier provides multi-engine Gen Sets. SFBR operators and staff do not possess the knowledge and experience to operate multi-engine Gen Set locomotives. Knoxville Locomotive Works is the sole locomotive supplier that offers single engine "Tier 4" low-emissions diesel locomotives that meet emissions standards established by the EPA and CARB and is serviceable by locomotive operators at SFBR.

- 2) Have you contacted other suppliers to evaluate items/services with similar features and capabilities? If yes, list the suppliers and explain why their goods or services do not meet the department's needs.

Yes, the Port obtained a list of locomotive suppliers from San Francisco Bay Rail. Port Maritime Division staff then contact and/or reviewed the websites of Brookville Equipment Corporation, National Railway Equipment Company, RJ Corman Railroad Group, Pacific West Systems, and Knoxville Locomotive Works. Knoxville Locomotive Works is the sole locomotive supplier that offers single engine "Tier 4" low-emissions diesel locomotives that meet emissions standards established by the EPA and CARB and is serviceable by locomotive operators at San Francisco Bay Rail.

Ban on City Contracts Involving States with Anti-LGBT Laws – Waiver

Background: Administrative Code Section 12X prohibits City contracting with companies from states that have enacted laws after June 26, 2015, reversing anti-discrimination protections for LGBT individuals or that permit discrimination against LGBT individuals. Administrative Code Section 12X.5(a) cites that the City shall not enter into any Contract with a Contractor that has its United States headquarters in a state on the Covered State List or where any or all of the work on the Contract will be performed in a state on the Covered State List.

In accordance with Administrative Code Section 12X.5(b), the Contracting Department may waive the requirements of Section 12X.5 in full or in part if the department determines that strict application of the requirement would not be feasible, would create an undue hardship or practical difficulty, or that similar circumstances otherwise warrant granting of the waiver.

Directions: This form is required for every transaction, contract, or contract modification requiring this waiver. The department requestor must complete the information below and attached a written memo with supporting documentation as needed. The Contracting Officer must *sign this request*. In accordance with 12X.5(c), each Contracting Department shall maintain a record documenting the basis for such decision and submit a report to the City Administrator summarizing the Contract and the basis for inapplicability. Such reports shall be submitted annually within 30 days of the end of the fiscal year.

Department: Port of San Francisco Date Submitted: 04/24/17
 Contact: Brendan O' Meara Phone: (415) 274-0458
 Vendor Name: Knoxville Locomotive Works Inc. Vendor # 100569
 Amount: \$ 1,886,813 Term: 12/2029 Doc # _____
 Describe the product or service: Tier 4 Locomotive Low Emission Diesel

- Check the statement that best applies below and attach a written memo/justification and appropriate documentation.
- Needed services are available only from one source. (Attach approved sole source waiver request).
 - Contract is necessary to respond to an emergency which endangers public health or safety and no compliant company is immediately available to perform required services.
 - There are no compliant/qualified responsive bidders and the Contract is for a service, project, or property that is essential to the City or the public.
 - Public interest warrants the granting of a waiver because application would have an adverse impact on services or a substantial adverse financial impact on the City.
 - Services to be purchased are available under a bulk purchasing arrangement with a federal, state, or local government entity or a group purchasing organization, which will substantially reduce the City's cost.
 - Violates or inconsistent with the terms or conditions of a grant, subvention, or agreement with a public agency, provided that the contracting officer has made a good faith attempt to change the terms or conditions.

Department: _____
 As the Contracting Officer, I hereby approve this waiver.
 Signature: Boris Delepine Print Name: Boris Delepine
 Name of Department: Port of San Francisco Date: 04/24/17

Tso, Jonathan (CON)

From: Wallace, Meghan (PRT)
Sent: Friday, May 05, 2017 2:33 PM
To: Tso, Jonathan (CON)
Cc: Gratuito, Maricar (CON); O'Meara, Brendan (PRT)
Subject: RE: \$1.4M BAAQMD Accept/Expend

Hi Jonathan,

The funding source is CPO720, from our 5p-aaa-acp subfund.

Home > FAML6000 > FAML0000 > FAML6200

FAML6200 - Project Summary Inquiry

Balance (Y,M,Q,A): Curr/Prior Prd : Currency Code:
Fiscal Mo/Year: MAY 2017 Project End Date:
Project : CPO720 PIER 80/92/96 TRACK MAINTENANCE
Project Detail :
Character :
Object Code :
Ft/Fund/Subfnd :
Organization :

S	Char	Description	Budget	Actual	Encumbrance
	040	MATERIALS & SUPPLI	14,214	14,214	
	069	PROJECT CARRYFORWA	1,005,346		
	081	SERVICES OF OTHER	45,537	45,537	
		EXPENDITURE TOTAL	1,346,786	348,581	6,664
		REVENUE LESS EXPE		998,105	-6,664

Best,
Meghan

From: Tso, Jonathan (CON)
Sent: Friday, May 05, 2017 2:13 PM
To: Wallace, Meghan (PRT)
Cc: Gratuito, Maricar (CON); O'Meara, Brendan (PRT)
Subject: RE: \$1.4M BAAQMD Accept/Expend

Hi Meghan,

Can you provide the source of the \$515,563 Port Project Funding?

Thanks,

Jonathan Tso

From: Wallace, Meghan (PRT)
Sent: Monday, April 24, 2017 10:26 PM
To: Tso, Jonathan (CON) <jonathan.tso@sfgov.org>
Cc: Gratuito, Maricar (CON) <maricar.gratuito@sfgov.org>; O'Meara, Brendan (PRT) <brendan.omeara@sfport.com>
Subject: Re: \$1.4M BAAQMD Accept/Expend

Hi Jonathan,

Rather than a formal award letter, we received emails directly from BAAQMS notifying us of the award amounts for both Prop 1 and DERA grant funding. Please take a look at items 6a and 6b for those details. As you'll see, we originally received a higher award amount with a lower assumption for DERA funds. Ultimately the Prop 1 portion of funding went down while the DERA went up to total the final award amount.

Best,
Meghan

From: Tso, Jonathan (CON)
Sent: Monday, April 24, 2017 6:01:46 PM
To: Wallace, Meghan (PRT)
Cc: Gratuito, Maricar (CON); O'Meara, Brendan (PRT)
Subject: RE: \$1.4M BAAQMD Accept/Expend

Hi Meghan,

Thanks for the quick action.

The Accept and Resolution looks good.

Is there an award letter from BAAQMD to Port? Below it says that on 7/18/16 BAAQMD notified Port, is the notification attached?

On January 28, 2016, the Port submitted its grant a consideration to use grant funds to purchase a "Tier 1" existing "Tier 0" 1946 locomotive which is current locomotive is \$1,886,813. On July 18, 2016, BAAQMD award the Port grant funds of \$937,500 under Prop 1 total of \$1,371,250.

Thanks,

Jonathan Tso

From: Wallace, Meghan (PRT)
Sent: Monday, April 24, 2017 4:41 PM
To: Tso, Jonathan (CON) <jonathan.tso@sfgov.org>
Cc: Gratuito, Maricar (CON) <maricar.gratuito@sfgov.org>; O'Meara, Brendan (PRT) <brendan.omeara@sfport.com>
Subject: RE: \$1.4M BAAQMD Accept/Expend

Jonathan,

Thanks again for flagging this! Here is the waiver allowing us to do business in Tennessee along with the supporting sole source, which I reattached to have the two items on the record together.

-M

From: Tso, Jonathan (CON)
Sent: Monday, April 24, 2017 3:48 PM
To: Wallace, Meghan (PRT)
Cc: Gratuito, Maricar (CON); O'Meara, Brendan (PRT)
Subject: RE: \$1.4M BAAQMD Accept/Expend

Hi Megan,

I'm starting to review the A&E and noticed that the resolution states that *The grant funds will be applied to the purchase of the new Tier 4 state-of-the-art low-emissions diesel locomotive through Knoxville Locomotive Works of Knoxville, Tennessee.*

Does this interfere with the City's contracting ban involving states with Anti-LGBT laws? You will need a waiver to get it approved by OCA when setting up the requisition. Please see attached memo from the City Administrator and OCA waiver.

Thanks,
Jonathan Tso

From: Wallace, Meghan (PRT)
Sent: Friday, April 21, 2017 3:39 PM
To: Tso, Jonathan (CON) <jonathan.tso@sfgov.org>
Cc: Gratuito, Maricar (CON) <maricar.gratuito@sfgov.org>; O'Meara, Brendan (PRT) <brendan.omeara@sfport.com>
Subject: PRT: \$1.4M BAAQMD Accept/Expend

Hi Jonathan,

The Port is preparing to move the attached materials forward as an accept and expend package to the Board of Supervisors. The request is related to a \$1,371,250 grant from the Bay Area Air Quality Management (BAAQM) Proposition: 1B Goods Movement Emission Reduction Program that will be used to purchase a new Tier 4 low emission locomotive. Can you please take a look at the attached materials and let me know if you have any questions/concerns? If I don't hear from you by the end of the day Monday, I'll come by on Tuesday with the hard copies.

Thank you in advance for your time!

Sincerely,

~
Meghan Wallace

Finance & Procurement Manager

Port of San Francisco

(p) 415-274-0426 (f) 415-544-1726

Meghan.wallace@sfport.com

Wallace, Meghan (PRT)

To: O'Meara, Brendan (PRT)
Subject: RE: SF Port Locomotive Grant

From: Anthony Fournier [mailto:afournier@baaqmd.gov]
Sent: Monday, February 06, 2017 2:02 PM
To: O'Meara, Brendan (PRT)
Subject: RE: SF Port Locomotive Grant

Hi Brendan,

The figures look good, but I added a little clarification. Basically if the costs come in lower we would have to adjust the funding amounts.

Prop 1B: 75% of the locomotive cost up to \$937,500

DERA: 25% of the locomotive cost up to \$433,750

Please let me know if you have any questions.

Thanks,
Anthony

Anthony Fournier
Air Quality Program Manager
Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
Phone: (415) 749-4961
Fax: (415) 749-5020

From: O'Meara, Brendan (PRT) [mailto:brendan.omeara@sfport.com]
Sent: Monday, February 6, 2017 1:54 PM ✓
To: Anthony Fournier <afournier@baaqmd.gov>
Subject: SF Port Locomotive Grant

Anthony,

Thanks for taking the time to discuss the locomotive grant proposal the Port will be taking to our Commission next week.

Below is our breakdown of the award with the plan of completing everything in the calendar year of 2018.

Prop 1B: \$937,500

DERA: \$433,750

Total: \$1,371,250.00

Port to cover the difference.

Let me know if these numbers are correct.

Thanks,

Brendan O'Meara
Maritime Marketing Manager
Port of San Francisco
Pier 1, The Embarcadero
San Francisco, CA 94111
Office: 415-274-0458
Cell: 415-309-7933
Brendan.OMeara@sfport.com
www.sfport.com



Wallace, Meghan (PRT)

To: O'Meara, Brendan (PRT)
Subject: RE: DERA funding - SFBRR

From: Anthony Fournier [mailto:afournier@baaqmd.gov]
Sent: Monday, June 13, 2016 4:32 PM
To: Dailey, Peter (PRT); david@sfbayrail.com
Cc: nick@sfbayrail.com
Subject: DERA funding - SFBRR

Hi Peter and David,

Good news, EPA has issued a preliminary award notification to us for the Tier 4 locomotive project that we submitted earlier this year.

Unfortunately, they did not award us the full amount we originally requested but are proposing to provide ~70% of the original amount requested. Below is an early estimate of the current grant funding projections for the RPRC locomotives. The combination of Proposition 1B funds and the EPA DERA funds would result in a total grant award of \$1,395,834 * for the locomotive (see table below for details).

Only a fully executed Grant Agreement constitutes an obligation for the District to fund a project. **Please let me know if you would like to continue with the process to contract the project, and if you have any questions.**

Thanks,
Anthony

Applicant	Port of San Francisco/ SFBRR
Secondary GMP project #	1
Locomotive #/identifier	SFBR 25
Project type	Replacement
Type of locomotive	Switcher
HP range	1,006 - 2,300 hp
Build number	n/a
Build date	1945
Completion year	2016 *
Total project cost	\$ 1,735,000.00
Prop 1B Funding awards (2016 completion)	\$ 1,062,500.00 *
EPA DERA funding (proposed)	\$ 333,334.00

* **Note:** This data assumes project completion in 2016 as requested in the Prop 1B application. If that date gets pushed into 2017, the Prop 1B funding award will be reduced to \$1,000,000.

Anthony Fournier
Air Quality Program Manager
Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
Phone: (415) 749-4961

	U.S. ENVIRONMENTAL PROTECTION AGENCY Assistance Amendment		GRANT NUMBER (FAIN): 99T42401 MODIFICATION NUMBER: 1 PROGRAM CODE: DE	DATE OF AWARD 11/16/2016
			TYPE OF ACTION No Cost Amendment	MAILING DATE 11/16/2016
			PAYMENT METHOD: Advance	ACH# 90049
			RECIPIENT TYPE: Special District	
RECIPIENT: Bay Area AQMD 375 Beale St., Suite 600 San Francisco, CA 94105 EIN: 94-1622746		PAYEE: Bay Area AQMD 375 Beale St., Suite 600 San Francisco, CA 94105		
PROJECT MANAGER Damian Breen 375 Beale St., Suite 600 San Francisco, CA 94105 E-Mail: dbreen@baaqmd.gov Phone: 415-749-5041		EPA PROJECT OFFICER Angela Latigue 75 Hawthorne Street, AIR-8 San Francisco, CA 94105 E-Mail: latigue.angela@epa.gov Phone: 415-947-4170		EPA GRANT SPECIALIST Veronica Adams Grants Management Section, EMD-6-1 E-Mail: adams.veronica@epa.gov Phone: 415-972-3677
PROJECT TITLE AND EXPLANATION OF CHANGES National Clean Diesel Program - Locomotive Replacement This project will target three switcher locomotives operating in goods movement service in Bay Area impacted communities by replacing and deploying three lower-emitting Tier-4 locomotives at the Port of Richmond and Port of San Francisco. This collaborative effort between the Bay Area Air Quality Management District (BAAQMD), Richmond Pacific Railroad Corporation, and the Port of San Francisco will achieve significant emission reductions in the most highly impacted communities in the Bay Area. This amendment revises the budget. The federal funding in the amount of \$1,420,263 remains the same.				
BUDGET PERIOD 09/15/2016 - 03/31/2019		PROJECT PERIOD 09/15/2016 - 03/31/2019		TOTAL BUDGET PERIOD COST \$5,698,925.00
				TOTAL PROJECT PERIOD COST \$5,698,925.00
NOTICE OF AWARD				
Based on your Application dated 04/20/2016 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$. EPA agrees to cost-share 24.92% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$1,420,263. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.				
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)			AWARD APPROVAL OFFICE	
ORGANIZATION / ADDRESS U.S. EPA, Region 9 Grants Management Section, EMD 6-1 75 Hawthorne Street San Francisco, CA 94105			ORGANIZATION / ADDRESS U.S. EPA, Region 9 Air Division, AIR-1 75 Hawthorne Street San Francisco, CA 94105	
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY				
Digital signature applied by EPA Award Official for Craig A. Wills - Grants Management Officer Veronica Adams - Award Official delegate				DATE 11/16/2016

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$ 1,420,263	\$	\$ 1,420,263
EPA In-Kind Amount	\$ 0	\$	\$ 0
Unexpended Prior Year Balance	\$ 0	\$	\$ 0
Other Federal Funds	\$ 0	\$	\$ 0
Recipient Contribution	\$ 3,079,412	\$	\$ 3,079,412
State Contribution	\$ 0	\$	\$ 0
Local Contribution	\$ 0	\$	\$ 0
Other Contribution	\$ 1,199,250	\$	\$ 1,199,250
Allowable Project Cost	\$ 5,698,925	\$ 0	\$ 5,698,925

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.039 - National Clean Diesel Funding Assistance Program (B)	Diesel Emissions Reduction Act of 2010 codified at 42 U.S.C. 16131 et seq	2 CFR 200 2 CFR 1500 and 40 CFR 33

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$48,226
2. Fringe Benefits	\$23,236
3. Travel	\$0
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$0
7. Construction	\$0
8. Other	\$5,599,000
9. Total Direct Charges	\$5,670,462
10. Indirect Costs: % Base	\$28,463
11. Total (Share: Recipient 75.08 % Federal 24.92 %.)	\$5,698,925
12. Total Approved Assistance Amount	\$1,420,263
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$0
15. Total EPA Amount Awarded To Date	\$1,420,263

Administrative Conditions

The EPA general terms and conditions have been revised. All other terms and conditions remain in full force and effect.

EPA General Terms and Conditions

The recipient agrees to comply with the current EPA general terms and conditions available at:

<https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-3-2016-or-later>.

These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award. The EPA repository for the general terms and conditions by year can be found at <http://www.epa.gov/grants/grant-terms-and-conditions>.

Programmatic Conditions


The programmatic term and condition (P) has been added to this agreement. All other programmatic terms and conditions remain in full force and effect.

P. Subaward Reporting Requirement:

The recipient must report on its subaward monitoring activities under 2 CFR 200.331(d). Examples of items that must be reported if the pass-through entity has the information available are:

- Summaries of results of reviews of financial and programmatic reports.
- Summaries of findings from site visits and/or desk reviews to ensure effective subrecipient performance.
- Environmental results the subrecipient achieved.
- Summaries of audit findings and related pass-through entity management decisions.
- Actions the pass-through entity has taken to correct deficiencies such as those specified at 2 CFR 200.331(e), 2 CFR 200.207 and the 2 CFR Part 200.338 Remedies for Noncompliance.

-- End of Document --

	U.S. ENVIRONMENTAL PROTECTION AGENCY Cooperative Agreement	GRANT NUMBER (FAIN): 99T42401	DATE OF AWARD
		MODIFICATION NUMBER: 0	09/19/2016
		PROGRAM CODE: DE	MAILING DATE
		TYPE OF ACTION New	09/26/2016
		PAYMENT METHOD: Advance	ACH# 90049
RECIPIENT TYPE: Special District		Send Payment Request to: Las Vegas Finance Center email: lvfc-grants@epa.gov	
RECIPIENT: Bay Area AQMD 375 Beale St., Suite 600 San Francisco, CA 94105 EIN: 94-1622746		PAYEE: Bay Area AQMD 375 Beale St., Suite 600 San Francisco, CA 94105	
PROJECT MANAGER	EPA PROJECT OFFICER	EPA GRANT SPECIALIST	
Damian Breen 375 Beale St., Suite 600 San Francisco, CA 94105 E-Mail: dbreen@baaqmd.gov Phone: 415-749-5041	Angela Latigue 75 Hawthorne Street, AIR-8 San Francisco, CA 94105 E-Mail: latigue.angela@epa.gov Phone: 415-947-4170	Veronica Adams Grants Management Section, EMD-6-1 E-Mail: adams.veronica@epa.gov Phone: 415-972-3677	
PROJECT TITLE AND DESCRIPTION National Clean Diesel Program - Locomotive Replacement This project will target three switcher locomotives operating in goods movement service in Bay Area impacted communities by replacing and deploying three lower-emitting Tier-4 locomotives at the Port of Richmond and Port of San Francisco. This collaborative effort between the Bay Area Air Quality Management District (BAAQMD), Richmond Pacific Railroad Corporation, and the Port of San Francisco will achieve significant emission reductions in the most highly impacted communities in the Bay Area. This assistance agreement provides full federal funding in the amount of \$1,420,263. Pre-award costs have been approved back to 9/15/16.			
BUDGET PERIOD 09/15/2016 - 03/31/2019	PROJECT PERIOD 09/15/2016 - 03/31/2019	TOTAL BUDGET PERIOD COST \$5,698,925.00	TOTAL PROJECT PERIOD COST \$5,698,925.00
NOTICE OF AWARD			
Based on your Application dated 04/20/2016 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$1,420,263. EPA agrees to cost-share 24.92% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$1,420,263. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.			
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)		AWARD APPROVAL OFFICE	
ORGANIZATION / ADDRESS		ORGANIZATION / ADDRESS	
U.S. EPA, Region 9 Grants Management Section, EMD 6-1 75 Hawthorne Street San Francisco, CA 94105		U.S. EPA, Region 9 Air Division, AIR-1 75 Hawthorne Street San Francisco, CA 94105	
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY			
Digital signature applied by EPA Award Official Craig A. Wills - Grants Management Officer			DATE 09/19/2016

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 1,420,263	\$ 1,420,263
EPA In-Kind Amount	\$	\$ 0	\$ 0
Unexpended Prior Year Balance	\$	\$ 0	\$ 0
Other Federal Funds	\$	\$ 0	\$ 0
Recipient Contribution	\$	\$ 3,079,412	\$ 3,079,412
State Contribution	\$	\$ 0	\$ 0
Local Contribution	\$	\$ 0	\$ 0
Other Contribution	\$	\$ 1,199,250	\$ 1,199,250
Allowable Project Cost	\$ 0	\$ 5,698,925	\$ 5,698,925

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.039 - National Clean Diesel Funding Assistance Program (B)	Diesel Emissions Reduction Act of 2010 codified at 42 U.S.C. 16131 et seq.	2 CFR 200 2 CFR 1500 and 40 CFR 33

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
BAAQMD	1609M6S101	16	E4	09M2	102AH4	4122			1,420,263
									1,420,263

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$48,226
2. Fringe Benefits	\$23,236
3. Travel	\$0
4. Equipment	\$5,599,000
5. Supplies	\$0
6. Contractual	\$0
7. Construction	\$0
8. Other	\$0
9. Total Direct Charges	\$5,670,462
10. Indirect Costs: 64.44% Base personnel only	\$28,463
11. Total (Share: Recipient 75.08 % Federal 24.92 %.)	\$5,698,925
12. Total Approved Assistance Amount	\$1,420,263
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$1,420,263
15. Total EPA Amount Awarded To Date	\$1,420,263

Administrative Conditions

EPA General Terms and Conditions

The recipient agrees to comply with the current EPA general terms and conditions available at:

<https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-march-29-2016-or-later>. These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions or restrictions cited throughout the award. The EPA repository for the general terms and conditions by year can be found at

<http://www.epa.gov/grants/grant-terms-and-conditions>.

A. Annual Federal Financial Report (FFR) - SF 425

For awards with cumulative project and budget periods greater than 12 months, the recipient will submit an annual FFR (SF 425) covering the period from "project/budget period start date" to September 30 of each calendar year to the U.S. EPA Las Vegas Finance Center (LVFC). The FFR will be submitted electronically to lvfc-grants@epa.gov no later than December 30 of the same calendar year. The form with instructions can be found on LVFC's website at <http://www2.epa.gov/financial/forms>.

B. Procurement

The recipient will ensure all procurement transactions will be conducted in a manner providing full and open competition consistent with 2 CFR Part 200.319. In accordance 2 CFR Part 200.323 the grantee and subgrantee(s) must perform a cost or price analysis in connection with applicable procurement actions, including contract modifications.

C. Six Good Faith Efforts 40 CFR Part 33, Subpart C

Pursuant to 40 CFR Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

(a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

(b) Make information on forthcoming opportunities available to DBEs and arrange time

frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

(c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

D. Utilization of Disadvantaged Business Enterprises

General Compliance, 40 CFR Part 33

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR Part 33.

Fair Share Objectives, 40 CFR Part 33, Subpart D

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR Section 33.411 some recipients may be exempt from the fair share objective requirements as described in 40 CFR Part 33, Subpart D. Recipients should work with their DBE coordinator if they think their organization may qualify for an exemption.

The dollar amount of this assistance agreement, or the total dollar amount of all of the recipient's financial assistance agreements in the current federal fiscal year from EPA is \$250,000 or more. The recipient accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA by the California State Water Resources Control Board (CSWRCB) as follows:

	MBE	WBE
Construction	2%	1%
Equipment	1%	1%
Services	1%	1%

Supplies

1%

1%

The recipient accepts the fair share objectives/goals stated above and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as CSWRCB.

Negotiating Fair Share Objectives/Goals, Section 33.404

The recipient has the option to negotiate its own MBE/WBE fair share objectives/goals. If the recipient wishes to negotiate its own MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The submission of proposed fair share goals with the supporting analysis or disparity study means that the recipient is **not** accepting the fair share objectives/goals of another recipient. The recipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator, Joe Ochab at Ochab.Joe@epa.gov, within 120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

Contract Administration Provisions, 40 CFR Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR Section 33.302.

Bidders List, 40 CFR Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR Section 33.501 (b) and (c) for specific requirements and exemptions.

E. MBE/WBE Reporting

General Compliance, 40 CFR Part 33, Subpart E – Reporting Condition

MBE/WBE reporting is required annually. Reporting is required for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the "Other" category, that exceed the threshold amount of \$150,000, including amendments and/or modifications.

Based on EPA's review of the planned budget, this award meets the conditions above

and is subject to Disadvantaged Business Enterprise (DBE) Program reporting requirements. Conversely, the recipient must submit to the GrantsRegion9@epa.gov a justification and budget detail within 21 days of the award date demonstrating that this award is not subject to the DBE reporting requirements.

The recipient agrees to complete and submit a "MBE/WBE Utilization under Federal Grants, Cooperative agreements" report (EPA Form 5700-52A) on an annual basis. All procurement actions that are reportable, not just that portion which exceeds \$150,000.

When completing the annual report, recipients are instructed to check the box titled "annual:" in section 1B of the form. For the final report, recipients must check the box indicated for the "last report" of the project in section 1B of the form. Annual reports are due by October 30th of each year. Final reports are due by October 30th or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on total procurements. Recipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

MBE/WBE reports should be sent to GrantsRegion9@epa.gov. The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm.

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in effect, including the Good Faith Effort requirements as described in 40 CFR Part 33, Subpart C, and Fair Share Objectives negotiation as described in 40 CFR Part 33, Subpart D.

F. Indirect Costs

If the recipient does not have a previously established indirect cost rate, it agrees that it will prepare its indirect cost rate proposal and/or cost allocation plan in accordance with the Cost Principles under 2 CFR Part 200, Subpart E. For proposal preparation, the recipient may use the appropriate completeness checklist located at: <http://www.aqd.nbc.gov/services/ICS.aspx>

The local government recipient whose cognizant federal agency has been designated by the Office of Management and Budget (OMB) must develop and submit its indirect cost rate proposal to its cognizant agency within six (6) months after the close of the governmental unit's fiscal year. If the cognizant federal agency has not been identified by the OMB, the local government recipient must still develop (and when required, submit) its proposal within that period.

The interstate agency recipient must send its proposal to its cognizant federal agency within six (6) months after the end of its fiscal year. If EPA is the cognizant federal agency of the interstate agency, local government, or special district, the recipient must send its indirect cost rate proposal within six (6) months after the end of its fiscal year to:

Regular Mail

Office of Grants and Debarment
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW, MC 3903R
Washington, DC 20460
Attn: OGD Indirect Cost Rate Proposal Control Desk

Mail Courier (e.g. FedEx, UPS, etc.)

Office of Grants and Debarment
U.S. Environmental Protection Agency
1300 Pennsylvania Avenue, NW, 5th floor
Washington, DC 20004
Attn: OGD Indirect Cost Rate Proposal Control Desk

Electronic submissions of proposals may be sent via email to OGD_IndirectCost@epa.gov.

Recipients are entitled to reimbursement of indirect costs, subject to any statutory or regulatory administrative cost limitations, if they have a current rate agreement or have submitted an indirect cost rate proposal to their cognizant federal agency for review and approval. Recipients are responsible for maintaining an approved indirect cost rate throughout the life of the award. Recipients may draw down grant funds once a rate has been approved, but only for indirect costs incurred during the period specified in the rate agreement. Recipients are not entitled to indirect costs for any period in which the rate has expired.

Recipients with differences between provisional and final rates are not entitled to more than the award amount. Recipients may request EPA approval to rebudget funds from direct cost categories to the indirect cost category (to grants which have not expired or been closed out) to cover increased indirect costs.

The recipient agrees to comply with the audit requirements prescribed in 2 CFR Part 200, Subpart F, Audits of States, Local Governments, and Non-Profit Organizations.

G. Non-Federal Third-Party Contributions

This award includes \$1,199,250.00 of estimated non-federal third party contributions. Third party contributions counting towards satisfying a cost sharing or matching

requirement must be verifiable from the records of grantees and subgrantees. As applicable, these records must reflect how the value is placed on third party contributions. The value of third party contributions must be applicable to the period to which the cost sharing or matching requirement apply (2 CFR Part 200.306).

Programmatic Conditions

Refer to Attachment A for the FY2016 Clean Diesel Funding Assistance (DERA) Programmatic Terms and Conditions. In addition, the following terms and conditions apply.

FY2016 Clean Diesel Funding Assistance (DERA) Programmatic Terms and Conditions.

The recipient agrees to comply with the **FY2016 Clean Diesel Funding Assistance (DERA) Programmatic Terms and Conditions** available at: [FY2016 National Clean Diesel \(Diesel Emissions Reduction Act\) Programmatic Terms and Conditions](#). These terms and conditions are in addition to any award specific programmatic terms and conditions outlined directly on the award document.



DE99T424010_BAAQMD_Attachment A_91216.pdf

N. Voluntary Cost-Share or Overmatch:

This award in the amount of \$5,698,925, and the resulting federal funding of **\$1,420,263** is based on estimated costs requested in the recipient's final approved workplan. Included in these costs is a voluntary cost-share contribution of \$4,278,662 by the recipient in the form of a voluntary cost-share or overmatch (providing more than any minimum required cost-share) that the recipient included in its final approved workplan. The recipient must provide this voluntary cost-share contribution during performance of this award unless the EPA agrees otherwise in a modification to this agreement. While actual total costs may differ from the estimates in the recipient's application, EPA's participation shall not exceed the total amount of federal funds awarded.

If the recipient fails to provide the voluntary cost-share contribution during the period of award performance, and does not provide a satisfactory explanation, the Agency may consider this factor in evaluating future proposals from the recipient. In addition, if the voluntary cost-share contribution does not materialize during the period of award performance then EPA may reconsider the legitimacy of the award; if EPA determines

that the recipient knowingly or recklessly provided inaccurate information regarding the voluntary cost-share or overmatch the recipient described in its final approved workplan, EPA may take action as authorized by 2 CFR Part 200 and/or 2 CFR Part 180 as applicable.

O. Cybersecurity:

(a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all State or Tribal law cybersecurity requirements as applicable.

(b)(1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure. For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer (PO) no later than 90 days after the date of this award and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

(b)(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR 200.331(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

-- End of Document --

EPA General Terms and Conditions Effective March 29, 2016

1. Introduction

The recipient and any sub-recipient must comply with the applicable EPA general terms and conditions outlined below. These terms and conditions are in addition to the assurances and certifications made as part of the award and terms, conditions or restrictions reflected on the official assistance award document. Recipients **must** review their official award document for additional administrative and programmatic requirements. Failure to comply with the general terms and conditions outlined below and those directly reflected on the official assistance award document may result in enforcement actions as outlined in 2 CFR 200.338 and 200.339.

2. Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards

This award is subject to the requirements of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards; Title 2 CFR, Parts 200 and 1500. 2 CFR 1500.1, Adoption of 2 CFR 200, states Environmental Protection Agency adopts the Office of Management and Budget (OMB) guidance Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to Non-Federal Entities (subparts A through F of 2 CFR 200), as supplemented by 2 CFR Part 1500, as the Environmental Protection Agency (EPA) policies and procedures for financial assistance administration. 2 CFR Part 1500 satisfies the requirements of 2 CFR 200.110(a) and gives regulatory effect to the OMB guidance as supplemented by 2 CFR Part 1500. This award is also subject to applicable requirements contained in EPA programmatic regulations located in 40 CFR Chapter 1 Subchapter B.

2.1. Implementing Procurement Standards. (Updated 7/26/16) Per 2 CFR 200.110, there is a two-year grace period available to non-Federal entities for implementation of the procurement standards in 2 CFR 200.317 through 200.326. As detailed in the 2015 OMB Compliance Supplement, non-Federal entities choosing to delay implementation will need to specify in their documented policies and procedures that they continue to comply with 40 CFR Part 30 or 31, as applicable, for two additional fiscal years which begins after December 26, 2014.

2.2. Effective Date and Incremental or Supplemental Funding. Consistent with the OMB Frequently Asked Questions at <https://cfo.gov/cofar> on Effective Date and Incremental Funding, any new funding through an amendment (supplemental or incremental) on or after December 26, 2014, and any unobligated balances (defined at 200.98) remaining on the award at the time of the amendment, will be subject to the requirements of the Uniform Administrative Requirements, Cost Principles and Audit Requirements (2 CFR 200 and 1500).

Financial Information

3. Reimbursement Limitation

EPA's financial obligations to the recipient are limited by the amount of federal funding awarded to date as reflected on the award document. If the recipient incurs costs in anticipation of receiving additional funds from EPA, it does so at its own risk. See 2 CFR 1500.8

4. Payment Methods

The Debt Collection Improvement Act of 1996 requires that Federal payments be made by electronic funds transfer. In order to comply with the Act, a recipient must receive payments via one of two electronic methods available to them:

- 4.1. Automated Standard Application for Payments (ASAP) (Updated 6/27/16).** The ASAP system is the preferred method of payment for EPA grantees. ASAP enrollment is highly encouraged for organizations that have multiple grants/cooperative agreements and for those with a frequent need to request funds. If the recipient uses multiple bank accounts for EPA grants/cooperative agreements, the recipient must enroll in ASAP. To enroll in ASAP, please complete the ASAP Initiate Enrollment form located at: <http://www2.epa.gov/financial/forms> and email it to LVFC-grants@epa.gov or mail it to:
- USEPA LVFC
4220 S. Maryland Pkwy
Bldg C, Suite 503
Las Vegas, NV 89119

Under this payment mechanism, the recipient initiates an electronic payment request online via ASAP, which is approved or rejected based on the amount of available funds authorized by EPA in the recipient's ASAP account. Approved funds are credited to the account at the financial institution of the recipient organization identified on the recipient's ASAP enrollment application. Additional information concerning ASAP and enrollment can be obtained by contacting the EPA Las Vegas Finance Center, at 702-798-2485, or by visiting: www.fms.treas.gov/asap.

4.2. Electronic Funds Transfer (EFT).

Under this payment mechanism, the EPA Las Vegas Finance Center will obtain the recipient's banking information from the System for Award Management (SAM). Once the agreement is awarded and no restrictions are identified by the awarding office, a Las Vegas Finance Center Representative will send the recipient an email message with the EFT Control Number and payment information. Additional information concerning EFT can be obtained by contacting the EPA Las Vegas Finance Center at 702-798-2485, or by visiting: <http://www2.epa.gov/financial/grants>.

NOTE: If the banking information is not correct or changes at any time prior to the end of this agreement, the recipient must update the organization's SAM registration and notify the EPA Las Vegas Finance Center as soon as possible. This is vital to ensure proper and timely deposit of funds.

5. Payment Drawdown

The recipient agrees to draw cash only as needed for its disbursement. Failure on the part of the recipient to comply with this condition may cause the undisbursed portions of the assistance agreement to be revoked or financing method changed to a reimbursable basis.

Selected Items of Cost

6. Consultant Cap

EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule, available at: <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>, to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices).

Subagreements with firms for services which are awarded using the procurement requirements in Subpart D of 2 CFR 200 are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See 2 CFR 1500.9.

7. Establishing and Managing Subawards (modified 3/29/16)

If the recipient chooses to pass funds from this assistance agreement to other entities, the recipient must comply with applicable provisions of 2 CFR Part 200 and the EPA Subaward Policy, which may be found at <https://epa.gov/grants/epa-subaward-policy>.

As a pass-through entity, the recipient agrees to:

7.1. Be responsible for selecting subrecipients and as appropriate conducting subaward competitions using a system for properly differentiating between subrecipients and procurement contractors under the standards at 2 CFR 200.330 and EPA's supplemental guidance in Appendix A of the EPA Subaward Policy.

a. For-profit organizations and individual consultants, in almost all cases, are not eligible subrecipients under EPA financial assistance programs and the pass-through entity must obtain prior written approval from EPA's Award Official for subawards to these entities unless the EPA-approved budget and work plan for this agreement contain a precise description of such subawards.

b. Stipends and travel assistance for trainees (including interns) and similar individuals who are not employees of the pass-through entity must be classified as participant support costs rather than subawards as required by 2 CFR 200.75 and 2 CFR 200.92.

7.2. Establish and follow a system that ensures all subaward agreements are in writing and contain all of the elements required by 2 CFR 200.331(a). EPA has developed a template for subaward agreements that is available in Appendix D of the EPA Subaward Policy.

7.3. Prior to making subawards, ensure that each subrecipient has a "unique entity identifier." This identifier is required for registering in the System for Award Management (SAM) and by 2 CFR Part 25 and 2 CFR 200.331(a)(1). The unique entity identifier currently is the subrecipient's Data Universal Numbering System (DUNS) number. Information regarding obtaining a DUNS number and registering in SAM is available in the General Condition of the pass-through entity's agreement with EPA entitled "**Central Contractor Registration/System for Award Management and Universal Identifier Requirements**" T&C of the pass-through entity's agreement with the EPA.

7.4. Ensure that subrecipients are aware that they are subject to the same requirements as those that apply to the pass-through entity's EPA award as required by 2 CFR 200.331(a)(2). These requirements include, among others:

a. Title VI of the Civil Rights Act and other Federal statutes and regulations prohibiting discrimination in Federal financial assistance programs, as applicable.

b. Reporting Subawards and Executive Compensation under Federal Funding Accountability and Transparency Act (FFATA) set forth in the General Condition pass-through entity's agreement with EPA entitled "**Reporting Subawards and Executive Compensation.**"

c. Limitations on individual consultant fees as set forth in 2 CFR 1500.9 and the General Condition of the pass-through entity's agreement with EPA entitled "**Consultant Fee Cap.**"

d. EPA's prohibition on paying management fees as set forth in General Condition of the pass-through entity's agreement with EPA entitled "**Management Fees.**"

e. The Procurement Standards in 2 CFR Part 200 including those requiring competition when the subrecipient acquires goods and services from contractors (including consultants).

EPA provides general information on other statutes, regulations and Executive Orders on the Grants internet site at www.epa.gov/grants. Many Federal requirements are agreement or program specific and EPA

encourages pass-through entities to review the terms of their assistance agreement carefully and consult with their EPA Project Officer for advice if necessary.

7.5. Establish and follow a system for evaluating subrecipient risks of noncompliance with Federal statutes, regulations and the terms and conditions of the subaward as required by 2 CFR 200.331(b) and document the evaluation. Risk factors may include:

- a. Prior experience with same or similar subawards;
- b. Results of previous audits;
- c. Whether new or substantially changed personnel or systems, and;
- d. Extent and results of Federal awarding agency or the pass-through entity's monitoring.

7.6. Establish and follow a process for deciding whether to impose additional requirements on subrecipients based on risk factors as required by 2 CFR 200.331(c). Examples of additional requirements authorized by 2 CFR 200.207 include:

- a. Requiring payments as reimbursements rather than advance payments;
- b. Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
- c. Requiring additional, more detailed financial reports;
- d. Requiring additional project monitoring;
- e. Requiring the non-Federal entity to obtain technical or management assistance, and
- f. Establishing additional prior approvals.

7.7. Establish and follow a system for monitoring subrecipient performance that includes the elements required by 2 CFR 200.331(d) and report the results of the monitoring in performance reports as provided in the reporting terms and conditions of this agreement.

7.8. Establish and maintain an accounting system which ensures compliance with the \$25,000 limitation at 2 CFR 200.68 on including subaward costs in Modified Total Direct Cost for the purposes of distributing indirect costs.

7.9. Work with EPA's Project Officer to obtain the written consent of EPA's Office of International and Tribal Affairs (OITA), prior to awarding a subaward to a foreign or international organization, or a subaward to be performed in a foreign country even if that subaward is described in a proposed scope of work.

7.10. Obtain written approval from EPA's Award Official for any subawards that are not described in the approved work plan in accordance with 2 CFR Part 200.308.

7.11. Obtain the written approval of EPA's Award Official prior to awarding a subaward to an individual if the EPA-approved scope of work does not include a description of subawards to individuals.

7.12. Establish and follow written procedures under 2 CFR 200.302(b)(7) for determining that subaward costs are allowable in accordance with 2 CFR Part 200, Subpart E and the terms and conditions of this award. These procedures may provide for allowability determinations on a pre-award basis, through ongoing monitoring of costs that subrecipients incur, or a combination of both approaches provided the pass-through entity documents its determinations.

7.13. Establish and maintain a system under 2 CFR 200.331(d)(3) and 2 CFR 200.521(c) for issuing management decisions for audits of subrecipients that relate to Federal awards. However, the recipient remains accountable to EPA for ensuring that unallowable subaward costs initially paid by EPA are reimbursed or mitigated through offset with allowable costs whether the recipient recovers those costs from the subrecipient or not.

7.14. As provided in 2 CFR 200.332, pass-through entities must obtain EPA approval to make fixed amount subawards. EPA is restricting the use of fixed amount subawards to a limited number of situations that are

authorized in official EPA pilot projects. Recipients should consult with their EPA Project Officer regarding the status of these pilot projects.

By accepting this award, the recipient is certifying that it either has systems in place to comply with the requirements described in Items 7.1 through 7.14 above or will refrain from making subawards until the systems are designed and implemented.

8. Management Fees

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses; unforeseen liabilities; or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

Reporting and Additional Post-Award Requirements

9. Central Contractor Registration/System for Award Management and Universal Identifier Requirements

9.1. Requirement for System for Award Management (SAM) Unless exempted from this requirement under 2 CFR 25.110, the recipient must maintain the currency of the organization's information in SAM until the submittal of the final financial report required under this award or receipt of the final payment, whichever is later. This requires that the recipient reviews and updates the information at least annually after the initial registration, and more frequently if required by changes in the information or another award term.

9.2. Requirement for Data Universal Numbering System (DUNS) numbers. If the recipient is authorized to make subawards under this award, the recipient:

9.2.1. Must notify potential subrecipients that no entity (definition paragraph 9.3 of this award term) may receive a subaward unless the entity has provided its DUNS number.

9.2.2. May not make a subaward to an entity unless the entity has provided its DUNS number.

9.3. Definitions. For the purposes of this award term:

9.3.1. System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the System for Award Management (SAM) Internet site: <https://www.sam.gov>.

9.3.2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).

9.3.3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:

9.3.3.1. A Governmental organization, which is a State, local government, or Indian tribe;

9.3.3.2. A foreign public entity;

9.3.3.3. A domestic or foreign nonprofit organization;

9.3.3.4. A domestic or foreign for-profit organization; and

9.3.3.5. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

9.3.4. Subaward:

9.3.4.1. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which the recipient received this award and that the recipient awards to an eligible subrecipient.

9.3.4.2. The term does not include procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200 Subpart D).

9.3.4.3. A subaward may be provided through any legal agreement, including an agreement that the recipient considers a contract.

9.3.5. Subrecipient means an entity that:

9.3.5.1. Receives a subaward from the recipient under this award; and

9.3.5.2. Is accountable to the recipient for the use of the Federal funds provided by the subaward.

10. Reporting Subawards and Executive Compensation

10.1. Reporting of first-tier subawards.

10.1.1. **Applicability.** Unless the recipient is exempt as provided in paragraph 10.4. of this award term, the recipient must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph 10.5 of this award term).

10.1.2. **Where and when to report.** (1) The recipient must report each obligating action described in paragraph 10.1.1 of this award term to www.fsrs.gov. (2) For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on any date during the month of November of a given year, the obligation must be reported by no later than December 31 of that year.)

10.1.3. **What to report.** The recipient must report the information about each obligating action as described in the submission instructions available at: <http://www.fsrs.gov>.

10.2. Reporting Total Compensation of Recipient Executives.

10.2.1. **Applicability and what to report.** The recipient must report total compensation for each of their five most highly compensated executives for the preceding completed fiscal year, if:

10.2.1.1. the total Federal funding authorized to date under this award is \$25,000 or more;

10.2.1.2. in the preceding fiscal year, the recipient received:(i.) 80 percent or more of their annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); (ii.) and \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

10.2.1.3. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

10.2.2. **Where and when to report.** The recipient must report executive total compensation described in paragraph 10.2.1 of this award term: (i.) As part of the registration Central System for Award Management profile available at www.sam.gov. (ii.) By the end of the month following the month in which this award is made, and annually thereafter.

10.3. Reporting of Total Compensation of Subrecipient Executives.

10.3.1. **Applicability and what to report.** Unless exempt as provided in paragraph 10.4. of this award term, for each first-tier subrecipient under this award, the recipient shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if:

10.3.1.1. in the subrecipient's preceding fiscal year, the subrecipient received: (i) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and (ii.) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

10.3.1.2. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

10.3.2. Where and when to report. The recipient must report subrecipient executive total compensation described in paragraph 10.3.1. of this award term:

10.3.2.1. To the recipient.

10.3.2.2. By the end of the month following the month during which the recipient makes the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), the recipient must report any required compensation information of the subrecipient by November 30 of that year.

10.4. Exemptions

10.4.1. If, in the previous tax year, the recipient had gross income, from all sources, under \$300,000, the recipient is exempt from the requirements to report:

10.4.1.1. subawards, and the total compensation of the five most highly compensated executives of any subrecipient.

10.5. Definitions. For purposes of this award term:

10.5.1. Entity means all of the following, as defined in 2 CFR Part 25: (i.) A Governmental organization, which is a State, local government, or Indian tribe; (ii.) A foreign public entity; (iii.) A domestic or foreign nonprofit organization; (iv.) A domestic or foreign for-profit organization; (v.) A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

10.5.2. Executive means officers, managing partners, or any other employees in management positions.

10.5.3. Subaward:

10.5.3.1. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that the recipient award to an eligible subrecipient.

10.5.3.2. The term does not include procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200 Subpart D).

10.5.3.3. A subaward may be provided through any legal agreement, including an agreement that the recipient or a subrecipient considers a contract.

10.5.4. Subrecipient means an entity that:

10.5.4.1. Receives a subaward from the recipient under this award; and

10.5.4.2. Is accountable to the recipient for the use of the Federal funds provided by the subaward.

10.5.5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

10.5.5.1. Salary and bonus.

10.5.5.2. Awards of stock, stock options and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

- 10.5.5.3. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- 10.5.5.4. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- 10.5.5.5. Above-market earnings on deferred compensation which is not tax-qualified.
- 10.5.5.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

11. Recipient Integrity and Performance Matters - Reporting of Matters Related to Recipient Integrity and Performance (added 1/27/2016)

11.1. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

11.2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

- 11.2.1. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- 11.2.2. Reached its final disposition during the most recent five year period; and
- 11.2.3. Is one of the following:
 - 11.2.3.1. A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
 - 11.2.3.2. A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - 11.2.3.3. An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
 - 11.2.3.4. Any other criminal, civil, or administrative proceeding if:
 - 11.2.3.4.1. It could have led to an outcome described in paragraph 11.2.3.1, 11.2.3.2, or 11.2.3.3 of this award term and condition;
 - 11.2.3.4.2. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
 - 11.2.3.4.3. The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

11.3. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

11.4. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 11.1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no

new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

11.5. Definitions

For purposes of this award term and condition:

11.5.1. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings; Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

11.5.2. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

11.5.3. Total value of currently active grants, cooperative agreements, and procurement contracts includes—

11.5.3.1. Only the Federal share of the funding under any Federal award with a recipient cost share or match; and

11.5.3.2. The value of all expected funding increments under a Federal award and options, even if not yet exercised.

12. Federal Financial Reporting (FFR) (Updated 7/28/16)

Pursuant to 2 CFR 200.327 and 200.343, EPA recipients must submit the Federal Financial Report (SF-425) at least annually and no more frequently than quarterly. EPA's standard reporting frequency is annual unless an EPA Region has included an additional term and condition specifying greater reporting frequency within this award document. EPA recipients must submit the SF-425 no later than 30 days after the end of each specified reporting period for quarterly and semi-annual reports, and 90 calendar days for annual and final reports. Extension of reporting due dates may be approved by EPA upon request of the recipient. The FFR form is available on the internet at:

<http://www2.epa.gov/financial/forms>. All FFRs must be submitted to the Las Vegas Finance Center (LVFC) via email LVFC-grants@epa.gov or mail it to:

USEPA LVFC
4220 S. Maryland
Pkwy Bldg C, Suite
503
Las Vegas, NV 89119

The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement.

13. Indirect Cost Rate Agreements

Recipients are entitled to reimbursement of indirect costs, subject to any statutory or regulatory administrative cost limitations, if they have a current Federally-approved indirect cost rate agreement or have submitted an indirect cost rate proposal to their cognizant federal agency for review and approval and a final rate has been determined by the cognizant agency. Recipients are responsible for maintaining an approved indirect cost rate for the life of the award. Recipients with differences between their provisional rates and final rates are not entitled to more than the award amount, without prior approval from EPA.

14. Audit Requirements (modified 1/27/16)

In accordance with 2 CFR 200.501(a), the recipient hereby agrees to obtain a single audit from an

independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year beginning on or after December 26, 2014.

The recipient must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the recipient's fiscal year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse's Internet Data Entry System available at: [https://harvester.census.gov/facides/\(S\(3wauez2yufokbe3engv0dtek\)\)/account/login.aspx](https://harvester.census.gov/facides/(S(3wauez2yufokbe3engv0dtek))/account/login.aspx). For complete information on how to accomplish the single audit submissions, you will need to visit the Federal Audit Clearinghouse Web site: <https://harvester.census.gov/facweb/Default.aspx>.

15. Closeout Requirements

Reports required for closeout of the assistance agreement must be submitted in accordance with this agreement. Submission requirements and frequently asked questions can also be found at <http://www2.epa.gov/grants/frequently-asked-questions-about-closeout-information>.

16. Suspension and Debarment

Recipients shall fully comply with Subpart C of 2 CFR Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business with Other Persons," as implemented and supplemented by 2 CFR Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart

C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information required under 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Recipients may access suspension and debarment information at: <http://www.sam.gov>. This system allows recipients to perform searches determining whether an entity or individual is excluded from receiving Federal assistance. This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

17. Disclosing Conflict of Interests

17.1. For awards to Non-federal entities and individuals (other than states and fellowship recipients under 40 CFR Part 46).

As required by 2 CFR 200.112, EPA has established a policy (COI Policy) for disclosure of conflicts of interest (COI) that may affect EPA financial assistance awards. EPA's COI Policy is posted at <http://www2.epa.gov/grants/epas-financial-assistance-conflict-interest-policy>. The posted version of EPA's COI Policy is applicable to new funding (initial awards, supplemental and incremental funding) awarded on or after October 1, 2015. This COI term and condition supersedes prior COI terms and conditions for this award based on either EPA's May 22, 2015 Revised Interim COI Policy or December 26, 2014 Interim COI Policy.

For competitive awards, recipients must disclose any competition related COI described in section 4.0(a) of the COI Policy that are discovered after award to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of discovery of the COI. The Grant Specialist will respond to any such disclosure within 30 calendar days.

EPA's COI Policy requires that recipients have systems in place to address, resolve and

disclose to EPA COIs described in sections 4.0(b), (c) and/or (d) of the COI Policy that affect any contract or subaward regardless of amount funded under this award. The recipient's COI Point of Contact for the award must disclose any COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of the discovery of the potential COI and their approach for resolving the COI.

EPA's COI Policy requires that subrecipients have systems in place to address, resolve and disclose COI's described in section 4.0(b)(c) and (d) of the COI Policy regardless of the amount of the transaction. Recipients who are pass-through entities as defined at 2 CFR 200.74 must require that subrecipients being considered for or receiving subawards disclose COI to the pass-through entities in a manner that, at a minimum, is in accordance with sections 5.0(d) and 7.0(c) of EPA's COI Policy. Pass-through entities must disclose the subrecipient COI along with the approach for resolving the COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of receiving notification of the COI by the subrecipient.

EPA only requires that recipients and subrecipients disclose COI's that are discovered under their systems for addressing and resolving COI. If recipients or subrecipients do not discover a COI, they do not need to advise EPA or the pass-through entity of the absence of a COI.

Upon notice from the recipient of a potential COI and the approach for resolving it, the Agency will then make a determination regarding the effectiveness of these measures within 30 days of receipt of the recipient's notice unless a longer period is necessary due to the complexity of the matter. Recipients may not request payment from EPA for costs for transactions subject to the COI pending notification of EPA's determination. Failure to disclose a COI may result in cost disallowances.

Disclosure of a potential COI will not necessarily result in EPA disallowing costs, with the exception of procurement contracts that the Agency determines violate 2 CFR 200.318(c)(1) or (2), provided the recipient notifies EPA of measures the recipient or subrecipient has taken to eliminate, neutralize or mitigate the conflict of interest when making the disclosure.

17.2. For awards to states including state universities that are state agencies or

instrumentalities As required by 2 CFR 200.112, EPA has established a policy (COI Policy) for disclosure of conflicts of interest (COI) that may affect EPA financial assistance awards.

EPA's COI Policy is posted at

<http://www2.epa.gov/grants/epas-financial-assistance-conflict-interest-policy>. The posted version of EPA's COI Policy is applicable to new funding (initial awards, supplemental, incremental funding) awarded on or after October 1, 2015. This COI term and condition supersedes prior COI terms and conditions for this award based on either EPA's May 22, 2015 Revised Interim COI Policy or December 26, 2014 Interim COI Policy.

For competitive awards, recipients must disclose any competition related COI described in section 4.0(a) of the COI Policy that are discovered after award to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of discovery of the COI. The Grant Specialist will respond to any such disclosure within 30 calendar days.

States including state universities that are state agencies and instrumentalities receiving funding from EPA are only required to disclose subrecipient COI as a pass-through entity as defined by 2 CFR 200.74. Any other COI are subject to state laws, regulations and policies. EPA's COI Policy requires that subrecipients have systems in place to address, resolve and disclose COIs described in

section 4.0(b)(c) and (d) of the COI Policy that arise after EPA made the award regardless of the amount of the transaction. States who are pass-through entities as defined at 2 CFR 200.74 must require that subrecipients being considered for or receiving subawards disclose COI to the state in a manner that, as a minimum, in accordance with sections 5.0(d) and 7.0(c) of EPA's COI Policy. States must disclose the subrecipient COI along with the approach for resolving the COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of receiving notification of the COI by the subrecipient.

EPA only requires that subrecipients disclose COI's to state pass-through entities that are discovered under their systems for addressing, resolving, and disclosing COI. If subrecipients do not discover a COI, they do not need to advise state pass-through entities of the absence of a COI.

Upon receiving notice of a potential COI and the approach for resolving it, the Agency will make a determination regarding the effectiveness of these measures within 30 days of receipt of the state's notice of a subrecipient COI unless a longer period is necessary due to the complexity of the matter. States may not request payment from EPA for costs for transactions subject to the COI pending notification of EPA's determination. A subrecipient's failure to disclose a COI to the state and EPA may result in cost disallowances.

Disclosure of a potential subrecipient COI will not necessarily result in EPA disallowing costs, with the exception of procurement contracts that the Agency determines violate 2 CFR 200.318(c)(1) or (2), provided the subrecipient has taken measures that EPA and the state agree eliminate, neutralize or mitigate the conflict of interest.

Programmatic General Terms and Conditions

18. Sufficient Progress

EPA will measure sufficient progress by examining the performance required under the workplan in conjunction with the milestone schedule, the time remaining for performance within the project period and/or the availability of funds necessary to complete the project. EPA may terminate the assistance agreement for failure to ensure reasonable completion of the project within the project period.

19. Copyrighted Material and Data

In accordance with 2 CFR 200.315, EPA has the right to reproduce, publish, use and authorize others to reproduce, publish and use copyrighted works or other data developed under this assistance agreement for Federal purposes.

Examples of a Federal purpose include but are not limited to: (1) Use by EPA and other Federal employees for official Government purposes; (2) Use by Federal contractors performing specific tasks for the Government; (3) Publication in EPA documents provided the document does not disclose trade secrets (e.g. software codes) and the work is properly attributed to the recipient through citation or otherwise; (4) Reproduction of documents for inclusion in Federal depositories; (5) Use by State, tribal and local governments that carry out delegated Federal environmental programs as "co-regulators" or act as official partners with EPA to carry out a national environmental program within their jurisdiction and; (6) Limited use by other grantees to carry out Federal grants provided the use is consistent with the terms of EPA's authorization to the other grantee to use the copyrighted works or other data.

Under Item 6, the grantee acknowledges that EPA may authorize another grantee(s) to use the copyrighted works or other data developed under this grant as a result of:

- the selection of another grantee by EPA to perform a project that will involve the use of the copyrighted works or other data or;
- termination or expiration of this agreement.

In addition, EPA may authorize another grantee to use copyrighted works or other data developed with Agency funds provided under this grant to perform another grant when such use promotes efficient and effective use of Federal grant funds.

20. Patents and Inventions

Rights to inventions made under this assistance agreement are subject to federal patent and licensing regulations, which are codified at Title 37 CFR Part 401 and Title 35 USC Sections 200-212.

Pursuant to the Bayh-Dole Act (set forth in 35 USC 200-212), EPA retains the right to a worldwide, nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention owned by the assistance agreement holder, as defined in the Act. To streamline the invention reporting process and to facilitate compliance with the Bayh-Dole Act, the recipient must utilize the Interagency Edison extramural invention reporting system at <http://iEdison.gov>. Annual utilization reports must be submitted through the system. The recipient is required to notify the Project Officer identified on the award document when an invention report, patent report, or utilization report is filed at <http://iEdison.gov>. EPA elects not to require the recipient to provide a report prior to the close-out of a funding agreement listing all subject inventions or stating that there were none.

In accordance with Executive Order 12591, as amended, government owned and operated laboratories can enter into cooperative research and development agreements with other federal laboratories, state and local governments, universities, and the private sector, and license, assign, or waive rights to intellectual property "developed by the laboratory either under such cooperative research or development agreements and from within individual laboratories."

21. Acknowledgement Requirements for Non-ORD Assistance Agreements

The recipient agrees that any reports, documents, publications or other materials developed for public distribution supported by this assistance agreement shall contain the following statement:

"This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient). The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the EPA endorse trade names or recommend the use of commercial products mentioned in this document."

Recipients of EPA Office of Research Development (ORD) research awards must follow the acknowledgement requirements outlined in the research T&Cs available at: <http://www.nsf.gov/awards/managing/rtc.jsp>. A Federal-wide workgroup is currently updating the Federal-Wide Research Terms and Conditions Overlay to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards and when completed recipients of EPA ORD research must abide by the research T&Cs.

22. Electronic and Information Technology Accessibility

Recipients are subject to the program accessibility provisions of Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7, which includes an obligation to provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology ("EIT"). In compliance with Section 504, EIT systems or products funded by this award must be designed to meet the diverse needs of users (e.g., U.S. public, recipient personnel) without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology. At this time, the EPA will consider a recipient's websites, interactive tools, and other EIT as being in compliance with Section 504 if such technologies meet standards established under Section 508 of the Rehabilitation Act, codified at 36 CFR Part 1194. While Section 508 does not apply directly to grant recipients, we encourage recipients to follow either the 508 guidelines or other comparable guidelines that concern accessibility to EIT for

individuals with disabilities.

Recipients may wish to consult the latest Section 508 guidelines issued by the U.S. Access Board or W3C's Web Content Accessibility Guidelines (WCAG) 2.0 (see <http://www.access-board.gov/sec508/guide/index.htm>).

23. Human Subjects (added 3/29/16)

Human subjects research is any activity that meets the regulatory definitions of both research AND human subject. *Research* is a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge. *Human subject* means a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information. [40 CFR 26.102 (d)(f)]

No research involving human subjects will be conducted under this agreement without prior written approval of the EPA to proceed with that research. If engaged in human subjects research as part of this agreement, the recipient agrees to comply with all applicable provisions of EPA Regulation 40 CFR 26 (Protection of Human Subjects). This includes, at Subpart A, the Basic Federal Policy for the Protection of Human Research Subjects, also known as the Common Rule. It also includes, at Subparts B, C, and D, prohibitions and additional protections for children, nursing women, pregnant women, and fetuses in research conducted or supported by EPA.

The recipient further agrees to comply with EPA's procedures for oversight of the recipient's compliance with 40 CFR 26, as given in EPA Order 1000.17 Change A1 (Policy and Procedures on Protection of Human Research Subjects in EPA Conducted or Supported Research). As per this order, no human subject may be involved in any research conducted under this assistance agreement, including recruitment, until the research has been approved or determined to be exempt by the EPA Human Subjects Research Review Official (HSRRO) after review of the approval or exemption determination of the Institutional Review Board(s) (IRB(s)) with jurisdiction over the research under 40 CFR 26.

For HSRRO approval, the recipient must forward to the Project Officer: (1) copies of all documents upon which the IRB(s) with jurisdiction based their approval(s) or exemption determination(s), (2) copies of the IRB approval or exemption determination letter(s), (3) copy of the IRB-approved consent forms and subject recruitment materials, if applicable, and (4) copies of all supplementary IRB correspondence.

Following the initial approvals indicated above, the recipient must, as part of the annual report(s), provide evidence of continuing review and approval of the research by the IRB(s) with jurisdiction, as required by 40 CFR 26.109(e). Materials submitted to the IRB(s) for their continuing review and approval are to be provided to the Project Officer upon IRB approval. During the course of the research, investigators must promptly report any unanticipated problems involving risk to subjects or others according to requirements set forth by the IRB. In addition, any event that is significant enough to result in the removal of the subject from the study should also be reported to the Project Officer, even if the event is not reportable to the IRB of record.

24. Light Refreshments and/or Meals

Unless the event(s) and all of its components are described in the approved workplan, the recipient agrees to obtain prior approval from EPA for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops and outreach activities (events). The recipient must send requests for approval to the EPA Project Officer and include:

- (1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s);

- (2) A description of the purpose, agenda, location, length and timing for the event; and
- (3) An estimated number of participants in the event and a description of their roles.

Recipients may address questions about whether costs for light refreshments, and meals for events may be allowable to the recipient's EPA Project Officer; however, the Agency Award Official or Grant Management Officer will make final determinations on allowability. Agency policy prohibits the use of EPA funds for receptions, banquets and similar activities that take place after normal business hours unless the recipient has provided a justification that has been expressly approved by EPA's Award Official or Grants Management Officer.

Note: U.S. General Services Administration regulations define light refreshments for morning, afternoon or evening breaks to include, but not be limited to, coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips, or muffins. (41 CFR 301-74.7)

25. Tangible Personal Property

25.1 Reporting Pursuant to 2 CFR 200.312 and 200.314, property reports, if applicable, are required for Federally-owned property in the custody of a non-Federal entity upon completion of the Federal award or when the property is no longer needed. Additionally, upon termination or completion of the project, residual unused supplies with a total aggregate fair market value exceeding \$5,000 not needed for any other Federally-sponsored programs or projects must be reported. For Superfund awards under Subpart O, refer to 40 CFR 35.6340 and 35.6660 for property reporting requirements. Recipients should utilize the Tangible Personal Property Report form series (SF-428) to report tangible personal property.

25.2 Disposition

25.2.1 Most Recipients. Consistent with 2 CFR 200.313, unless instructed otherwise on the official award document or this award term, the recipient may keep the equipment and continue to use it on the project originally funded through this assistance agreement or on other federally funded projects whether or not the project or program continues to be supported by Federal funds.

25.2.2 State Agencies. Per 2 CFR 200.313(b), state agencies may manage and dispose of equipment acquired under this assistance agreement in accordance with state laws and procedures.

25.2.3 Superfund Recipients. Equipment purchased under Superfund projects is subject to specific disposal options in accordance with 40 CFR Part 35.6345.

Public Policy Requirements

26. Civil Rights Obligations

This term and condition incorporates by reference the signed assurance provided by the recipient's authorized representative on: 1) EPA Form 4700-4, "Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance"; and 2) Standard Form 424B or Standard Form 424D, as applicable.

These assurances and this term and condition obligate the recipient to comply fully with applicable civil rights statutes and implementing EPA regulations.

a. Statutory Requirements

- i. In carrying out this agreement, the recipient must comply with:
 1. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on

- race, color, and national origin, including limited English proficiency (LEP), by entities receiving Federal financial assistance.
 - 2. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities by entities receiving Federal financial assistance; and
 - 3. The Age Discrimination Act of 1975, which prohibits age discrimination by entities receiving Federal financial assistance.
- ii. If the recipient is conducting an education program under this agreement, it must also comply with:
- 1. Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities operated by entities receiving Federal financial assistance.
- iii. If this agreement is funded with financial assistance under the Clean Water Act (CWA), the recipient must also comply with:
- 1. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex in CWA-funded programs or activities.

b. Regulatory Requirements

- i. The recipient agrees to comply with all applicable EPA civil rights regulations, including:
 - 1. For Title IX obligations, 40 C.F.R. Part 5; and
 - 2. For Title VI, Section 504, Age Discrimination Act, and Section 13 obligations, 40 CFR Part 7.
 - 3. As noted on the EPA Form 4700-4 signed by the recipient's authorized representative, these regulations establish specific requirements including maintaining compliance information, establishing grievance procedures, designating a Civil Rights Coordinator and providing notices of non-discrimination.

c. TITLE VI – LEP, Public Participation and Affirmative Compliance Obligation

- i. As a recipient of EPA financial assistance, you are required by Title VI of the Civil Rights Act to provide meaningful access to LEP individuals. In implementing that requirement, the recipient agrees to use as a guide the Office of Civil Rights (OCR) document entitled "Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons." The guidance can be found at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2004_register&docid=fr25jn04-79.pdf.
- ii. If the recipient is administering permitting programs under this agreement, the recipient agrees to use as a guide OCR's Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs. The Guidance can be found at <http://edocket.access.gpo.gov/2006/pdf/06-2691.pdf>.
- iii. In accepting this assistance agreement, the recipient acknowledges it has an affirmative obligation to implement effective Title VI compliance programs and ensure that its actions do not involve discriminatory treatment and do not have discriminatory effects even when facially neutral. The recipient must be prepared to demonstrate to EPA that such compliance programs exist and are being implemented or to otherwise demonstrate how it is meeting its Title VI obligations.

27. Drug-Free Workplace (Link updated 8/9/16)

The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 2 CFR Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization must identify

all known workplaces under its federal awards, and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provisions set forth in Title 2 CFR Part 1536 Subpart C.

The consequences for violating this condition are detailed under Title 2 CFR Part 1536 Subpart E. Recipients can access the Code of Federal Regulations (CFR) Title 2 Part 1536 at www.ecfr.gov/.

28. Hotel-Motel Fire Safety (Link updated 8/9/16)

Pursuant to 15 USC 2225a, the recipient agrees to ensure that all space for conferences, meetings, conventions or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel- Motel National Master List at <https://apps.usfa.fema.gov/hotel/> to see if a property is in compliance, or to find other information about the Act.

29. Lobbying and Litigation (modified 3/29/16)

a. All Recipients.

- i. The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the U.S. unless authorized under existing law. The recipient shall abide by the Cost Principles available at 2 CFR 200 which generally prohibits the use of federal grant funds for litigation against the U.S. or for lobbying or other political activities.
- ii. The recipient agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying. The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000, and require that subrecipients submit certification and disclosure forms accordingly.
- iii. In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
- iv. Contracts awarded by a recipient shall contain, when applicable, the anti-lobbying provision as stipulated in the Appendix II to Part 200—Contract Provisions for Non- Federal Entity Contracts Under Federal Awards.
- v. Pursuant to Section 18 of the Lobbying Disclosure Act, the recipient affirms that it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a nonprofit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act. Nonprofit organizations exempt from taxation under section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are ineligible for EPA subawards.

30. Recycled Paper

When directed to provide paper documents, the recipient agrees to use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA.

31. Resource Conservation and Recovery Act

Consistent with goals of section 6002 of RCRA (42 U.S.C. 6962), State and local institutions of higher education, hospitals and non-profit organization recipients agree to give preference in procurement

programs to the purchase of specific products containing recycled materials, as identified in 40 CFR Part 247.

Consistent with section 6002 of RCRA (42 U.S.C. 6962) and 2 CFR 200.322, State agencies or agencies of a political subdivision of a State and its contractors are required to purchase certain items made from recycled materials, as identified in 40 CFR Part 247, when the purchase price exceeds \$10,000 during the course of a fiscal year or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. Pursuant to 40 CFR 247.2 (d), the recipient may decide not to procure such items if they are not reasonably available in a reasonable period of time; fail to meet reasonable performance standards; or are only available at an unreasonable price.

32. Trafficking in Persons

a. Provisions applicable to a recipient that is a private entity.

- i. The recipient, the recipient's employees, subrecipients under this award, and subrecipients' employees may not—
 1. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 2. Procure a commercial sex act during the period of time that the award is in effect; or
 3. Use forced labor in the performance of the award or subawards under the award.
- ii. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if the recipient or a subrecipient that is a private entity—
 1. Is determined to have violated a prohibition in paragraph a of this award term; or
 2. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a of this award term through conduct that is either—
 - a. Associated with performance under this award; or
 - b. Imputed to the recipient or subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our Agency at 2 CFR 1532.

b. Provision applicable to a recipient other than a private entity. EPA may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

- i. Is determined to have violated an applicable prohibition in paragraph a. of this award term; or
- ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a of this award term through conduct that is either—
 1. Associated with performance under this award; or
 2. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by EPA at 2 CFR 1532

c. Provisions applicable to any recipient.

- i. The recipient must inform the EPA immediately of any information received from any

- source alleging a violation of a prohibition in paragraph a of this award term.
- ii. Our right to terminate unilaterally that is described in paragraph a and b:
 - 1. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - 2. Is in addition to all other remedies for noncompliance that are available to us under this award.
 - iii. The recipient must include the requirements of paragraph a of this award term in any subaward made to a private entity.

d. **Definitions.** For purposes of this award term:

- i. "Employee" means either:
 - 1. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - 2. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
- ii. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- iii. "Private entity":
 - 1. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
 - 2. Includes:
 - a. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
 - b. A for-profit organization.
- iv. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Meghan Wallace, Port of San Francisco
DATE: May 2, 2017
SUBJECT: Accept and Expend Resolution for FY 2016 Bay Area Air Quality Management District Grant Funding For a Low Emission Locomotive
GRANT TITLE: California Air Resources Board's Proposition 1B: Goods Movement Emission Reduction Program; and U.S. Environmental Protection Agency's Diesel Emission Reduction Act (DERA) 2016 National Clean Diesel Funding Assistance Program

Attached please find the original* and 1 copy of each of the following:

- Proposed grant resolution; original* signed by Department, Mayor, Controller
- Grant information form, including disability checklist
- Grant budget
- Grant application
- Grant award letter from funding agency
- Ethics Form 126 (if applicable)
- Contracts, Leases/Agreements (if applicable)
- Other (Explain): Accept & Expend Resolution from Port Commission; Sole Source Waiver; LBGT-Discrimination Ban Waiver

Special Timeline Requirements: NA

Departmental representative to receive a copy of the adopted resolution:

Name: Meghan Wallace Phone: 415.274.0426
Interoffice Mail Address: Port of San Francisco, Pier 1

Certified copy required Yes

No

(Note: certified copies have the seal of the City/County affixed and are occasionally required by funding agencies. In most cases ordinary copies without the seal are sufficient).

OFFICE OF THE MAYOR
SAN FRANCISCO



EDWIN M. LEE

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: *for* Mayor Edwin M. Lee *[Signature]*
RE: Accept and Expend Grant – Bay Area Air Quality Management District –
Proposition 1B: Goods Movement Emission Reduction Program –
\$1,371,250
DATE: June 20, 2017

Attached for introduction to the Board of Supervisors is a resolution retroactively authorizing the Port of San Francisco to accept and expend a grant in the amount of \$1,371,250 from the Bay Area Air Quality Management's Proposition: 1B Goods Movement Emission Reduction Program to purchase a new Tier 4 low emission locomotive for the period of May 1, 2017, through December 31, 2018.

I respectfully request that this item be calendared in Budget & Finance Committee on June 29, 2017.

Should you have any questions, please contact Mawuli Tugbenyoh (415) 554-5168.

[Signature]
2017 JUN 20 PM 3:44
RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO