



<b>SUBRECIPIENT</b>  <b>County of Nevada</b>	<b>AGREEMENT NUMBER</b>  <b>EECBG-24-001</b>
<b>ADDRESS</b>  950 Maidu Ave. Nevada City, CA 95959	<b>AGREEMENT TERM</b>  <b>12/01/2024 to 04/30/2027</b>  The effective date of this Agreement is either the start date or the approval signature date by the California Energy Commission representative below, whichever is later. The California Energy Commission shall be the last party to sign. No work is authorized, nor shall any work begin, until on or after the effective date.

**PROJECT DESCRIPTION**

The parties agree to comply with the terms and conditions of the following Exhibits which are by this reference made a part of the agreement.

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<b>REIMBURSABLE AMOUNT</b>  <b>\$700,000</b>
<b>MINIMUM MATCH SHARE REQUIRED</b>  <b>\$56,519</b>
<b>TOTAL OF REIMBURSABLE AMOUNT AND MINIMUM MATCH</b>  <b>\$756,519</b>

*The undersigned parties have read the attachments to this agreement and will comply with the standards and requirements contained therein.*

<b>CALIFORNIA ENERGY COMMISSION</b>		<b>SUBRECIPIENT</b>	
<b>AUTHORIZED SIGNATURE</b>  <i>Tatyana Yakshina</i>	<b>DATE</b>  2/12/2025	<b>AUTHORIZED SIGNATURE</b>  <i>Justin Drinkwater</i>	<b>DATE</b>  2/11/2025
<b>NAME</b>  Tatyana Yakshina		<b>NAME</b>  Justin Drinkwater	
<b>TITLE</b>  Contracts, Grants, and Loans Office Manager		<b>TITLE</b>  Justin Drinkwater - Facilities Director	
<b>CALIFORNIA ENERGY COMMISSION ADDRESS</b>  715 P St, MS 18, Sacramento, CA 95814			

## EXHIBIT A

### Scope of Work

#### DEFINITION OF ACRONYMS/TERMS

Included in the table below are important acronyms and terms used throughout this Scope of Work (SOW).

ACRONYM/ TERM	DEFINITION
ARRA	American Recovery and Reinvestment Act of 2009
CAM	Commission Agreement Manager
Caltrans	California Department of Transportation
CBO	Community-Based Organization
CEC	California Energy Commission
County	County of Nevada
CPR	Critical Project Review
DAC	Disadvantaged Community
DOE	Department of Energy (United States)
EECBG	Energy Efficiency and Conservation Block Grant
2021 EECBG	IIJA funding made available in 2021 under the EECBG
EV	Electric Vehicle (battery)
FARC	Federal Assistance Reporting Checklist
GHG	Greenhouse Gas
IEPR	Integrated Energy Policy Report
IIJA	Infrastructure Investment and Jobs Act
LGBDC	Local Government Building Decarbonization Challenge
MS	Microsoft
PDF	Adobe Portable Document Format
PRC	Public Resources Code
SOW	Scope of Work
State	State of California
Subrecipient	County of Nevada
ZEV	Zero Emission Vehicle

# **EXHIBIT A**

## **Scope of Work**

### **PURPOSE**

The purpose of this agreement is to provide the County of Nevada (Subrecipient) with funding for the following eligible project activities:

- Community building decarbonization planning.
- Municipal building decarbonization planning.
- Advancing municipal operations to support building decarbonization.

### **PROBLEM STATEMENT**

Nevada County (County) will utilize grant funding to build on a recently completed study to initiate the replacement of the County's fleet of internal combustion vehicles with electric vehicles (EVs). The grant funds will be used to plan for and design the infrastructure for installed Zero Emission Vehicle (ZEV) chargers at fifteen (15) County facilities, and one (1) community partner facility. These chargers are to be powered by a combination of existing electrical infrastructure and the utilization of energy generated by the County's own solar farm. The community partner facility does not have solar yet and this funding would include design for a solar-powered ZEV charging station(s) at that site. Planning for charging stations accessible to the public will be included in the work to be performed under this grant.

Planning for ZEV chargers, both for the County fleet and public use will bring implementation of the County's fleet transition to ZEV and expansion of use by the public to a shovel-ready state. Nevada County is a rural county with limited-to-no ZEV infrastructure. Additional public chargers will help to promote the use of ZEVs. Strategically located charging stations will be chosen according to their location on routes between federally recognized Disadvantaged Communities (DACs), as well as areas that are locally known to be economically challenged; these locations will also be chosen to promote travel and tourism to recreational areas and communities that are underserved.

This project will leverage other funded projects through the California Department of Transportation (Caltrans), the California Strategic Growth Council, and multiple ongoing and funded partnerships to ensure the responsible design of widely and strategically accessible ZEV charging infrastructure as part of a long-term plan to comply and support public and private ZEV transition in this rural county.

### **BACKGROUND**

The Warren-Alquist State Energy Resources Conservation and Development Act, Public Resources Code (PRC) section 25000 et seq., established the California Energy Commission (CEC) as California's primary energy policy and planning agency. The Local Government Building Decarbonization Challenge (LGBDC) solicitation was designed, in part, to advance a portion of the strategies identified in

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### Scope of Work

the *2021 California Building Decarbonization Assessment*<sup>1</sup>, which was developed in response to Assembly Bill 3232 (Friedman, Chapter 373, Statutes of 2018) and advances the policy recommendations contained in the *2021 Integrated Energy Policy Report (IEPR), Volume I: Building Decarbonization*<sup>2</sup>.

In addition, the LGBDC aligns with and advances the requirements of a history of climate and energy legislation including: The 100 Percent (100%) Clean Energy Act of 2018, Senate Bill 100 (de León, Chapter 312, Statutes of 2018); Senate Bill 32 (Pavley, Chapter 249, Statutes of 2016); Senate Bill 350 (de León, Chapter 547, Statutes of 2015); and Assembly Bill 32 (Nunez, Chapter 488, Statutes of 2006).

Local governments play a critical role in helping California (State) meet its energy and climate goals, as they have a unique connection with their constituents and authority over local building and land use decisions. Many local governments have developed long term plans to address energy and climate issues. In fact, 42 percent (42%) of local governments in the State have a climate, energy, or sustainability plan to address greenhouse gas (GHG) emissions. These action plans propose individual solutions to match the community's values and engage and mobilize the public.

The United States Department of Energy's (DOE) Energy Efficiency and Conservation Block Grant (EECBG) program was originally created by the Federal Energy Independence and Security Act of 2007 and expanded under the American Recovery and Reinvestment Act of 2009 (ARRA). New funding was allocated to the program in 2021 under the Infrastructure Investment and Jobs Act (IIJA) with the broad goals to reduce carbon emissions and energy use, improve energy efficiency, and increase community investment and local workforce development. IIJA funding made available in 2021 under the EECBG (2021 EECBG) allocated funds directly to state and certain local jurisdictions that met program criteria.

## OBJECTIVES OF THE AGREEMENT

The objectives of this agreement are as follows:

- Establish lines of communication and procedures for implementing this agreement.
- Detail all requirements for successful completion of the awarded project and any associated activities.

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1 Kenney, Michael, Nicholas Janusch, Ingrid Neumann, and Mike Jaske. 2021. [California Building Decarbonization Assessment](https://www.energy.ca.gov/publications/2021/california-building-decarbonization-assessment). CEC. Publication Number: CEC-400-2021-006-CMF. <https://www.energy.ca.gov/publications/2021/california-building-decarbonization-assessment>.

2 Kenney, Michael, Jacob Wahlgren, Kristina Duloglo, Tiffany Mateo, Danuta Drozdowicz, and Stephanie Bailey. 2022. [Final 2021 Integrated Energy Policy Report, Volume I: Building Decarbonization](https://efiling.energy.ca.gov/GetDocument.aspx?tn=241599). CEC. Publication Number: CEC-100-2021-001-V1. <https://efiling.energy.ca.gov/GetDocument.aspx?tn=241599>

## **EXHIBIT A**

### **Scope of Work**

- Project Activity #1 – Community Building Decarbonization Planning: Educational Campaign for Targeted Communities on ZEV Purchasing Opportunities, Charging Availability, and Other Benefits.
- Project Activity #2 – Municipal Building Decarbonization Planning: Design of ZEV Charging Infrastructure at Fifteen (15) County-Owned and Operated Facilities and One (1) Partner-Owned and Operated Facility.
- Project Activity #3 – Advancing Municipal Operations to Support Building Decarbonization: Adjustment of County Agency Permitting Processes, Codes, and Statutes.

### **DRAFT AND FINAL PRODUCTS/REPORTS**

When creating reports, the Subrecipient shall use and follow, unless otherwise instructed in writing by the Commission Agreement Manager (CAM) or designated project contact, the following:

- [Energy Commission Style Manual: Fourth Edition](https://www.energy.ca.gov/sites/default/files/2021-04/CEC-180-2020-001.pdf) located at (<https://www.energy.ca.gov/sites/default/files/2021-04/CEC-180-2020-001.pdf>).
- [Consultant Report Template](https://www.energy.ca.gov/media/2216) available for download at (<https://www.energy.ca.gov/media/2216>).

The CEC typically requires submission of products in an electronic format. If a hard copy product is required, each final hard copy product shall be delivered as one (1) original, reproducible, 8 ½" by 11", camera-ready master in black ink, unless otherwise directed by the CAM or designated project contact. Illustrations and graphs shall be sized to fit an 8 ½" by 11" page and readable if printed in black and white.

### **ELECTRONIC FILE FORMAT**

The Subrecipient shall deliver an electronic copy of the full text in a compatible version of Microsoft (MS) Word (.doc or .docx).

Unless otherwise specified by the CAM or designated project contact, the following describes the accepted formats of electronic data and documents provided to the CEC as agreement products and establishes the computer platforms, operating systems, and application versions that will be required to review and approve all application products.

- Data sets shall be in MS Access, MS Excel, or another file format as specified by the CAM or designated project contact.
- Computer-based text documents shall be in MS Word file format.
- Documents intended for public distribution shall be in Adobe Portable Document Format (PDF) file format, with the original file format provided as well.

## EXHIBIT A

### Scope of Work

- Project management documents shall be in a file format specified by the CAM or designated project contact.

### PRIMARY TASKS

The major categories of work are divided into the following tasks:

TASK #	TASK NAME
1	General Project Tasks
2	Technical Tasks
3	Final Reporting

#### A. Task 1 – General Project Tasks

- **Subtask 1.1: Kick-Off Meeting**

The goal of this subtask is to establish the lines of communication and procedures for implementing this agreement. At the discretion of the CAM, this meeting may be held via conference call, MS Teams, or Zoom.

**The CEC shall:**

- Arrange the meeting, including scheduling the date and time.
- Provide an agenda to all potential meeting participants prior to the kick-off meeting.
- Provide a quarterly progress report template following the kick-off meeting.

**The Subrecipient shall:**

- Attend a “Kick-Off” meeting with the CAM, designated project contact, and any other CEC staff relevant to the agreement. The Subrecipient shall include its Project Manager and other individuals designated by the CEC in this meeting.
- This meeting will include a discussion of the administrative and technical aspects of this agreement, including the timing of the quarterly reporting periods.
- If necessary, prepare an updated Schedule of Products and Due Dates based on the decisions made in the kick-off meeting.

**CEC Products:**

- Kick-off meeting agenda
- Quarterly progress report template

# **EXHIBIT A**

## **Scope of Work**

### **Subrecipient Products:**

- Updated Schedule of Products and Due Dates (if applicable)

- **Subtask 1.2: Invoices and Reconciliation Reports**

The goal of this subtask is to ensure accurate and timely payment for work performed under the agreement. See Terms and Conditions (Exhibits C and D) for more information on invoicing.

Following signature and execution of the agreement, Subrecipients may request 50 percent (50%) of total awarded funds in advance by submitting an advance payment invoice to the CEC. Following full reconciliation of costs equal to, or more than, the initial 50 percent (50%) advance of awarded funds, the Subrecipient will have the option to submit a request for an additional advance of 25 percent (25%) of total awarded funds by submitting an advance payment invoice to the CEC. Following full reconciliation of all advance funds, the Subrecipient shall submit invoices, no more frequently than quarterly, for reimbursement of allowable costs.

### **The CEC shall:**

- Provide an advance payment invoice template.
- Provide a reconciliation report template.
- Provide a standard invoice template.

### **The Subrecipient shall:**

- Submit an advance payment invoice to request advance funds.
- To reconcile advance payments, prepare and submit reconciliation reports based on actual allowable costs incurred under this agreement in compliance with the Budget Worksheet (Exhibit B) and Terms and Conditions (Exhibits C and D). All reconciliation reports shall be submitted as frequently as quarterly and must be accompanied by a quarterly progress report as detailed in Subtask 1.3.
- Prepare and submit standard invoices for all reimbursable, allowable costs incurred performing tasks under this agreement in compliance with the Budget Worksheet (Exhibit B) and Terms and Conditions (Exhibits C and D). All invoices shall be submitted as frequently as quarterly and must be accompanied by a quarterly progress report as detailed in Subtask 1.3.
- Provide proof of payment for incurred costs when requested by the CAM or designated project contact.

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- Following CAM approval of all products and the Final Report detailed in Task 3, submit a final invoice to receive the ten percent (10%) of funds held as retention.

#### **CEC Products:**

- Advance payment invoice template
- Reconciliation report template
- Standard invoice template

#### **Subrecipient Products:**

- First advance payment invoice (if applicable)
- Second advance payment invoice (if applicable)
- Quarterly reconciliation reports
- Quarterly standard invoices
- Proof of payment for incurred costs (if applicable)
- Final retention invoice

- **Subtask 1.3: Quarterly Progress Reports**

The goal of this subtask is to verify satisfactory and continued progress toward achieving the objectives of this agreement on time and within budget, as well as to comply with all DOE reporting requirements.

The purpose of the quarterly progress report is to summarize activities performed during the current reporting period, identify activities planned for the next reporting period, identify issues that may affect performance and expenditures, and form the basis for determining whether costs incurred and reconciled against advance payments or submitted by accompanying invoices are consistent with work performed.

The Subrecipient shall be required to submit a progress report quarterly. If no invoices are submitted within the designated ninety (90) day period, a progress report will still be required.

#### **The Subrecipient shall:**

- Prepare quarterly progress reports that summarize all agreement activities conducted by the Subrecipient for the quarterly reporting period, including an assessment of the ability to complete the agreement within the current budget and on the planned schedule and any anticipated cost overruns or delays.
- The first quarterly progress report is due fifteen (15) calendar days after the end of the quarter in which the agreement was signed, and activities commenced.



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### **Scope of Work**

- Each subsequent report is due (fifteen) 15 days following the end of each quarter, either accompanying an invoice or reconciliation report, or as a standalone report.
- Submit each progress report to the CAM or designated project contact within fifteen (15) calendar days after the end of the quarterly reporting period.
- Provide all information required by DOE, including, but not limited to, the Federal Assistance Reporting Checklist (FARC).

#### **Subrecipient Products:**

- Quarterly progress reports

- **Subtask 1.4: Critical Project Review Meetings**

The CAM may schedule Critical Project Review (CPR) Meetings as necessary at any time during the agreement term. The goal of CPR Meetings is to determine whether products are being met and evaluate project implementation progress to ensure projects are complete within the agreement term, as well as to identify any needed modifications to the tasks, products, schedule, or budget.

At the discretion of the CAM, CPR Meetings may be held via conference call, MS Teams, or Zoom. The CEC meeting participants may include the CAM, designated project contact, and other key CEC management and staff. The Subrecipient shall include its Project Manager, key personnel, and others designated by the CAM or designated project contact.

#### **The CEC shall:**

- Arrange the meeting, including scheduling the date and time. When scheduling, provide notice of at least ten (10) business days to the Subrecipient.
- Provide an agenda to all potential meeting participants prior to the CPR Meeting.
- Provide a written determination on whether modifications are needed to the tasks, products, schedule, and/or budget for the remainder of the agreement.

#### **The Subrecipient shall:**

- Prepare a CPR Report that discusses the progress of the agreement towards achieving its goals and objectives. The Subrecipient shall submit these documents to the CAM or designated project contact at least five (5) business days prior to each CPR Meeting.
- Attend and participate in discussion at the CPR Meeting.

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#### **CEC Products:**

- CPR Meeting Agenda(s)

#### **Subrecipient Products:**

- CPR Report(s)

- **Subtask 1.5: Execute and Manage Subaward Agreements**

The goal of this subtask is to ensure the Subrecipient executes and manages any subaward agreements necessary to complete the tasks required for the project and to provide quality products. Sub-subrecipients shall complete tasks under this agreement consistent with the Terms and Conditions (Exhibits C and D). In the event of failure of the sub-subrecipient or vendor to satisfactorily perform services, the Subrecipient shall recommend solutions to resolve the problem. This subtask will also provide the CEC an opportunity to review subaward agreements to ensure that the tasks are consistent with this agreement, and the budgeted expenditures are reasonable and consistent with the allowable costs detailed in the Budget Worksheet (Exhibit B).

#### **The CEC shall:**

- Review subaward agreements prior to execution and provide feedback to the Subrecipient, if applicable.
- Review applicable documents for additional subaward agreements identified as necessary to complete the project under this agreement and provide feedback to the Subrecipient, if applicable.

#### **The Subrecipient shall:**

- Identify all activities requiring subaward agreements to complete work under this agreement, as well as the specific sub-subrecipients for each, pursuant to the approved project as described in this SOW.
- Prior to execution, submit a copy of each subaward agreement to the CAM for review, if requested.
- Execute agreements with sub-subrecipients.
- Submit copies of all final executed subaward agreements, if requested by the CAM.
- Manage and coordinate sub-subrecipient and vendor activities.
- Enforce sub-subrecipient and vendor agreement provisions.
- In the event of sub-subrecipient or vendor failure to perform, recommend solutions to resolve the problem.

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- If additional sub-subrecipients or vendors are identified as necessary to complete the project work under this agreement, notify the CAM within ten (10) calendar days of identifying this need and provide information on related project activities. The CAM may request copies of any applicable documents.

#### **Subrecipient Products:**

- List of all sub-subrecipient, vendors, and activities requiring subaward agreements to complete work under this agreement
- Copies of draft subaward agreements for review, if requested by the CAM
- Copies of final executed subaward agreements, if requested by the CAM
- Copies of applicable documents for any additional sub-subrecipients identified as necessary to complete the project work under this agreement

- **Subtask 1.6: Final Meeting**

The goal of this subtask is to discuss closeout of this agreement and review the project. At the discretion of the CAM, this meeting may be held via conference call, MS Teams, or Zoom.

#### **The Subrecipient shall:**

- Meet with CEC staff prior to the term end date of this agreement. The CAM will designate the specific location. The Subrecipient Project Manager and the CAM will attend this meeting. The CAM will determine any additional appropriate meeting participants. The administrative and technical aspects of agreement closeout will be discussed at the meeting.
- Present findings, conclusions, and recommended next steps (if any) for the agreement based on the information included in the Final Report detailed in Task 3.
- Prepare a written document of meeting agreements and unresolved activities.
- Prepare a schedule for completing the closeout activities for this agreement, based on determinations made within the meeting.

#### **Subrecipient Products:**

- Written documentation of meeting agreements and unresolved activities
- Schedule for completing closeout activities

# EXHIBIT A

## Scope of Work

### B. Task 2 – Technical Project Tasks

#### **Project Activity #1 – Community Building Decarbonization Planning: Educational Campaign for Targeted Communities as Defined by Assembly Bill 1550 (Gomez, Chapter 369, Statutes of 2016) on ZEV Purchasing Opportunities, Charging Availability, and Other Benefits**

Fliers, brochures, and surveys will be dispersed as part of an awarded collaborative community resilience program through Strategic Growth Council. Three community-based organizations (CBOs) serving a wide cross-section of the County's most vulnerable communities (seniors, food-insecure, and residents living with disabilities) are partners in this program and can incorporate this educational campaign into their pre-existing programs. Examples of CBOs may include, but not be limited to, lunch and learns at the Gold Country Senior Services Center, flier distribution with groceries at the Interfaith Food Ministries weekly grocery pick-up, and tailored messaging by the Aging and Disability Resource Connection to residents living with disabilities across the County.

- **Subtask 2.A.1: Design, Printing, and Distribution of Educational and Informative Materials for Public Use through Fliers and Lunch and Learns**

**The Subrecipient shall:**

- Create an educational campaign and informative materials that identify ZEV incentive programs, rebate programs, long-term benefits, and other useful information tailored to vulnerable communities.
  - This will be done in collaboration with partnered CBOs through other funded programs.
- Create surveys for targeted DACs living across the County to provide feedback on aspects of design such as locations, types of chargers, information they find useful, etc.

**Subrecipient Products:**

- Brochures, fliers, informational packets, and surveys to be distributed in partnership programs

- **Subtask 2.A.2: Lunch and Learns through Partnership Programs**

**The Subrecipient shall:**

- Provide educational materials and/or schedule times at CBOs' lunch and learns
- Speak to audiences about programs, project progress with ZEV infrastructure design, and seek input where possible

## **EXHIBIT A**

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#### **Subrecipient Products:**

- Summary report detailing the results of the distributed information, increased web traffic to online resources (website statistics available to CEC upon request), and feedback

- **Subtask 2.A.3: Surveys Targeting DACs Across the County**

#### **The Subrecipient shall:**

- Work with a ZEV infrastructure design consultant to develop survey(s) targeting DACs for public input.
- Distribute survey(s) to CBO partners for distribution and collection.
- Compile survey feedback into a report for the design consultant to integrate into planning.

#### **Subrecipient Products:**

- Summary report of the processes involved in creating the ZEV infrastructural plan informed by feedback

#### **Project Activity #2 – Municipal Building Decarbonization Planning: Design of ZEV Charging Infrastructure at Fifteen (15) County-Owned and Operated Facilities and One (1) Partner-Owned and Operated Facility**

Decarbonization across municipal buildings will occur through the design of ZEV charging infrastructure at fifteen (15) county-owned and operated facilities located across the County, and one (1) community partner-owned public facility. This is a phase of a longer-term plan to transition the County fleet from gas-powered to ZEV. Some charging stations will support primarily County fleet only due to various security measures, such as coded gates (e.g., the Airport). Strategic and publicly accessible locations (e.g., County building, Nevada City Vets Hall, County Library, etc.) will have publicly available charging stations where the highest impact can occur for targeted DACs due to proximity to main roads and the use of the building (e.g., Vets Halls, the Eric Rood Center, and libraries have significant use by DACs in this rural county).

- **Subtask 2.B.1: Coordination of Site Conditions with Engineered Plans – Survey Facilities, Coordinate the Need for Installed EV Infrastructure with Information Needed for Engineered Plans, and Create Schedule to Implement EV Usage at Each Facility**

#### **The Subrecipient shall:**

- Conduct surveys of the power infrastructure at existing facility sites noting site conditions and any easements required to develop design documents for the installation of EV charging stations at County and public facilities.

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#### **Subrecipient Products:**

- Summary report of the processes involved in creating the site plans for each facility
- **Subtask 2.B.2: Seek Agency Input for Plan Development – Coordinate Agency Needs for ZEV Implementation with the Schedule to Install Needed Infrastructure**

#### **The Subrecipient shall:**

- Identify each agency's needs and the timing of ZEV introduction into their fleet.

#### **Subrecipient Products:**

- Completed assessment and design of infrastructure improvements at each agency's facilities
  - Schedule for EV usage implementation coordinated with each agency's needs
- **Subtask 2.B.3: Develop Designs and Cost Estimates for Individual Sites – Final Design Documents and Probable Cost Estimates**

#### **The Subrecipient shall:**

- Contract with an engineer to develop final design documents and cost estimates for each facility.

#### **Subrecipient Products:**

- Summary report detailing the processes involved in completing power assessments of each facility
  - Summary report detailing the final design documents for installation of EV chargers at each facility
  - Summary report detailing the final design documents for upgrades or new installations for energy to be utilized for EV chargers at each facility
  - Summary report detailing the results of the probable cost estimates for each installation at individual sites
- **Subtask 2.B.4: Develop the Draft Implementation Plan – Recommend Sequencing of Installations by Identifying Costs for Each Installation to Prioritize Projects**

#### **The Subrecipient shall:**

- Develop a draft implementation plan recommending the sequencing of installation of EV chargers at County and public facilities.

## **EXHIBIT A**

### **Scope of Work**

#### **Subrecipient Products:**

- A compiled draft implementation plan with the recommended sequencing identified
- **Subtask 2.B.5: Seek Stakeholder Input and Approval – Meet and Review the Draft Implementation Plan Information with Agencies and the Public**

#### **The Subrecipient shall:**

- Conduct meetings with agencies affected by the installation of EV chargers for input and comment.

#### **Subrecipient products:**

- Documentation of stakeholder feedback and comments on the draft implementation plan
- **Subtask 2.B.6: Obtain Approval from the County Board of Supervisors on the Draft Implementation Plan**

#### **The Subrecipient shall:**

- Present final design documents, probable cost estimates, and the draft implementation plan to the County Board of Supervisors for approval.

#### **Subrecipient products:**

- Summary report detailing the final design documents for each individual installation
- Summary report detailing the results of the probable cost estimates for each design installation
- Draft implementation plan coordinated with the ZEV plan for fleet vehicles within the County
- **Subtask 2.B.7: Secure Financing for Installation of Implementation Plans – Find and Apply for Grants for Implementation of Infrastructure Development**

#### **The Subrecipient shall:**

- Find and submit applications for other grant opportunities to fund the installation of each approved design.

#### **Subrecipient Products:**

- Summary report detailing the other grant opportunities pursued that can augment the financial resources available to the County for the installation of EV chargers at County and public facilities

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#### **Project Activity #3 – Advancing Municipal Operations to Support Building Decarbonization: Adjustment of County Agency Permitting Processes, Codes, and Statutes**

The County is taking the lead in transitioning its fleet to ZEV. The obstacles for fleet electrification and the solutions applied will serve as models and references for systems installed in the private sector. County agencies, building, planning, public works, and social services will all have a better understanding of the challenges presented by this new technology. Each agency will apply these lessons to their permitting processes along with the applications of codes and statutes.

- **Subtask 2.C.1: Identify Gaps in Codes and Statutes Related to Permitting of EV Charging Facilities – Outline Needed Regulations, Policies, and Procedures for Agency and Public Use of EV Charging Stations**

##### **The Subrecipient shall:**

- Work with local and state agencies, and suppliers of energy, to create guidelines on suggested regulations, policies, and procedures that can be utilized for future public and private installations.

##### **Subrecipient Products:**

- Draft guidelines for public and private installations of future EV charging infrastructure

- **Subtask 2.C.2: Seek Input from Stakeholders – Work with Stakeholders to Find Regulations, Policies, and Procedures that Meet Agency and Public Needs**

##### **The Subrecipient shall:**

- Meet with agencies and energy suppliers to discuss regulations, policies, and procedures, as well as requirements for installing EV charging infrastructure.

##### **Subrecipient Products:**

- Rough draft of guidelines that incorporates stakeholder feedback for agency and public installation of EV charging infrastructure

- **Subtask 2.C.3: Draft Initial Report of Recommendations and Guidelines on Suggested Regulations, Policies, and Procedures Presented to Stakeholders for Final Comment**

##### **The Subrecipient shall:**

- Assemble a draft initial report of recommendations for distribution to stakeholders for final comment.



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### **Scope of Work**

#### **Subrecipient Products:**

- Draft initial report of recommendations that incorporates stakeholder feedback for the guidelines on suggested regulations, policies, and procedures for agency and public installation of EV charging infrastructure
- **Subtask 2.C.4: Publish and Receive Input on Draft Initial Report of Recommendations – Distribute for Review and Comment**

#### **The Subrecipient shall:**

- Meet with stakeholders to discuss their comments and feedback on the draft initial report of recommendations for the guidelines on suggested for regulations, policies, and procedures for the installation of EV charging systems.

#### **Subrecipient Products:**

- Amended and edited draft initial report of recommendations incorporating stakeholder comments and feedback for the guidelines on suggested regulations, policies, and procedures for the installation of EV charging systems
- **Subtask 2.C.5: Prepare Draft Final Implementation Plan and Guidelines – Distribute for Review and Comment**

#### **The Subrecipient shall:**

- Assemble a draft final implementation plan and guidelines on suggested regulations, policies, and procedures for the installation of EV charging infrastructure by agencies and the public.

#### **Subrecipient Products:**

- Draft final implementation plan and guidelines on suggested regulations, policies, and procedures for use in public workshops
- **Subtask 2.C.6: Seek Jurisdiction and Public Input – Public Workshops and Agency Presentations**

#### **The Subrecipient shall:**

- Conduct workshops and distribute draft final implementation plan and guidelines on suggested regulations, policies, and procedures for comment.

#### **Subrecipient Products:**

- Summary report detailing the input from workshops used to develop a final version of the implementation plan and guidelines on suggested

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regulations, policies, and procedures for the installation of EV charging infrastructure

- **Subtask 2.C.7: Publish Final Implementation Plan and Guidelines – Include with Submittal of Project for the County Board of Supervisors Approval**

**The Subrecipient shall:**

- Submit final implementation plan and guidelines on suggested regulations, policies, and procedures to the County Board of Supervisors for review and comment as County policy.

**Subrecipient Products:**

- Summary report detailing the comments and feedback from the County Board of Supervisors

- **Subtask 2.C.8: Seek Approval from County Board of Supervisors – Approval Sought with Final Implementation Plan**

**The Subrecipient shall:**

- Present the design of the individual EV charging stations, the final implementation plan for the individual sites, and the developed regulations, policies, and procedures for the installation and operation of EV charging systems at County and public facilities.

**Subrecipient Products:**

- Summary report detailing the steps taken to request County Board of Supervisors' approval of designs, implementation plans, and adoption of regulations, policies, and procedures

- **Subtask 2.C.9: Implement Guidelines – As Individual EV Charging Facilities Come into Service**

**The Subrecipient shall:**

- Provide guidance to the agencies and public entities for the installation and operation of the EV charging infrastructure at each location.

**Subrecipient Products:**

- Summary report detailing the guidance resulting in operational facilities for the implementation of an EV fleet

## **EXHIBIT A**

### **Scope of Work**

#### **C. Task 3 – Final Reporting**

- **Subtask 3.1: Final Report**

The goal of this subtask is to prepare a comprehensive written Final Report that describes the original purpose, activities, outcomes, and lessons learned during the project under this agreement. The Subrecipient shall document successful completion of all project activities, tasks, and products.

Upon the request of the CAM or designated project contact, the Subrecipient shall provide photos, graphs, documents, and data summaries to fully describe the project and all outcomes, as well as to support distribution of project information to other parties.

The Final Report shall be prepared in language easily understood by the public or layperson with a limited technical background. In addition, the Final Report shall be a public document and must be completed prior to the termination date of the agreement or within sixty (60) days of the depletion of funds.

The CAM or designated project contact will provide the Subrecipient with the Final Report template.

**The CEC shall:**

- Provide a final report template to the Subrecipient upon request.

**CEC Products:**

- Final report template

- **Subtask 3.1.1 – Final Report Outline**

**The CEC shall:**

- Review and provide comments on the draft outline of the Final Report

**The Subrecipient shall:**

- In accordance with the CEC Style Manual, prepare and submit a draft outline of the Final Report to the CAM or designated project contact for review and approval.
- Review comments received on the draft outline and if there are any issues with the recommended changes, discuss them with the CAM or designated project contact.
- Prepare and submit a final outline of the Final Report, incorporating CAM or designated project contact comments.

**CEC Products:**

- Comments on the draft outline of the Final Report (if applicable)

## **EXHIBIT A**

### **Scope of Work**

#### **Subrecipient Products:**

- Draft outline of the Final Report
- Final outline of the Final Report

- **Subtask 3.1.2 – Final Report**

#### **The CEC shall:**

- Review and provide comments on the draft version of the Final Report

#### **The Subrecipient shall:**

- Prepare a draft version of the Final Report in accordance with the approved outline and submit it to the CAM or designated project contact for review and approval at least two (2) months prior to the agreement end date.
- Review comments received on the draft Final Report and if there are any issues with the recommended changes, discuss them with the CAM or designated project contact.
- Prepare and submit the last version of the Final Report, incorporating CAM or designated project contact comments.

#### **CEC Products:**

- Comments on the draft version of the Final Report (if applicable)

#### **Subrecipient Products:**

- Draft Final Report
- Final Report

# EXHIBIT A, ATTACHMENT 1

## Schedule of Products and Due Dates

Activities	Tasks / Subtasks	Timetable in Months	Subrecipient Product(s)
<b>Task 1 – General Project Tasks</b>	Subtask 1.1: Kick-Off Meeting	Start: 01/2025 Complete: 01/2025	<ul style="list-style-type: none"> <li>Updated Schedule of Products and Due Dates (if applicable)</li> </ul>
	Subtask 1.2: Invoices and Reconciliation Reports	Start: 04/2025 Complete: 04/2027	<ul style="list-style-type: none"> <li>First advance payment invoice (if applicable)</li> <li>Second advance payment invoice (if applicable)</li> <li>Quarterly reconciliation reports</li> <li>Quarterly standard invoices</li> <li>Proof of payment for incurred costs (if applicable)</li> <li>Final retention invoice</li> </ul>
	Subtask 1.3: Quarterly Progress Reports	Start: 04/2025 Complete: 04/2027	<ul style="list-style-type: none"> <li>Quarterly progress reports</li> </ul>
	Subtask 1.4: Critical Project Review Meetings	TBD: Scheduled by CAM (if necessary)	<ul style="list-style-type: none"> <li>CPR Report(s)</li> </ul>
	Subtask 1.5: Execute and Manage Subaward Agreements	Start 12/2024 Complete: 03/2027	<ul style="list-style-type: none"> <li>List of all sub-subrecipient, vendors, and activities requiring subaward agreements to complete work under this agreement</li> <li>Copies of draft subaward agreements for review (if requested by the CAM)</li> <li>Copies of final executed subaward agreements, (if requested by the CAM)</li> <li>Copies of applicable documents for any additional sub-subrecipients identified as necessary to complete the project work under this agreement</li> </ul>
	Subtask 1.6: Final Meeting	TBD: Scheduled by CAM (prior to the term end date of this agreement)	<ul style="list-style-type: none"> <li>Written documentation of meeting agreements and unresolved activities</li> <li>Schedule for completing closeout activities</li> </ul>

# EXHIBIT A, ATTACHMENT 1

## Schedule of Products and Due Dates

Activities	Tasks / Subtasks	Timetable in Months	Subrecipient Product(s)
<b>Task 2 – Technical Tasks, Project Activity #1: Community Building Decarbonization Planning</b>	Subtask 2.A.1: Design, Printing, and Distribution of Educational and Informative Materials for Public Use through Fliers and Lunch and Learns	Start: 01/2025 Complete: 02/2026	<ul style="list-style-type: none"> <li>Brochures, fliers, informational packets, and surveys to be distributed in partnership programs</li> </ul>
	Subtask 2.A.2: Lunch and Learns through Partnership Programs	Start: 01/2025 Complete: 02/2026	<ul style="list-style-type: none"> <li>Summary report detailing the results of the distributed information, increased web traffic to online resources (web statistics available to CEC upon request), and feedback</li> </ul>
	Subtask 2.A.3: Surveys Targeting DACs Across the County	Start: 01/2025 Complete: 02/2026	<ul style="list-style-type: none"> <li>Summary report of the processes involved in creating the ZEV infrastructural plan informed by feedback</li> </ul>
<b>Task 2 – Technical Tasks, Project Activity #2: Municipal Building Decarbonization Planning</b>	Subtask 2.B.1: Coordination of Sit Conditions with Engineered Plans	Start: 02/2025 Complete: 04/2026	<ul style="list-style-type: none"> <li>Summary report of the processes involved in creating the site plans for each facility</li> </ul>
	Subtask 2.B.2: Seek Agency Input for Plan Development	Start: 05/2025 Complete: 07/2025	<ul style="list-style-type: none"> <li>Completed assessment and design of infrastructure improvements at each agency's facilities</li> <li>Schedule for EV usage implementation coordinated with each agency's needs</li> </ul>
	Subtask 2.B.3: Develop Designs and Cost Estimates for Individual Sites	Start: 04/2025 Complete: 12/2025	<ul style="list-style-type: none"> <li>Summary report detailing the processes involved in completing power assessments of each facility</li> <li>Summary report detailing the final design documents for installation of EV chargers at each facility</li> <li>Summary report detailing the final design documents for upgrades or new installations for energy to be utilized for EV chargers at each facility</li> <li>Summary report detailing the results of the probable cost estimates for each installation at individual sites</li> </ul>

# EXHIBIT A, ATTACHMENT 1

## Schedule of Products and Due Dates

Activities	Tasks / Subtasks	Timetable in Months	Subrecipient Product(s)
<b>Task 2 – Technical Tasks, Project Activity #2: Municipal Building Decarbonization Planning</b>	Subtask 2.B.4: Develop the Draft Implementation Plan	Start: 12/2025 Complete: 02/2026	<ul style="list-style-type: none"> <li>A compiled draft implementation plan with the recommended sequencing identified</li> </ul>
	Subtask 2.B.5: Seek Stakeholder Input	Start: 03/2026 Complete: 05/2026	<ul style="list-style-type: none"> <li>Documentation of stakeholder feedback and comments on the draft implementation plan</li> </ul>
	Subtask 2.B.6: Obtain Approval from County Board of Supervisors on the Draft Implementation Plan	Start: 06/2026 Complete: 08/2026	<ul style="list-style-type: none"> <li>Summary report detailing the construction documents for each individual installation</li> <li>Summary report detailing the results of the probable cost estimates for each design installation</li> <li>Draft implementation plan coordinated with the ZEV plan for fleet vehicles within the County</li> </ul>
	Subtask 2.B.7: Seek Financing for Installation of Implementation Plans	Start: 06/2026 Complete: 04/2027	<ul style="list-style-type: none"> <li>Summary report detailing the other grant opportunities pursued that can augment the financial resources available to the County for the installation of EV chargers at County and public facilities</li> </ul>
<b>Task 2 – Technical Tasks, Activity #3: Advancing Municipal Operations to Support Building Decarbonization</b>	Subtask 2.C.1: Identify Gaps in Codes and Statutes Related to Permitting of EV Charging Facilities	Start: 01/2025 Complete: 05/2025	<ul style="list-style-type: none"> <li>Draft guidelines for public and private installations of future EV charging infrastructure</li> </ul>
	Subtask 2.C.2: Seek Input from Stakeholders	Start: 06/2025 Complete: 09/2025	<ul style="list-style-type: none"> <li>Rough draft of guidelines that incorporates stakeholder feedback for agency and public installation of EV charging infrastructure</li> </ul>
	Subtask 2.C.3: Draft Initial Report of Recommendations and Guidelines on Suggested Regulations, Policies, and Procedures Presented to Stakeholders for Final Comment	Start: 10/2025 Complete: 12/2025	<ul style="list-style-type: none"> <li>Draft initial report of recommendations that incorporates stakeholder feedback for the guidelines on suggested regulations, policies, and procedures for agency and public installation of EV charging infrastructure</li> </ul>

# EXHIBIT A, ATTACHMENT 1

## Schedule of Products and Due Dates

Activities	Tasks / Subtasks	Timetable in Months	Subrecipient Product(s)
<b>Task 2 – Technical Tasks, Activity #3: Advancing Municipal Operations to Support Building Decarbonization</b>	Subtask 2.C.4: Publish and Receive Input on Draft Initial Report of Recommendations	Start: 12/2025 Complete: 01/2026	<ul style="list-style-type: none"> <li>Amended and edited draft initial report of recommendations incorporating stakeholder comments and feedback for the guidelines on suggested regulations, policies, and procedures for the installation of EV charging systems</li> </ul>
	Subtask 2.C.5: Prepare Draft Final Implementation Plan and Guidelines	Start: 12/2025 Complete: 01/2026	<ul style="list-style-type: none"> <li>Draft final implementation plan and guidelines on suggested regulations, policies, and procedures for use in public workshops</li> </ul>
	Subtask 2.C.6: Seek Jurisdiction and Public Input	Start: 01/2026 Complete: 04/2026	<ul style="list-style-type: none"> <li>Summary report detailing the input from workshops used to develop a final version of the implementation plan and guidelines on suggested regulations, policies, and procedures for the installation of EV charging infrastructure</li> </ul>
	Subtask 2.C.7: Publish Final Implementation Plan and Guidelines	Start: 04/2026 Complete: 08/2026	<ul style="list-style-type: none"> <li>Summary report detailing the comments and feedback from the County Board of Supervisors</li> </ul>
	Subtask 2.C.8: Seek Approval from County Board of Supervisors	Start: 09/2026 Complete: 08/2026	<ul style="list-style-type: none"> <li>Summary report detailing the steps taken to request County Board of Supervisors' approval of designs, implementation plans, and adoption of regulations, policies, and procedures</li> </ul>
	Subtask 2.C.9: Implement Guidelines	During the Implementation Phase (TBD)	<ul style="list-style-type: none"> <li>Summary report detailing the guidance resulting in operational facilities for the implementation of an EV fleet</li> </ul>
<b>Task 3 – Final Reporting</b>	Subtask 3.1.1: Final Report Outline	Start: 07/2026 Complete: 09/2026	<ul style="list-style-type: none"> <li>Draft outline of the Final Report</li> <li>Final outline of the Final Report</li> </ul>
	Subtask 3.1.2: Final Report	Start: 09/2026 Complete: 11/2026	<ul style="list-style-type: none"> <li>Draft Final Report</li> <li>Final Report</li> </ul>



## Category Budget

<b>Name of Organization</b>	County of Nevada
-----------------------------	------------------

Cost Category	Energy Commission Reimbursable Share	Match Share	Total
Direct Labor	\$ -	\$ 9,800	\$ 9,800
Fringe Benefits	\$ -	\$ 5,800	\$ 5,800
<b>Total Labor</b>	<b>\$ -</b>	<b>\$ 15,600</b>	<b>\$ 15,600</b>
Travel	\$ -	\$ 919	\$ 919
Materials/Miscellaneous	\$ -	\$ -	\$ -
Sub-subrecipient	\$ 676,800	\$ 40,000	\$ 716,800
<b>Other Direct Costs</b>	<b>\$ 676,800</b>	<b>\$ 40,919</b>	<b>\$ 717,719</b>
Indirect Costs	\$ 23,200	\$ -	\$ 23,200
Profit (not allowed for grant)	\$ -	\$ -	\$ -
<b>Direct and Profit</b>	<b>\$ 23,200</b>	<b>\$ -</b>	<b>\$ 23,200</b>
<b>Grand Totals</b>	<b>\$ 700,000</b>	<b>\$ 56,519</b>	<b>\$ 756,519</b>

## Direct Labor (Unloaded)

County of Nevada

### Hourly Rates

Employee Name	Job Classification / Title	Maximum Labor Rate (\$ per hour)	# of Hours	Energy Commission Funds	Match Share	Total
Pat Souza	Project Manager	\$ 49.00	200	\$ -	\$ 9,800	\$ 9,800
		\$ -		\$ -	\$ -	\$ -
		\$ -		\$ -	\$ -	\$ -
		\$ -		\$ -	\$ -	\$ -
		\$ -		\$ -	\$ -	\$ -
Hourly Direct Labor Totals				\$ -	\$ 9,800	\$ 9,800

### Monthly Salary Rates

Employee Name	Job Classification / Title	Maximum Labor Rate (\$ per month)	# of Months	Energy Commission Funds	Match Share	Total
		\$ -		\$ -	\$ -	\$ -
		\$ -		\$ -	\$ -	\$ -
		\$ -		\$ -	\$ -	\$ -
		\$ -		\$ -	\$ -	\$ -
		\$ -		\$ -	\$ -	\$ -
		\$ -		\$ -	\$ -	\$ -
Monthly Direct Labor Totals				\$ -	\$ -	\$ -

				Energy Commission Funds	Match Share	Total
Direct Labor Grand Totals				\$ -	\$ 9,800	\$ 9,800

# County of Nevada

**Total**

## Travel

### County of Nevada

Task No.	Traveler's Name and/or Classification	Departure and Destination	Trip Purpose	Energy Commission Funds	Match Share	Total
2	Pat Souza, Project Manager	988 McCourtney Rd. Grass Valley, CA 95949	Site visits (est. 5 round trip)	\$ -	\$ 41	\$ 41
2	Pat Souza, Project Manager	500 Crown Point Circle Grass Valley, CA 95945	Site visits (est. 5 round trip)	\$ -	\$ 34	\$ 34
2	Pat Souza, Project Manager	201 Commercial St. Nevada City, CA 95959	Site visits (est. 5 round trip)	\$ -	\$ 7	\$ 7
2	Pat Souza, Project Manager	10014 N Bloomfield Rd. Nevada City, CA 95959	Site visits (est. 5 round trip)	\$ -	\$ 3	\$ 3
2	Pat Souza, Project Manager	10075 Levon Avenue Truckee, CA 96161	Site visits (est. 5 round trip)	\$ -	\$ 347	\$ 347
2	Pat Souza, Project Manager	10984 Riata Way Auburn, CA 95602	Site visits (est. 5 round trip)	\$ -	\$ 131	\$ 131
2	Pat Souza, Project Manager	12622 Pleasant Valley Rd Penn Valley, CA 95946	Site visits (est. 5 round trip)	\$ -	\$ 107	\$ 107
2	Pat Souza, Project Manager	980 Helling Way Nevada City, CA 95959	Site visits (est. 5 round trip)	\$ -	\$ 1	\$ 1
2	Pat Souza, Project Manager	14741 Wolf Mountain Rd Grass Valley, CA 95949	Site visits (est. 5 round trip)	\$ -	\$ 66	\$ 66
2	Pat Souza, Project Manager	12550 La Bata Meadows Road Grass Valley, CA 95949	Site visits (est. 5 round trip)	\$ -	\$ 53	\$ 53
2	Pat Souza, Project Manager	415 N Pine St. Nevada City, CA 95959	Site visits (est. 5 round trip)	\$ -	\$ 5	\$ 5
2	Pat Souza, Project Manager	13059 John Bauer Ave. Grass Valley, CA 95945	Site visits (est. 5 round trip)	\$ -	\$ 40	\$ 40
2	Pat Souza, Project Manager	950 Maidu Ave Nevada City, CA 95959	Site visits (est. 5 round trip)	\$ -	\$ -	\$ -
2	Pat Souza, Project Manager	15076 CA-49 Nevada City, CA 95959	Site visits (est. 5 round trip)	\$ -	\$ 2	\$ 2
2	Pat Souza, Project Manager	11329 McCourtney Rd Grass Valley, CA 95949	Site visits (est. 5 round trip)	\$ -	\$ 44	\$ 44
2	Pat Souza, Project Manager	231 Colfax Ave Grass Valley, CA 95945	Site visits (est. 5 round trip)	\$ -	\$ 37	\$ 37
<b>Total:</b>				\$ -	\$ 919	\$ 919

## Materials & Miscellaneous

County of Nevada

Task No.	Description	Purpose	# Units	Unit Cost	Energy Commission Funds	Match Share	Total
				\$ -	\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -	\$ -
<b>Total:</b>					\$ -	\$ -	\$ -

## Sub-Subrecipients

County of Nevada

Task No.	Sub-Subrecipients Name	Purpose	Energy Commission Funds	Match Share	Total
			\$ -	\$ -	\$ -
			\$ -	\$ -	\$ -
			\$ -	\$ -	\$ -
			\$ -	\$ -	\$ -
			\$ -	\$ -	\$ -
			\$ -	\$ -	\$ -
			\$ -	\$ -	\$ -

## Vendors

Task No.	Vendors Name	Purpose	Energy Commission Funds	Match Share	Total
2	TBD Design Vendor(s)	Public Outreach	\$ 36,800	\$ -	\$ 36,800
2	TBD Electrical Engineering Vendor(s)	Infrastructure Planning & Design	\$ 600,000	\$ -	\$ 600,000
2	TBD Civil Engineering Vendor(s)	Site Surveys & Easements	\$ 40,000	\$ 40,000	\$ 80,000
			\$ -	\$ -	\$ -
			\$ -	\$ -	\$ -
			\$ 676,800	\$ 40,000	\$ 716,800

Sub-Subrecipients and & Vendors Grand Totals			Energy Commission Funds	Match Share	Total
			\$ 676,800	\$ 40,000	\$ 716,800

## Indirect Cost(s) and Profit

County of Nevada

Name of Indirect Cost	Maximum Rate	Indirect Cost Base Description	Indirect Cost Base Amount	Energy Commission Funds	Match Share	Total
Project Administration	3.30%	Project Administration & Accounting	\$ 23,200	\$ 23,200		\$ 23,200
	0.00%		\$ -	\$ -	\$ -	\$ -
	0.00%		\$ -	\$ -	\$ -	\$ -
	0.00%		\$ -	\$ -	\$ -	\$ -
	0.00%		\$ -	\$ -	\$ -	\$ -
Total:				\$ 23,200	\$ -	\$ 23,200

## Profit

(Profit is not allowed for Grant Recipients)

Profit Rate	Profit Base Description	Profit Base Amount	Energy Commission Funds	Match Share	Total
0.00%		\$ -	\$ -	\$ -	\$ -
Total:			\$ -	\$ -	\$ -

**EXHIBIT C**  
**CEC STANDARD GRANT TERMS AND CONDITIONS FOR THE**  
**LOCAL GOVERNMENT BUILDING DECARBONIZATION**  
**CHALLENGE (LGBDC)**

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**ATTACHMENT 1: CONFIDENTIAL PRODUCTS AND PROJECT-RELEVANT PRE-EXISTING AND INDEPENDENTLY FUNDED INTELLECTUAL PROPERTY (optional)**



## 1. **GRANT AGREEMENT**

This project is being funded with a Federal grant from the Energy Efficiency and Conservation Block Grant (EECBG) Program. The United States Department of Energy's (DOE) EECBG Program was originally created by the Federal Energy Independence and Security Act of 2007 (Public Law No. 110-140, 121 Stat. 1667 (2007)) and expanded under the American Recovery and Reinvestment Act of 2009 (ARRA). The Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL), provides funds through the EECBG Program to reduce carbon emissions and energy use, improve energy efficiency, and increase community investment and local workforce development. Public Law No. 117-58, 136 Stat. 429 (2021); Infrastructure Investment in Jobs Act (IIJA) section 40552.

The California Energy Commission (Energy Commission, Commission, Recipient, or CEC), as the Recipient of a portion of IIJA funds through the EECBG Program (EECBG Funds), has entered into an agreement with the DOE to administer distribution of these funds, including entering into grant agreements with subrecipients, such as this Agreement, consistent with IIJA section 40552 requirements.

This grant agreement (Agreement) between the CEC and the grant Subrecipient includes (1) the Agreement signature page (**Form CEC-146**); (2) the Scope of Work (**Exhibit A**); (3) the Budget (**Exhibit B**); (4) these terms and conditions (**Exhibit C**); (5) federal award terms and conditions (**Exhibit D**); (6) any special terms and conditions that address the unique circumstances of the funded project, which take precedence in the event of a conflict with the standard terms and conditions (**Exhibit E**); (7) a contacts list (**Exhibit F**); (8) all attachments; and (9) all documents incorporated by reference.

All reimbursable work and expenditure of funds (CEC-reimbursed and/or match share) must occur within the Agreement term specified on the CEC-146 form. The CEC cannot authorize any payments until all parties sign this Agreement.

The Subrecipient's authorized representative shall sign all copies of this Agreement and return all signed packages to the Energy Commission's Contracts, Grants, and Loans Office within seven (7) calendar days. Failure to meet this requirement may result in the forfeiture of this award. When all required signatures are obtained, an executed copy will be returned to the Subrecipient.

The term of this Agreement or the Agreement Period is the length of this Agreement between the Energy Commission and the Subrecipient. Project means the Subrecipient's specific project that is funded in whole or in part by

this Agreement. The Subrecipient's project may coincide with or extend outside the Agreement Period.

## **2. DOCUMENTS INCORPORATED BY REFERENCE**

The documents below are incorporated by reference into this Agreement. These terms and conditions (this Exhibit C and Exhibit D, if included, Exhibit E) will govern in the event of a conflict with the documents below, except for the documents in subsections (e) and (f) below. Where this Agreement or California laws and regulations are silent or do not apply, the CEC will use the federal cost principles and acquisition regulations listed below as guidance in determining whether reimbursement of claimed costs is allowable. Documents incorporated by reference include:

### **Solicitation Documents (if the award is made through a competitive solicitation)**

- a. The funding solicitation under which this Agreement was awarded.
- b. The Subrecipient's application submitted in response to the solicitation as accepted by the CEC.

### **Federal Cost Principles (applicable to state and local governments, Indian tribes, institutions of higher education, and nonprofit organizations)**

- c. 2 Code of Federal Regulations (CFR) Part 200, Subpart E (Sections 200.400 et seq.)

### **Federal Acquisition Regulations (applicable to commercial organizations)**

- d. 48 CFR, Ch.1, Subchapter E, Part 31, Subpart 31.2: Contracts with Commercial Organizations (supplemented by 48 CFR, Ch. 9, Subchapter E, Part 931, Subpart 931.2 for DOE grants).

### **Nondiscrimination**

- e. 2 California Code of Regulations, Section 11099 et seq.: Contractor Nondiscrimination and Compliance.

### **General Laws**

- f. Any other federal, state, or local laws or regulations applicable to the project that are not expressly listed in this Agreement.

## **3. STANDARD OF PERFORMANCE**

In performing work under the Agreement, the Subrecipient and its Lower-Tier Subrecipients and Vendors, and their employees are responsible for exercising the degree of skill and care required by customarily accepted good professional practices and procedures for the type of work performed.

#### **4. DUE DILIGENCE**

The Subrecipient must take timely actions that, taken collectively, move this project to completion. The Commission Agreement Manager (CAM) will periodically evaluate the project schedule for completion of Scope of Work (Exhibit A) tasks. If the CAM determines that: (1) the Subrecipient is not diligently completing the tasks in the Scope of Work (Exhibit A); or (2) the time remaining in this Agreement is insufficient to complete all project tasks by the Agreement end date, the CAM may recommend that this Agreement be terminated, and the Commission may terminate this Agreement without prejudice to any of its other rights and remedies.

#### **5. PRODUCTS**

- a. **“Products”** are any tangible item specified for delivery to the CEC in the Scope of Work (Exhibit A), such as reports and summaries.

If the CAM determines that a product is substandard given its description and intended use as described in this Agreement, the CAM, without prejudice to any of the CEC’s other rights and remedies, may refuse to authorize payment for the product and any subsequent products that rely on or are based upon the product under this Agreement.

- b. Confidential Products

Please see Section 18 (Confidential Subrecipient Information) for instructions regarding confidential recipient information in products.

- c. Rights in Products

The CEC owns all products identified in the Scope of Work (Exhibit A), except for products that fall within the definition of “intellectual property.” As between the CEC and the Subrecipient, the Subrecipient owns all intellectual property developed under this Agreement (please see the “Intellectual Property” section).

- d. Failure to Submit Products

A Subrecipient’s failure to submit a product required in the Scope of Work (Exhibit A) may be considered material noncompliance with the Agreement terms. Without prejudice to any other rights and remedies, noncompliance may result in CEC actions such as the withholding of future payments or awards, or the suspension or termination of the Agreement.

- e. Final Report and Payment

The Subrecipient may only submit a request for the final payment (including any retention) after the Final Report is completed, submitted to

the CAM, and CEC management has verified the satisfactory completion of work.

f. Legal Statements on Products

- 1) All documents that result from work funded by this Agreement and are released to the public must include the following statement to ensure no Commission endorsement of documents:

**LEGAL NOTICE**

**This document was prepared as a result of work sponsored by the California Energy Commission and the U.S. Department of Energy. It does not necessarily represent the views of the Energy Commission, the U.S. Department of Energy, their employees, or the State of California or United States. Neither the Commission, the State of California, U.S. Department of Energy, United States, nor the Energy Commission's or U.S. Department of Energy's employees, subrecipients, sub-subrecipients, or vendors make any warranty, express or implied, or assumes any legal liability for the information in this document; nor does any party represent that the use of this information will not infringe upon privately owned rights. This document has not been approved or disapproved by the Energy Commission or U.S. Department of Energy, nor has the Energy Commission or U.S. Department of Energy passed upon the accuracy of the information in this document.**

- 2) The Subrecipient will apply copyright notices to all documents prepared for this Agreement that are released to the public (including reports, articles submitted for publication, and all reprints) using the following form or any other form that may be reasonably specified by the CEC.

**"© [Year of first publication of product] [the Copyright Holder's name]. All Rights Reserved."**

**6. AMENDMENTS**

a. Procedure for Requesting Changes

The Subrecipient must submit a written request to the CAM for any change to the Agreement. The request must include:

- A brief summary of the proposed change;
- A brief summary of the reason(s) for the change;
- Justification for the change; and

- The revised section(s) of the Agreement, with changes made in underline/strikethrough format.

b. Approval of Changes

Unless otherwise allowed in this Agreement, no amendment or variation of this Agreement shall be valid unless made in writing and signed by both of the parties except for the CEC's unilateral termination rights in Section 16 and Section 25 of these terms. No oral understanding or agreement is binding on any of the parties. Changes to the Agreement must be approved at a CEC business meeting or by the Executive Director (or their designee).

Upon the Subrecipient's request, the CAM or Commission Agreement Officer (CAO) will provide the Subrecipient with guidance regarding the level of CEC approval required for a proposed change.

c. Personnel Changes

To the extent permitted by 2 CFR 200.308, except when replacing "key personnel," the Subrecipient, and any Lower-Tier Subrecipients, and Vendors can make changes to their respective personnel without written approval. Although changes to "key personnel" do require written approval, that approval can be requested and granted through an email communication or other form of written communication.

Subrecipients may be reimbursed for actual expenses incurred by new "key personnel" during the term of the Agreement, even if written approval comes after an individual begins work on the project. However, if the replacement is not approved, then the CEC will not reimburse for any expenses charged for the individual. Accordingly, Subrecipients are strongly encouraged to obtain advance written approval for "key personnel" or risk not being reimbursed for their work.

Subrecipient must keep the CAM informed of personnel changes through monthly calls and quarterly progress reports. In addition to any other rights and remedies available to the CEC, the CEC retains its authority to issue a Stop Work Order if it becomes clear that the personnel, key or otherwise, of the Subrecipient, any Lower-Tier Subrecipient, or Vendor are unable to fulfill their responsibilities under the Agreement. In addition to all other rights and remedies, the CEC shall not pay (or may require Subrecipient to repay if the CEC has already paid) for personnel who are unnecessary to complete the scope of work or otherwise perform under the Agreement.

d. Budget Reallocations

See Exhibit D, Federal Award Terms and Conditions, Subpart A, Section 21, Budget Changes.

e. New Items Under Materials and Miscellaneous, and Equipment

Without having to execute an amendment to this Agreement, the CAM must approve in writing of any new materials and miscellaneous expenses of \$5,000 or more or new equipment the Subrecipient or any Lower-Tier Subrecipient, or Vendor plans to purchase and be reimbursed under this Agreement that is not already listed in Exhibit B, Budget. To accomplish this, the Subrecipient can submit either prior to invoicing or with its invoice a completed form titled "NEW EQUIPMENT/M&M FORM" which includes a description of the item and a brief explanation of the need for the item. The CAM will approve items that he or she determines to be necessary to the Agreement and do not exceed budgeted amounts for each Budget Category unless Subrecipient follows the process in this Section 6, part d. directly above.

Any restrictions in the solicitation or elsewhere in the Agreement still apply to the specific items under Materials and Miscellaneous, and Equipment that can be purchased using CEC Funds or Match Share Funds. The restrictions still apply even though a CAM does not have to approve new materials and miscellaneous expenses under \$5,000.

f. Assignment of New Personnel to an Existing Job Classification

If the Subrecipient or a Lower-Tier Subrecipient seeks to assign new personnel to a job classification identified in Exhibit B (the Budget), the Subrecipient or Lower-Tier Subrecipient must submit the individual's resume and proposed job classification and rate to the CAM for approval. The proposed rate may not exceed the maximum rate identified for the job classification. Neither the Subrecipient nor any Lower-Tier Subrecipient may use the job classifications or rates of their subrecipients for personnel.

If the individual performs any work prior to the effective date of the amendment documenting the change, the Subrecipient will bear the expense of the work.

g. Promotion of Existing Personnel to a New or Existing Job Classification

Promotion of existing Subrecipient and any Lower-Tier Subrecipient personnel to rates higher than those listed for their current classification in Exhibit B (the Budget) will not be approved. The actual rates (e.g., direct labor rates, fringe benefit rates, and indirect rates) shall not exceed the approved rates in Exhibit B (the Budget).

h. Replacing Lower-Tier Subrecipients or Vendors

Under these Terms, all changes of Lower-Tier Subrecipients and Vendors require advance written approval by at least the CAM. A higher level of approval may be required based on CEC policy.

Subrecipients may be reimbursed for actual expenses incurred by a new Vendor during the term of this Agreement, even if CEC written approval comes after the entity has completed work on the project. However, if the new Vendor is not approved by the CEC, the CEC will not reimburse for any expenses charged for the entity. Accordingly, Subrecipients are strongly encouraged to obtain **advance** written approval for new Vendors or risk not being reimbursed for their work.

However, any work completed by an entity that may replace an existing Lower-Tier Subrecipient WILL NOT BE REIMBURSED for any work completed prior to advance written approval. If a Lower-Tier Subrecipient expends funds prior to approval, they can only be claimed as Match Funds.

**7. CONTRACTING AND PROCUREMENT PROCEDURES**

This section provides general requirements for Subawards or Subcontracts (as these terms are defined by Section 27 below) entered into between the Subrecipient and Lower-Tier Subrecipients and Vendors for the performance of this Agreement.

a. Subrecipient's Obligations

- 1) The Subrecipient is responsible for handling all contractual and administrative issues arising out of or related to any Subawards or Subcontracts it enters into for the performance of this Agreement.
- 2) Except for the "CEC as Third-Party Beneficiary" term (see section 22.m), nothing contained in this Agreement or otherwise creates any contractual relation between the CEC and any Lower-Tier Subrecipient or Vendor, and no Subaward or Subcontract may relieve the Subrecipient of its responsibilities under this Agreement. The Subrecipient agrees to be as fully responsible to the CEC for the acts and omissions of its Lower-Tier Subrecipients and Vendors or persons directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Subrecipient.

The Subrecipient's obligation to pay its Lower-Tier Subrecipients and Vendors is an independent obligation from the CEC's obligation to make payments to the Subrecipient. As a result, the

CEC has no obligation to pay or enforce the payment of any funds to any Lower-Tier Subrecipient or Vendor.

- 3) The Subrecipient is responsible for establishing and maintaining Subawards/Subcontracts with and reimbursing each Lower-Tier Subrecipient and Vendor for work performed in accordance with the terms of this Agreement.
- 4) A Lower-Tier Subrecipient means a person or entity that receives grant funds directly from the Subrecipient, or another Lower-Tier Subrecipient, and is entrusted by the Subrecipient, or Lower-Tier Subrecipient, to make decisions about how to conduct some of the Agreement's activities. A Lower-Tier Subrecipient's role involves discretion over grant activities and is not merely just selling goods or services.

Characteristics that support the classification of the entity as a Lower-Tier Subrecipient include when the entity:

- Has its performance measured in relation to whether the objectives of a CEC program were met;
  - Has responsibility for programmatic decision-making;
  - Is responsible for adherence to applicable CEC program requirements specified in the CEC award agreement;
  - In accordance with its agreement, uses the CEC funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the Subrecipient or Lower-Tier Subrecipient; or,
  - Provides match share funding contributions to this Agreement.
- 5) A Vendor is defined as a person or entity that sells goods or services to the Subrecipient or any Lower-Tier Subrecipient, in exchange for some of the grant funds, and does not make decisions about how to perform the Agreement's activities. The Vendor's role is ministerial and does not involve discretion over Agreement activities. A Vendor is an entity selected through a competitive process or is otherwise providing a product or service at a fair and reasonable price. Characteristics indicative of a procurement relationship between the Subrecipient, and a Vendor are when the Vendor:
    - Provides the goods and services within normal business operations;



- Provides similar goods or services to many different purchasers;
- Normally operates in a competitive environment;
- Provides goods or services that are ancillary to the operation of the CEC program; and
- May not be subject to compliance with all the requirements of the CEC program as a result of the Agreement, though similar requirements may apply for other reasons.

b. Lower-Tier Subrecipient Flow-Down Terms

Lower-Tier Subrecipients funded in whole or in part by this Agreement must include language conforming to the terms below, unless, to the extent permitted by state and federal laws and regulations, the Subawards or Subcontracts are entered into by the University of California (UC) or the DOE national laboratories. UC may use the terms and conditions negotiated by the CEC with UC for its Subawards or Subcontracts. DOE national laboratories may use the terms and conditions negotiated with DOE (please contact the CAO for these terms).

Lower-Tier Subrecipients do not have to flow down the terms on this list that in their respective sections only state “[RESERVED].”

- Standard of Performance (Section 3)
- Legal Statements on Products (included in Section 5, “Products”). This term does not have to be included if the Lower-Tier Subrecipient will not generate any Products.
- Profit (Section 7.g.)
- Travel and Per Diem (Section 9). This term does not have to be included if the Lower-Tier Subrecipient will not be reimbursed for travel with CEC funds.
- Prevailing Wage (Section 10)
- Recordkeeping, Cost Accounting, and Auditing (Section 11)
- Equipment (Section 14). This term does not have to be included if the Lower-Tier Subrecipient will not be reimbursed for equipment with CEC funds.
- Termination, Executive Order N-6-22 – Russia Sanctions (Section 16.d)
- Indemnification (Section 17)

- Confidential Subrecipient Information (Section 18). This term does not have to be included if the Lower-Tier Subrecipient will not have access to or generate confidential information as defined in Section 18.
- Intellectual Property (Section 20)
- Access to Sites and Records (included in Section 22, “General Provisions”)
- CEC as Third-Party Beneficiary (included in Section 22, “General Provisions”)
- Nondiscrimination (included in Section 23, “Certifications and Compliance”)
- California Taxpayer Access to Publicly Funded Research Act (Section 24)
- Receipt of Confidential Information and Personal Information (Section 26)
- Survival of the following sections:
  - Equipment (Section 14)
  - Recordkeeping, Cost Accounting, and Auditing (Section 11)
  - Intellectual Property (Section 20)
  - Access to Sites and Records (included in Section 22, “General Provisions”)
  - CEC as Third-Party Beneficiary (included in Section 22, “General Provisions”)
  - California Taxpayer Access to Publicly Funded Research Act (Section 24)
  - Receipt of Confidential Information and Personal Information (Section 26)

Lower-Tier Subrecipients funded in whole or in part by this Agreement must also include the following:

- A clear and accurate description of the material, products, or services to be procured.
- A detailed budget and timeline.
- Provisions that allow for administrative, contractual, or legal remedies in instances where Lower-Tier subrecipients or vendors

breach contract terms, in addition to sanctions and penalties as may be appropriate.

- Provisions for termination by the Subrecipient, including termination procedures and the basis for settlement.
- A statement that further assignments will not be made to any Lower-Tier Subrecipient or Vendor without additional advance written consent of the CEC.

c. Vendor Flow-Down Terms

The flow-down requirements either come from the CEC, the terms and conditions of the Federal EECBG award to CEC, or the law. Subrecipient does not have to include any of the CEC-created Lower-Tier Subrecipient Flow-Down terms in its Subcontracts with Vendors unless it is necessary for the Subrecipient to meet its obligations to the CEC under this Agreement or required by Exhibit D (Federal Award Terms and Conditions).

But the Subrecipient is still required to make sure Vendors comply with all applicable laws. For example, the Subrecipient still must ensure any Vendor complies with applicable Public Work Requirements, including the payment of prevailing wage, and also with the Nondiscrimination clause. These are requirements under the law.

The Subrecipient does not have to include in its Subcontracts with Vendors, CEC-created terms, such as Equipment, Travel and Per Diem, Retention of Records, and Audits if the Subrecipient does not need them to fulfill its obligations to the CEC. An example of when the Subrecipient might need to include a CEC-created term in a Subcontract is if intellectual property and royalty payments are involved. The Subrecipient must ensure the CEC has the intellectual property rights required under this Agreement and receives royalty payments due. If, for example, a Vendor creates intellectual property that the Subrecipient provides to the CEC as part of this Agreement, the Subrecipient shall ensure its Vendor Subcontract secures the appropriate rights. Another example is the receipt of confidential information or personal information. If a Vendor will have access to confidential information or personal information provided by the CEC or a third-party for the performance of this Agreement, the Subrecipient must ensure its agreement with the Vendor includes the Energy Commission's special terms and conditions for the receipt of confidential information and personal information before the Vendor has access to any such information.

d. Audits

All Subawards or Subcontracts entered into for the performance of this

Agreement are subject to examination and audit by the CEC and/or Bureau of State Audits for a period of three (3) years after payment of the Subrecipient's final invoice under this Agreement.

e. Copies of Subawards or Subcontracts

The Subrecipient must provide a copy of its Subawards or Subcontracts upon request by the CEC.

f. Conflicting Subaward or Subcontract Terms

Prior to the execution of this Agreement, the Subrecipient will notify the CAM of any known or reasonably foreseeable conflicts between this Agreement and any of its Subawards or Subcontracts (e.g., conflicting intellectual property or payment terms). If the Subrecipient discovers any such conflicts after the execution of this Agreement, it will notify the CAM of the conflict within fifteen (15) days of discovery. The CEC may, without prejudice to its other rights and remedies, terminate this Agreement if any conflict impairs or diminishes its value.

g. Profit

- 1) Subrecipient shall ensure that only Lower-Tier Subrecipients or Vendors meeting the definition of an "Unrelated Company" include in their budgets, invoice for, and receive a profit.
- 2) For purposes of this Agreement, an Unrelated Company is defined as a for-profit business, appropriately licensed and in good standing, which does NOT meet any of the following criteria:
  - a) Directly or indirectly, partially, or fully owns or controls Subrecipient. This includes, but is not limited to, owning five percent (5%) or more of Subrecipient's stock.
  - b) Is directly or indirectly, partially, or fully owned or controlled by Subrecipient. This includes, but is not limited to, having five percent (5%) or more of stock owned by Subrecipient.
  - c) Has one (1) or more common employees, including, but not limited to, owners, officers, directors, or managers, with Subrecipient.
  - d) Shares a Parent Company with the Subrecipient. For purposes of this Agreement, Parent Company is defined as an entity that directly or indirectly, partially, or fully owns or controls both the Subrecipient and the Lower-Tier Subrecipient or shares the same employees with them. This includes but is not limited to, owning five percent (5%) or more of stock in both the Subrecipient and Lower-Tier Subrecipient.

- e) Does not, for any other reason, have an arm's-length relationship (e.g., a relationship involving independent, competing interests) with the Subrecipient. This could be due to any reason, including but not limited to, both entities being part of the same business group, or could stem from family or personal ties between officials of the two (2) entities.
- 3) The Subrecipient shall further ensure the profit to each Unrelated Company that is a Lower-Tier Subrecipient does not exceed ten percent (10%) of **only the CEC funds** the Unrelated Company will receive. None of the following count towards the ten percent (10%) profit maximum:
- a) The Profit Amount Itself. For example, assume the Subrecipient and its Lower-Tier Subrecipient SubX agree to a total, all-inclusive, budget amount of \$200,000 in CEC funds. SubX cannot claim \$20,000 of this as profit. If \$180,000 is the base for expenses on which profit is calculated, ten percent (10%) is only \$18,000 and not \$20,000.
  - b) Non-CEC Funds in any Form. Only CEC funds flowed to a Lower-Tier Subrecipient pursuant to this Agreement, can count towards profit. For example, assume the Subrecipient's Lower-Tier Subrecipient SubX has a budget showing it receiving \$100,000 in CEC funds (not including the profit amount) and \$50,000 in federal funds with the federal funds counting as match under the CEC's grant. The maximum SubX can be paid with CEC funds for profit is 10% of \$100,000 CEC funds, or \$10,000 (assuming the \$100,000 CEC base does not include any of the other expenses that cannot be included in calculating profit). The \$50,000 in federal funds does not count towards the profit calculation because it is not CEC funds.
  - c) Equipment. Continuing the example from b), assume SubX's \$100,000 CEC budget shows \$10,000 earmarked for equipment. The maximum SubX can be paid with CEC funds for profit is ten percent (10%) of \$90,000, or \$9,000 (assuming the \$90,000 base does not include any of the other expenses that cannot be included in calculating profit).
  - d) Amounts Paid to Lower-Tier Subrecipients and Vendors. Continuing the example from b) and c), assume SubX's \$100,000 CEC budget also shows \$20,000 earmarked to pay Sub-SubY. SubX cannot include in its profit calculation the \$20,000 to Sub-SubY. The maximum SubX can be paid with CEC funds for profit is ten percent (10%) of \$70,000 (\$100,000

in CEC funds minus \$10,000 in equipment from c) above and minus \$20,000 to Sub-SubY) or \$7,000.

Vendor Unrelated Companies do not have a ten percent (10%) profit maximum and also do not have to adhere to the same restrictions in a) through d) directly above. However, as stated in the requirements for Vendors in Section 7.a.5) in this Exhibit C, the Subrecipient must be able to demonstrate that the Vendor was selected through a competitive process or is otherwise providing a product or service at a fair and reasonable price.

- 4) Profit can only be paid by the CEC as the amounts on which it is based are invoiced and paid. Profit will NOT be advanced. Continuing the example from 2.d) above, assume SubX submits an invoice for \$5,000 (of its \$70,000) in costs on which profit is based, and the Subrecipient includes SubX's invoice as part of its invoice to the CEC. The Subrecipient can include in the invoice, and the CEC will pay, assuming other Agreement requirements are met, \$500 in profit on this particular invoice. Please realize that Retention (see Section 8.n. in these Terms) may reduce the CEC's overall payment on the invoice.
- 5) Budget changes may affect an Unrelated Company's profit. For example, funds moved from a Lower-Tier Subrecipient's direct labor, a category counting towards the profit calculation, to a Lower-Tier Subrecipient, a category that does not count towards the profit calculation, would reduce the allowable profit.

h. Penalties for Noncompliance

Without limiting the CEC's other rights and remedies, failure to comply with the above requirements may result in the termination of this Agreement and repayment of any profit amounts in violation of these terms.

**8. PAYMENT OF FUNDS**

a. Definitions

For purposes of this Section 8, the following terms have the following meaning:

- "Advance Payment" means the CEC pays the Subrecipient prior to the Subrecipient Incurring or Paying the expense.
- "Incurred Cost" means an expense for which the Subrecipient has become liable (legally obligated) to pay. Here are examples of Incurred Costs:

- The Subrecipient's staff has completed work during the month but has not been paid by the Subrecipient. These labor and associated costs (e.g., fringe benefits) are considered Incurred Costs.
- The Subrecipient has purchased a piece of equipment **and** received an invoice, bill, or receipt. The Subrecipient has not yet paid the invoice. The invoice shows the amount to be paid and confirmation of the sale. This is an Incurred Cost.

Incurred Costs for equipment DO NOT include purchase orders unless accompanied by an invoice, bill, or receipt that shows the payment amount due to the seller for the equipment.

- "Paid Cost" means an expense for which the Subrecipient has already made payment.

b. Advance Payments

Subrecipients can receive Advance Payments only for subawards or subcontracts to the extent allowable by law. The CEC in its sole discretion, and not the Subrecipient, decides if the CEC will make an Advance Payment.

Following CEC's remittance of the Advance Payment, the Subrecipient shall provide quarterly reconciliation of costs for the Advance Payment consistent with subsections (c), (j) and (k), and as directed by the CAM. Without prejudice to the CEC's other rights and remedies, the Subrecipient must return any unspent or unreconciled funds at the termination or end of the Agreement.

c. Reimbursable Cost Requirements

In addition to any other requirements in this Agreement, the CEC is only obligated to reimburse the Subrecipient for Incurred and Paid Costs that are (1) incurred during the Agreement Term; (2) invoiced within the required timeframes of this Agreement; (3) made in accordance with the Agreement's Budget (Exhibit B); and (4) actual and allowable expenses under this Agreement.

The only exception to the CEC paying actual expenses is rounding to the nearest cent. The Subrecipient, and any Lower-Tier Subrecipient shall round invoiced amounts to the nearest cent (\$0.01) using standard rounding, which is rounding down from \$0.000 through \$0.004, and rounding up for \$0.005 through \$0.009. Rounding cannot be used to

exceed the amount in any Budget Category or exceed the total Agreement amount.

Please note that rates listed in Exhibit B (the Budget), are NOT “negotiated rates” that can be charged – documentation must be made available upon request to show that the rates charged reflect actual costs incurred.

This Exhibit C’s terms allow the Subrecipient, and any Lower-Tier Subrecipient to receive reimbursement for actual Indirect Costs.

### **Option 1: De Minimis**

The Subrecipient and any Lower-Tier Subrecipient can elect to invoice and receive a de minimis amount at the set rate of ten percent (10%) of the Modified Total Direct Costs (MTDC) for Indirect Costs. This cannot be combined with any other Indirect Rate option.

MTDC is defined for purposes of this Agreement as all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award).

MTDC excludes equipment, capital expenditures, rental costs, tuition remission, scholarships and fellowships, and the portion of each subaward in excess of \$25,000. Entities choosing this de minimis option for Indirect Costs will not have to provide backup documentation for the de minimis amount.

### **Option 2: Defense Contract Audit Agency (DCAA) or other Federally Approved Indirect Rate**

A Subrecipient and any Lower-Tier Subrecipient that has a federally approved indirect rate from DCAA or another Federal agency may use the approved indirect rate for this Agreement. A copy of the Federal agency’s letter must be provided, and the letter, or the letter together with other supporting documentation, must allow the CEC to verify that the rates charged to the CEC are the federally approved rates.

This rate will typically shift annually, and this shift is generally acceptable. This is the only Indirect Cost option that is not strictly subject to the maximum rate cap that typically applies to Indirect Costs. If the federal rate decreases from year to year, that will be a cost savings under this Budget Category. If the federal rate increases from year to year, this will require a budget reallocation. If the CEC, in its sole discretion, determines that a budget reallocation to accommodate an increased Indirect Rate would risk the ultimate success of this Agreement, or is otherwise not in its best interest, the CEC reserves, in addition to all of its



other rights and remedies, the right to either propose a smaller increase that would not risk the ultimate success of the project, or refuse to increase the Indirect Rate.

d. Subrecipient's 14-Day Payment Requirement for Incurred Costs

The Subrecipient and any Lower-Tier Subrecipient shall pay ALL Incurred Costs within fourteen (14) calendar days of receiving payment under this Agreement for the Incurred Costs. For example, if the Subrecipient invoices and then receives payment from the CEC on September 15 for an Incurred Cost of \$10,000, the Subrecipient shall pay the entire \$10,000 by September 29. This requirement is needed to prevent entities from creating long lead times for Incurred Costs (e.g., invoicing and receiving payment from the CEC but not paying for the Incurred Costs for weeks or months).

The Subrecipient shall only invoice the CEC, Lower-Tier Subrecipients shall only invoice the Subrecipient (and so on for any Lower-Tier Subrecipients), for Incurred Costs it will pay within fourteen (14) calendar days of receiving payment of CEC funds. For example, assume the Subrecipient has an Incurred Cost for a piece of equipment that costs \$300,000 and will pay in three (3) installments of \$100,000 each over three (3) months. The Subrecipient shall only invoice the CEC for \$100,000 each month. The Subrecipient shall not invoice for the entire \$300,000 and retain the balance over the three (3) months.

For any Incurred Costs for which the Subrecipient and any Lower-Tier Subrecipient has received CEC funds and does not pay within fourteen (14) calendar days, the entity shall on the very next business day after the fourteen (14) calendar days submit repayment of the unpaid amount back to the CEC. Repaid funds will be placed back into the Agreement and will be available to reimburse allowable costs in accordance with this Agreement.

When making a repayment under this provision, the Subrecipient shall specify "Repayment of Unspent Funds under Agreement # EECBG-24-003." Subrecipient shall remit the repayment to:

California Energy Commission  
Accounting Office  
715 P Street, MS-2  
Sacramento, CA 95814

This repayment requirement of the Subrecipient is in addition to any other rights the CEC can enforce relative to this Agreement. The Subrecipient agrees and acknowledges that time is of the essence in paying Incurred Costs and submitting repayments and the CEC can treat

the Subrecipient's breach of either requirement as a material breach. The Subrecipient can contact the CAM for any questions about the logistics of making repayments.

e. Payment Requests

The Subrecipient may request payment from the CEC no more frequently than quarterly. The final payment request, including retention, MUST be received by the CEC no later than the Agreement end date.

The Subrecipient agrees and acknowledges that time is of the essence in submitting the final payment request. The CEC has a limited period of time, set by law, in which it can reimburse funds under this Agreement. Without prejudice to the CEC's other rights, the Subrecipient risks not receiving any funds, and relieves the CEC of any duty and liability whatsoever to pay, for any payment requests received after the end of the Agreement.

No reimbursement for food or beverages shall be made other than allowable per diem charges.

**All Subrecipient expenditures, reimbursable and match, must occur within the approved term of this Agreement.**

f. Invoice Approval and Disputes:

Each request for payment is subject to the CAM's approval. Payments will be made to the Subrecipient for undisputed invoices. An undisputed invoice is an invoice submitted by the Subrecipient for work performed, for which project expenditures meet all Agreement conditions, and for which additional evidence is not required to determine its validity.

The invoice will be disputed if the invoice is inaccurate or if it does not comply with the terms of this Agreement. If the invoice is disputed, the Subrecipient will be notified in writing.

g. Subrecipient's headquarters:

For purposes of payment, the Subrecipient's headquarters is the location of the Subrecipient's office where the majority of its employees' assigned responsibilities for this Agreement are permanently assigned.

h. Multiple Non-Energy Commission Funding Sources:

No payment will be made for costs identified in Subrecipient and any Lower-Tier Subrecipient invoices that have been or will be reimbursed by another source, including but not limited to an agreement with another government entity.

"Government Entity" means: (1) a state governmental agency; (2) a state college or university; (3) a local government entity or agency, including

those created as a Joint Powers Authority; (4) an auxiliary organization of the California State University or a California community college; (5) the federal government; (6) a foundation organized to support the Board of Governors of the California Community Colleges; and (7) an auxiliary organization of the Student Aid Commission established under California Education Code Section 69522.

i. Reduced funding:

If the CEC does not receive sufficient funds under the Budget Act to fully fund the work identified in the Scope of Work (Exhibit A), the following will occur:

- 1) If the Energy Commission has received a reduced amount of funds for the work, it may: (1) offer an Agreement amendment to the Subrecipient to reflect the reduced amount; or (2) cancel this Agreement (with no liability occurring to the State).
- 2) If the Energy Commission has received no funds for the work identified in the Scope of Work (Exhibit A): (1) this Agreement will be of no force and effect; (2) the State will have no obligation to pay any funds to the Subrecipient; and (3) the Subrecipient will have no obligation to perform any work under this Agreement.

j. Allowability of Costs

1) Allowable Costs

The costs for which the Subrecipient will be reimbursed under this Agreement include all actual costs, direct and indirect, incurred in the performance of the work identified in the Scope of Work (Exhibit A). Costs must be incurred within the Agreement term. Factors to be considered in determining whether an individual item of cost is allowable include (i) reasonableness of the item, including necessity of the item for the work; (ii) applicable federal cost principles or acquisition regulations incorporated by reference in Section 2 of this Agreement; and (iii) the terms and conditions and any other requirements of this Agreement.

2) Unallowable Costs

Subrecipient shall not invoice or obtain from the CEC any profit for itself under this Agreement. This Agreement is a grant for the Subrecipient's project. This is not a services contract to the State. The Subrecipient is already receiving the benefit of the grant funds. The CEC shall not pay profit to the Subrecipient on top of the benefit it is receiving from the grant funds in this Agreement. Some Lower-Tier Subrecipients may be able to receive up to ten

percent (10%) profit (please refer to section 7.g. in these terms).

Below are examples of other unallowable costs. Details concerning the allowability of costs are available from the CEC's Accounting Office.

- a) Contingency costs;
- b) Imputed costs (e.g., cost of money);
- c) Fines and penalties;
- d) Losses;
- e) Excess profit taxes; and
- f) Unapproved, increased rates and fees for this Agreement.

- 3) Subrecipient will use the federal cost principles and/or acquisition regulations when determining allowable and unallowable costs.

k. **Payment Request Format**

The Subrecipient, and any Lower-Tier Subrecipient with a total budget of \$100,000 or more, shall use the Advance Payment or Standard Invoice Templates and any further modifications to them, provided by the CAM to submit advance or standard payment requests.

The Subrecipient, and any Lower-Tier Subrecipient with a total budget of \$100,000 or more, shall also use the Reconciliation Report Template and any further modifications to it, provided by the CAM to reconcile any advance payments received on a quarterly basis.

When completing reconciliation of costs, the Subrecipient and any Lower-Tier Subrecipient with a total budget of \$100,000 or more shall assign costs specifically to Budget Categories and shall not exceed the amount in each Budget Category identified on the Budget (Exhibit B).

A Quarterly Progress Report detailing progress on the project and all tasks and products must accompany each Reconciliation Report or Standard Payment Invoice. Payment will only be approved if the progress is consistent with the amount of expenditure in each task area and budget category.

The CAM can change the Advance Payment or Standard Invoice Templates, as well as the Reconciliation Report Template without amending this Agreement.

**First Advance Payment**

Following signature and execution of an agreement, Subrecipients may request 50 percent (50%) of total awarded funds in advance by

submitting an Advance Payment Invoice to the CEC via email to [invoices@energy.ca.gov](mailto:invoices@energy.ca.gov). The Subrecipient shall submit the Quarterly Progress and Reconciliation Reports detailed in the Scope of Work (Exhibit A) directly to the CAM via email.

### **Second Advance Payment**

Following full reconciliation of costs equal to, or more than, the initial 50 percent (50%) advance of awarded funds, the Subrecipient will have the option to submit a request for an additional advance of 25 percent (25%) of total awarded funds by submitting an Advance Payment Invoice to the CEC via email to [invoices@energy.ca.gov](mailto:invoices@energy.ca.gov). The Subrecipient shall submit the Quarterly Progress and Reconciliation Reports detailed in the Scope of Work (Exhibit A) directly to the CAM via email.

### **Standard Payments**

Following full reconciliation of all advance funds, the Subrecipient shall submit Standard Payment Invoices for reimbursement of allowable costs no more frequently than quarterly. The Subrecipient shall submit Standard Payment Invoices along with the Quarterly Progress Report detailed in the Scope of Work (Exhibit A) to the CEC via email to [invoices@energy.ca.gov](mailto:invoices@energy.ca.gov). Standard payments will generally be made on a reimbursement basis for Subrecipient expenditures, i.e., after the Subrecipient has incurred the cost for a service, product, supplies, or other approved budget item.

The Subrecipient shall provide documentation showing the Subrecipient's payment of Incurred Costs as soon as possible and not later than three (3) working days from a request from CEC personnel.

The CAM will not process any payment request during the Agreement term until the following conditions have been met:

- All required reports have been submitted and are satisfactory to the CAM.
- All applicable special conditions have been met.
- All products due have been submitted and are satisfactory to the CAM.
- Other prepayment conditions as may be required by the CAM have been met. Such conditions will be specified in writing ahead of time, if possible

#### **I. Certification**

The Subrecipient, and any Lower-Tier Subrecipient with a total budget of \$100,000 or more shall include and sign the certification provided by the

CAM in the Advance Payment and Standard Invoice Templates. The CAM can change this certification without amending this Agreement.

The following certification shall be included on each invoice and signed by the Subrecipient or Lower-Tier Subrecipient's authorized officer:

*I certify that this invoice is correct and proper for payment, and reimbursement for these costs has not and will not be received from any other sources, including but not limited to a government entity contract, subcontract, or other procurement method.*

Additional certification is required related to the payment of prevailing wages. Refer to Section 10 of these terms and conditions for more information.

m. Retention

The CEC shall retain 10 percent (10%) of any payment request or 10 percent (10%) of the total CEC award at the end of the Agreement. The CEC has the sole discretion to decide which of these methods of retention will be used in this Agreement. The Subrecipient must submit a completed payment request requesting release of the retention within the required timeframe (see part e. "Payment Requests" above in this term). The CAM will review the project file and, when satisfied that the terms of the funding Agreement have been fulfilled, will authorize release of the retention.

Retention may be released upon completion of tasks that are considered separate and distinct (i.e., the task is a stand-alone piece of work and could be completed without the other tasks). Tasks for administration or management of the Agreement and/or Lower-Tier Subrecipients are not considered separate and distinct tasks. The tasks for which retention may be released prior to the end of the Agreement must be identified in Exhibit B (the Budget) or elsewhere in this Agreement.

When the CEC withholds ten percent (10%) retention from each invoice, the Subrecipient can choose to flow down the retention requirement to its Lower-Tier Subrecipients subject to the following restrictions and any other requirements in this Agreement:

- The Subrecipient shall not flow down retention requirements to DOE national laboratory subrecipients.
- The retention flowed down to Lower-Tier Subrecipients can only be up to a total of ten percent (10%) of the amount of CEC funds the Lower-Tier Subrecipient is to receive. The Subrecipient is responsible for carrying the retention for its funded portion of the

entire Agreement and cannot pass its share of retention to Lower-Tier Subrecipients or Vendors.

- Here are three (3) examples:
  - i. A Lower-Tier Subrecipient submits an invoice for \$100,000 to the Subrecipient, and the Subrecipient in turn submits it to the CEC. The CEC will only pay \$90,000 of the invoice and the Subrecipient can elect to pay only \$90,000 to its Lower-Tier Subrecipient.
  - ii. A Lower-Tier Subrecipient is the DOE national laboratory or other entity to which retention requirements do not legally apply, and it submits an advance request for \$100,000 to the Subrecipient, including any other documents required in the CEC's DOE Terms and Conditions. The Subrecipient in turn submits the advance requests to the CEC for payment. The CEC will pay the full amount of the advance requests to the Subrecipient and the Subrecipient must pay the full amount to the DOE.
  - iii. The Subrecipient submits an invoice for its own staff in the amount of \$20,000. The CEC will only pay \$18,000 to the Subrecipient, and the Subrecipient cannot withhold the \$2,000 difference from Lower-Tier Subrecipient or Vendor reimbursements.
- These requirements apply to all levels of Lower-Tier Subrecipients.

## **9. TRAVEL AND PER DIEM**

- a. Any travel taken that is not listed in Exhibit B, the Budget is at the financial risk of the Subrecipient, and any Lower-Tier Subrecipient, or Vendor taking the trip. Please note that the Subrecipient, and any Lower-Tier Subrecipient or Vendor cannot invoice and be paid for more than the total amount in the Travel Budget Category without an amendment, except as otherwise permitted under this Agreement.
- b. No reimbursement for food or beverages will be made other than for allowable per diem charges.
- c. The Subrecipient will be reimbursed for authorized travel and per diem up to, but not to exceed, the rates listed on the ECAMS Resources webpage. Because the rates on the ECAMS Resources webpage can change over time, Subrecipient, and any Lower-Tier Subrecipient or Vendor will be allowed to be reimbursed for the rates in the Grant Manual when the trip expenses become an Incurred Cost. The CEC shall notify the Subrecipient in writing by way of the Active Agreements listserv if the

travel rates in the Grant Manual change. Please sign up for the Active Agreements listserv to stay informed of all updates.

d. Lodging

The Subrecipient, and any Lower-Tier Subrecipient or Vendor can invoice at standard room rates. The CEC will not reimburse for luxury accommodations.

e. Airfare

The Subrecipient, and any Lower-Tier Subrecipient or Vendor can invoice at coach rates on commercial flights. The CEC will not pay for upgrades on flights.

f. Rental Car

The Subrecipient, and any Lower-Tier Subrecipient or Vendor can invoice for vehicles appropriate for the purpose of the travel. The CEC will not reimburse expenses for luxury vehicles.

g. Bus/Train

The Subrecipient, and any Lower-Tier Subrecipient or Vendor can invoice for standard coach rates. The CEC will not reimburse for upgrades.

h. Per Diem

Per diem is allowable for actual costs incurred up to the total daily maximum for the following combined expenses:

- Meals
- Incidentals (i.e., tips for hotel staff and taxi/ride share drivers)
- Parking
- Tolls
- Taxi/ride share

The CEC will not reimburse any expenses under this Agreement for alcoholic beverages. In addition, the daily per diem is for the individual expenses of those traveling and working on the Agreement only. It cannot be used to pay expenses of others (e.g., it cannot be used to buy a meal for someone else).

## **10. PREVAILING WAGE**

a. Requirement

Projects funded by the Energy Commission often involve construction, alteration, demolition, installation, repair, or maintenance work over \$1,000. Such projects might be considered “public works” under the



California Labor Code (See California Labor Code Section 1720 et seq. and Title 8 California Code of Regulations, Section 16000 et seq.). Public works projects require the payment of prevailing wages. Prevailing wage rates can be significantly higher than non-prevailing wage rates.

b. Determination of Project's Status

Only the California Department of Industrial Relations (DIR) and courts of competent jurisdiction may issue legally binding determinations that a particular project is or is not a public work. If the Subrecipient is unsure whether the project funded by the Agreement is a "public work" as defined in the California Labor Code, it may wish to seek a timely determination from DIR or an appropriate court. As such processes can be time consuming, it may not be possible to obtain a timely determination before the date for performance of the Agreement.

By accepting this grant, the Subrecipient is fully responsible for complying with all California public works requirements, including but not limited to payment of prevailing wage. As a material term of this grant, the Subrecipient must either:

- 1) Timely obtain a legally binding determination from DIR or a court of competent jurisdiction before work begins on the project that the proposed project is not a public work; or
- 2) Assume that the project is a public work and ensure that:
  - Prevailing wages are paid unless and until DIR or a court of competent jurisdiction determines that the project is not a public work;
  - The project budget for labor reflects these prevailing wage requirements; and
  - The project complies with all other requirements of prevailing wage law, including but not limited to keeping accurate payroll records and complying with all working hour requirements and apprenticeship obligations.

California Prevailing Wage law provides for substantial damages and financial penalties for failure to pay prevailing wages when such payment is required.

c. Subrecipient and Vendor Flow-down Requirements

The Subrecipient will ensure that its Lower-Tier Subrecipients, and any Lower-Tier Subrecipients and Vendors also comply with the public works/prevailing wage requirements above. As applicable, the Subrecipient will ensure that all agreements with Lower-Tier

Subrecipients and Vendors to perform work related to this project contain the above terms regarding payment of prevailing wages on public works projects, and also as applicable that Lower-Tier Subrecipients and Vendors also contain these terms. The Subrecipient is responsible for any failure of any Lower-Tier Subrecipients or Vendors to comply with California prevailing wage and public works laws.

d. Indemnification and Breach

Any failure of the Subrecipient or any Lower-Tier Subrecipients or Vendors to comply with the above requirements will constitute breach of this Agreement which excuses the CEC's performance of this Agreement at the CEC's option and will be at the Subrecipient's sole risk. In such a case, the CEC will refuse payment to the Subrecipient of any amount under this award and the CEC will be released, at its option, from any further performance of this Agreement or any portion thereof. The Subrecipient will indemnify the CEC and hold it harmless for any and all financial consequences arising out of or resulting from the failure of the Subrecipient and/or any of its subcontractors, Lower-Tier Subrecipients, or Vendors to pay prevailing wages or to otherwise comply with the requirements of prevailing wage law.

e. Budget

The Subrecipient's budget on public works projects must indicate which job classifications are subject to prevailing wage. For detailed information about prevailing wage and the process to determine if the proposed project is a public work, the Subrecipient may wish to contact DIR or a qualified labor attorney for guidance.

f. Covered Trades

For public works projects, the Subrecipient may contact DIR for a list of covered trades and the applicable prevailing wage.

g. Questions

If the Subrecipient has any questions about this contractual requirement or the wage, record keeping, apprenticeship, or other significant requirements of California prevailing wage law, the Subrecipient should consult DIR and/or a qualified labor attorney before entering into this Agreement.

h. Certification

The Subrecipient will certify to the CEC on each payment request form either that: (a) prevailing wages were paid to eligible workers who provided labor for work covered by the payment request and the Subrecipient and all contractors and subcontractors otherwise complied

with all California prevailing wage laws; or (b) the project is not a public work requiring the payment of prevailing wages. In the latter case, the Subrecipient will provide competent proof of a DIR or court determination that the project is not a public work requiring the payment of prevailing wages.

Prior to the release of any retained funds under this Agreement, the Subrecipient will submit to the CEC the above-described certificate signed by the Subrecipient and all Lower-Tier Subrecipients, and any Lower-Tier subrecipients, contractors, and Vendors performing public works activities on the project. Absent this certificate, the Subrecipient will have no right to any funds under this Agreement, and CEC will be relieved of any obligation to pay any funds.

#### **11. RECORDKEEPING, COST ACCOUNTING, AND AUDITING**

a. Cost Accounting

The Subrecipient will keep separate, complete, and correct accounting of the costs involved in completing the project and any match-funded portion of the project. The CEC or its agent will have the right to examine the Subrecipient's books of accounts at all reasonable times, to the extent necessary to verify the accuracy of the Subrecipient's reports.

b. Accounting Procedures

The Subrecipient's costs will be determined on the basis of its accounting system procedures and practices employed as of the effective date of this Agreement, provided that the Subrecipient uses generally accepted accounting principles and cost reimbursement practices. The Subrecipient's cost accounting practices used in accumulating and reporting costs during the performance of this Agreement will be consistent with the practices used in estimating costs for any proposal to which this Agreement relates; provided that such practices are consistent with the other terms of this Agreement and that such costs may be accumulated and reported in greater detail during performance of this Agreement.

The Subrecipient's accounting system will distinguish between direct and indirect costs. All costs incurred for the same purpose, in like circumstances, are either direct costs only or indirect costs only with respect to costs incurred under this Agreement.

c. Audit Rights

The Subrecipient will maintain books, records, documents, and other evidence, based on the procedures set forth above, sufficient to reflect properly all costs claimed to have been incurred in the performance of

this Agreement. In addition to the rights of the federal government, the CEC, another state agency, and/or a public accounting firm designated by the CEC may audit the Subrecipient's accounting records at all reasonable times, with prior notice by the CEC. The Subrecipient will allow the auditor(s) to access such records during normal business hours and will allow interviews of any employees who might reasonably have information related to such records. The Subrecipient will include a similar right of the State to audit records and interview staff in any subcontract related to the performance of this Agreement.

d. Refund to the Energy Commission

If the CEC determines that any invoiced and paid amounts exceed the actual allowable Incurred Costs, the Subrecipient will repay the amounts to the CEC within thirty (30) days of request or as otherwise agreed by the CEC and the Subrecipient. If the CEC does not receive such repayments, it will be entitled to take actions such as withholding further payments to the Subrecipient and seeking repayment from the Subrecipient.

e. Audit Cost

The Subrecipient will bear its cost of participating in any audit (e.g., mailing or travel expenses). The CEC will bear the cost of conducting the audit unless the audit reveals an error detrimental to the CEC that exceeds more than ten percent (10%) or \$5,000 (whichever is greater) of the amount audited. The Subrecipient will pay the refund as specified in subsection (d) and will reimburse the CEC for reasonable costs and expenses incurred by the CEC in conducting the audit.

f. Match or Cost Share

If the Budget (Exhibit B) includes a match share requirement, the Subrecipient's commitment of resources, as described in this Agreement, is a required expenditure for receipt of CEC funds. The funds will be released only if the required match percentages are expended concurrently or in advance of the CEC funds. The CAM, in writing and with supervisor approval, can authorize a Subrecipient to spend CEC funds in advance of Match Funds pursuant to a Match Fund Spending Plan. The Plan must estimate how Match Funds and CEC funds will be spent over each quarter and briefly explain why it is not practical to spend Match Funds concurrent with CEC funds. While this term allows flexibility, the Subrecipient agrees to spend the agreed match as soon as practical during the Agreement in order to resume proportionality between CEC funds and Match Funds spent. The Subrecipient must maintain accounting records detailing the expenditure of the match

(actual cash and in-kind, non-cash services), and report on match share expenditures on its request for payment.

**12. WORKERS' COMPENSATION INSURANCE**

- a. The Subrecipient warrants that it carries Worker's Compensation Insurance for all its employees who will be engaged in the performance of this Agreement and agrees to furnish to the CAM satisfactory evidence of this insurance upon the CAM's request.
- b. If the Subrecipient is self-insured for worker's compensation, it warrants that the self-insurance is permissible under the laws of the State of California and agrees to furnish to the CAM satisfactory evidence of the insurance upon the CAM's request.

**13. PERMITS AND CLEARANCES**

The Subrecipient is responsible for ensuring that all necessary permits and environmental documents are prepared and that clearances are obtained from the appropriate agencies.

**14. EQUIPMENT**

As between the Subrecipient and CEC, title to equipment acquired by the Subrecipient with grant funds will vest in the Subrecipient. The Subrecipient may use the equipment in the project or program for which it was acquired as long as needed, regardless of whether the project or program continues to be supported by grant funds.

However, the Subrecipient may not sell, lease, encumber the property (i.e., place a legal burden on the property such as a lien), or even transfer possession of it during the Agreement term without the CAM's prior written approval.

The Subrecipient shall refer to the applicable federal regulations incorporated by reference in this Agreement for guidance regarding additional equipment requirements.

**15. STOP WORK**

CEC staff may, at any time by written notice to the Subrecipient, require the Subrecipient to stop all or any part of the work tasks in this Agreement. Stop work orders may be issued for reasons such as a project exceeding budget, noncompliance with the standard of performance, out of scope work, project delays, and misrepresentations.

- a. Compliance. Upon receipt of a stop work order, the Subrecipient must immediately take all necessary steps to comply with the order and to stop the incurrence of costs allocable to the CEC.
- b. Canceling a Stop Work Order. The Subrecipient may resume the work only upon receipt of written instructions from CEC staff.

## **16. TERMINATION**

### **a. Purpose**

The CEC may terminate the Agreement as set forth herein and proceed with the work required under the Agreement in any manner it deems proper. The Subrecipient agrees that upon any of the events triggering the termination of the Agreement by the CEC, the CEC has the right to terminate the Agreement, and it would constitute bad faith of the Subrecipient to interfere with the immediate termination of the Agreement by the CEC.

### **b. With Cause**

The CEC may, for cause, terminate this Agreement upon giving five (5) calendar days advance written notice to the Subrecipient. In this event, the Subrecipient will use all reasonable efforts to mitigate its expenses and obligations. The Subrecipient will relinquish possession of equipment purchased for this Agreement with CEC funds to the CEC, or the Subrecipient may purchase the equipment as provided by the terms of this Agreement or otherwise by the CEC, with approval of the CEC.

The term “for cause” includes but is not limited to the following:

- Subrecipient fails to perform the requirements of this Agreement in the time and manner provided herein.
- Partial or complete loss of Match Funds;
- Reorganization to a business entity unsatisfactory to the Energy Commission;
- Retention or hiring of Lower-Tier Subrecipients or Vendors, or replacement or addition of personnel, which fail to perform to the standards and requirements of this Agreement;
- The Subrecipient’s inability to pay its debts as they become due and/or the Subrecipient’s default of an obligation that impacts its ability to perform under this Agreement; or
- Significant change in Federal, State, or CEC policy such that the work or product being funded would not be supported by the Commission.

### **c. Without Cause**

The CEC may terminate this Agreement without cause upon giving thirty (30) days advance written notice to the Subrecipient. In this event, the Subrecipient will use all reasonable efforts to mitigate its expenses and obligations.

d. Executive Order N-6-22 – Russia Sanctions

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. “Economic Sanctions” refers to sanctions imposed by the U.S. government in response to Russia’s actions in

Ukraine, as well as any sanctions imposed under State law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Subrecipient is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, which shall be grounds for termination of this Agreement. The State shall provide Subrecipient advance written notice of such termination, allowing Subrecipient at least thirty (30) calendar days to provide a written response. Termination shall be at the sole discretion of the State.

**17. INDEMNIFICATION**

To the extent allowed under California law, the Subrecipient will indemnify, defend, and hold harmless the State (including the CEC) and State officers, agents, and employees from any and all claims and losses in connection with the performance of this Agreement.

**18. CONFIDENTIAL SUBRECIPIENT INFORMATION**

a. Identification of Confidential Subrecipient Information

- 1) For the purposes of this Section, “Confidential Subrecipient Information” refers to information belonging to the Subrecipient that the Subrecipient has satisfactorily identified as confidential and the Energy Commission has agreed to designate as confidential under Title 20 California Code of Regulations Section 2505.
- 2) Prior to the effective date of this Agreement, the Subrecipient will identify all products (or information contained within products) it considers Confidential Subrecipient Information, and provide the legal basis for confidentiality, in Attachment 1 to this Exhibit. If the CEC agrees the information is confidential, it will not disclose it except as provided in subsection (b).
- 3) During the Agreement, if the Subrecipient obtains or develops additional products (or information contained within products) not originally identified as Confidential Subrecipient Information in Attachment 1 to this Exhibit, the Subrecipient will follow the

procedures for a request for designation of confidential information as specified in Title 20 California Code of Regulations (CCR) Section 2505.

The CEC's Executive Director will make the confidentiality determination. Such subsequent determinations may be added to the list of confidential deliverables in the Attachment 1 to this Exhibit. The CEC will not disclose information subject to an application for confidential designation except as provided in subsection (b).

- 4) When submitting products containing Confidential Subrecipient Information, the Subrecipient will mark each page of any document containing Confidential Subrecipient Information as "confidential" and present it in a sealed package to the Contracts, Grants, and Loans Office.

The CAM may require the Subrecipient to submit a non-confidential version of the product if it is feasible to separate the Confidential Subrecipient Information from the non-confidential information. The Subrecipient is not required to submit such products in a sealed package.

b. Disclosure of Confidential Subrecipient Information

The CEC will only disclose Confidential Subrecipient Information under the circumstances specified in Title 20 CCR Sections 2506, 2507, and 2508. All Confidential Subrecipient Information that is legally disclosed by the Subrecipient or any other entity will become a public record and will no longer be subject to the CEC's confidentiality designation.

c. Waiver of Consequential Damages

In no event will the CEC, or the State of California be liable for any special, incidental, or consequential damages based on breach of warranty, breach of contract, negligence, strict tort, or any other legal theory for the disclosure of the Confidential Subrecipient Information, even if the CEC has been advised of the possibility of such damages.

Damages that the CEC, and the State of California will not be responsible for include but are not limited to lost profit; lost savings or revenue; lost goodwill; lost use of the product or any associated equipment; cost of capital; cost of any substitute equipment, facilities, or services; downtime; the claims of third parties including customers; and injury to property.

d. Limitations on the Disclosure of Products

During the Agreement, the Subrecipient, Lower-Tier Subrecipients, any Lower-Tier Subrecipient or Vendor must receive written approval from the



CAM prior to disclosing the contents of any draft product to a third party.

However, if the CEC makes a public statement about the content of any product provided by the Subrecipient and the Subrecipient believes the statement is incorrect, the Subrecipient may state publicly what it believes is correct.

**19. PRE-EXISTING AND INDEPENDENTLY FUNDED INTELLECTUAL PROPERTY**

[RESERVED]

**20. INTELLECTUAL PROPERTY**

Subject to Exhibit D (Federal Award Terms and Conditions), Subpart A, Section 17, Intellectual Property:

- 1) The Subrecipient owns all intellectual property, subject to the licenses described below.
- 2) CEC owns all tangible products specified for delivery in the Scope of Work, with the exception of any intellectual property.
- 3) Nothing in this Agreement gives the Subrecipient any rights to “Confidential Information” and “Personal Information” as defined in Section 26, other than using Confidential Information and Personal Information for the limited purpose of performing Subrecipient’s work under this Agreement in accordance with Section 26.
- 4) CEC has a non-exclusive, non-transferable, irrevocable, worldwide, perpetual license to use, publish, translate, modify, and reproduce intellectual property created under this Agreement for governmental purposes. If any intellectual property that is subject to the licenses above has been designated as confidential as specified in Section 18, all license holders will only disclose the intellectual property under the circumstances specified in Title 20 CCR Sections 2506, 2507, and 2508.

Subrecipient has a non-exclusive, non-transferable, irrevocable, worldwide, perpetual license to use, publish, translate, modify, and reproduce written products created for Agreement reporting and management purposes, such as reports and summaries.

a. Access to and Preservation of Intellectual Property

1) Access to Intellectual Property

Upon the CAM’s request, the Subrecipient will provide the CAM and any individuals designated by the CEC, with access to the Subrecipient’s intellectual property in order to exercise the license rights described above.

2) Preservation of Intellectual Property

The Subrecipient will preserve intellectual property at its own expense for at least three (3) years after payment by the CEC of the Subrecipient's final invoice.

b. Intellectual Property Indemnity

The Subrecipient may not, in supplying work under this Agreement, knowingly infringe or misappropriate any intellectual property right of a third party, and will take reasonable actions to avoid infringement.

The Subrecipient will defend and indemnify the CEC from and against any claim, lawsuit, or other proceeding, loss, cost, liability, or expense (including court costs and reasonable fees of attorneys and other professionals) to the extent arising out of: (i) any third party claim that a product infringes any patent, copyright, trade secret, or other intellectual property right of any third party; or (ii) any third party claim arising out of the negligent or other tortious acts or omissions by the Subrecipient or its employees, subcontractors, or agents in connection with or related to the products or the Subrecipient's performance under this Agreement.

**21. ROYALTY PAYMENTS TO THE COMMISSION**

[RESERVED]

**22. GENERAL PROVISIONS**

a. Governing Law

This Agreement is governed by the laws of the State of California as to interpretation and performance.

b. Independent Capacity

In the performance of this Agreement, the Subrecipient and its agents, any Lower-Tier Subrecipients, Vendors, and their respective employees will act in an independent capacity and not as officers, employees, or agents of the CEC or the State of California.

c. Assignment

This Agreement is not assignable or transferable by the Subrecipient either in whole or in part without the consent of the CEC in the form of an amendment.

d. Timeliness

Time is of the essence in this Agreement.

e. Severability

If any provision of this Agreement is unenforceable or held to be

unenforceable, all other provisions of this Agreement will remain in full force and effect.

f. Waiver

No waiver of any breach of this Agreement constitutes waiver of any other breach. All rights and remedies in this Agreement will be taken and construed as cumulative, meaning in addition to every other right or remedy provided in the Agreement or by law.

g. Assurances

The CEC reserves the right to seek further written assurances from the Subrecipient and its team that the work under this Agreement will be performed in accordance with the terms of the Agreement.

h. Change in Business

- 1) The Subrecipient will promptly notify the Energy Commission of the occurrence of any of the following:
  - a) A change of address.
  - b) A change in business name or ownership.
  - c) The existence of any litigation or other legal proceeding affecting the project or Agreement.
  - d) The occurrence of any casualty or other loss to project personnel, equipment, or third parties.
  - e) Receipt of notice of any claim or potential claim against the Subrecipient, any Lower-Tier Subrecipients, and Vendors for patent, copyright, trademark, service mark, and/or trade secret infringement that could affect the CEC's rights.
- 2) The Subrecipient must provide the CAM with written notice of a planned change or reorganization of the type of business entity under which it does business. A change of business entity or name change requires an amendment assigning or novating the Agreement to the changed entity. If the CEC does not seek to amend this Agreement or enter into a new agreement with the changed or new entity for any reason (including that the CEC is not satisfied that the new entity can perform in the same manner as the Subrecipient), it may terminate this Agreement as provided in the "Termination" section.

i. Access to Sites and Records

CEC staff and representatives will have reasonable access to all project sites and to all records related to this Agreement.

j. Prior Dealings, Custom, or Trade Usage

These terms and conditions may not be modified or supplemented by prior dealings, custom, or trade usage.

k. Survival of Terms

Certain provisions will survive the completion or termination date of this Agreement for any reason. The provisions include but are not limited to:

- Legal Statements on Products (included in Section 5, “Products”)
- Payment of Funds (Section 8)
- Recordkeeping, Cost Accounting, and Auditing (Section 11)
- Equipment (Section 14)
- Termination (Section 16)
- Indemnification (Section 17)
- Pre-Existing and Independently Funded Intellectual Property (Section 19)
- Intellectual Property (Section 20)
- Royalty Payments to the Commission (Section 21)
- California Taxpayer Access to Publicly Funded Research Act (Section 24)
- Receipt of Confidential Information and Personal Information (Section 26)
- Change in Business (see this section)
- Access to Sites and Records (see this section)
- Venue (see this section)
- CEC as Third-Party Beneficiary (see this section)

l. Venue

Any court action to enforce any part of this Agreement shall be venued in Sacramento County.

m. CEC as Third-Party Beneficiary

The Subrecipient shall ensure that in all its agreements with all Lower -Tier Subrecipients that the CEC is specifically named as a third-party beneficiary to the Agreement. In addition, the term shall state the entity agrees that if the CEC brings a court action, the entity agrees to venue in Sacramento County.

## **23. CERTIFICATIONS AND COMPLIANCE**

### **a. Federal, State, and Local Laws**

The Subrecipient is responsible for obtaining all required permits and shall comply with all applicable federal, state, and local laws, codes, rules, and regulations for all work performed under the Agreement.

### **b. Nondiscrimination Statement of Compliance**

During the performance of this Agreement, the Subrecipient, any Lower-Tier Subrecipients, and Vendors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition, age, marital status, or denial of family care leave. The Subrecipient and any Lower-Tier Subrecipients, and Vendors will ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

The Subrecipient and any Lower-Tier Subrecipients and Vendors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Sections 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 11000 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4.1 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part of it as if set forth in full. The Subrecipient and any Lower-Tier Subrecipients and Vendors shall give written notice of their obligations under this section to labor organizations with which they have a collective bargaining or other Agreement.

The Subrecipient will include the nondiscrimination and compliance provisions of this section in all agreements with Subrecipients, that perform work under this Agreement.

### **c. Drug-Free Workplace Certification**

By signing this Agreement, the Subrecipient certifies under penalty of perjury under the laws of the State of California that it will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.).

In addition to any other rights and remedies available to the CEC, failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both, and the

Subrecipient may be ineligible for any future State awards if the CEC determines that any of the following has occurred: (1) the Subrecipient has made false certification, or (2) violates the certification by failing to carry out the requirements of the Act.

- d. National Labor Relations Board Certification (Not applicable to public entities)

The Subrecipient, by signing this Agreement, swears under penalty of perjury that no more than one (1) final unappealable finding of contempt of court by a federal court has been issued against the Subrecipient within the immediately preceding two-year period because of the Subrecipient's failure to comply with an order of a federal court that orders the Subrecipient to comply with an order of the National Labor Relations Board.

- e. Child Support Compliance Act (Applicable to California Employers)

For any agreement in excess of \$100,000, the Subrecipient acknowledges that:

- 1) It recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including but not limited to disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- 2) To the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

- f. Air or Water Pollution Violation

Under State laws, the Subrecipient shall not be:

- 1) In violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district;
- 2) Subject to a cease-and-desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or
- 3) Finally determined to be in violation of provisions of federal law relating to air or water pollution.

- g. Americans With Disabilities Act

By signing this Agreement, the Subrecipient assures the State that it

complies with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. Section 12101, et seq.), which prohibits discrimination on the basis of disability, as well as applicable regulations and guidelines issued pursuant to the ADA.

**24. CALIFORNIA TAXPAYER ACCESS TO PUBLICLY FUNDED RESEARCH ACT**

- a. As a condition to receiving funding under this Agreement, the Subrecipient agrees to fully comply with the California Taxpayer Access to Publicly Funded Research Act (California Government Code sections 13989 et seq., the “Act”) and provisions of this section, which apply to publications describing knowledge, an invention, or technology funded within the scope of this Agreement.
- b. For purposes of complying with the Act and this section of the Agreement, the following definitions shall apply.
  - 1) “Peer-Reviewed Manuscript” means a manuscript after it has been peer reviewed and in the form in which it has been accepted for publication in a scientific journal.
  - 2) “Research Grant” in the Act and “this Agreement” in this section mean this Agreement.
  - 3) “State Agency” in the Act means the Energy Commission.
- c. The Subrecipient shall provide for free public access to any Peer-Reviewed Manuscript developed within the scope of this Agreement.
- d. The Subrecipient shall ensure that any publishing or copyright agreements concerning Peer-Reviewed Manuscripts:
  - 1) Fully comply with California Government Code section 13989.6;
  - 2) Do not conflict with the Energy Commission’s rights under this Agreement;
  - 3) Secure for the Energy Commission the rights provided under this Agreement, including the rights to Intellectual Property as specified in Section 20; and
  - 4) Recognize the free public access to the Peer-Reviewed Manuscript.
- e. The Subrecipient shall report to the CEC the final disposition of any Peer-Reviewed Manuscript, including but not limited to if it was published; when it was published; where it was published; and, when the twelve (12) month time period expires, where the Peer-Reviewed Manuscript will be available for open access.

- f. Not later than twelve (12) months after the official date of publication, or sooner if specified in the Schedule of Products, the Subrecipient shall make available to the CEC an electronic version of any Peer-Reviewed Manuscript that is developed within the scope of this Agreement.
- g. The Subrecipient shall make publicly accessible an electronic version of any Peer-Reviewed Manuscript that is developed within the scope of this Agreement, not later than twelve (12) months after the official date of publication, on a repository approved in writing by the CEC, including but not limited to the University of California's eScholarship Repository at the California Digital Library; the California State University's ScholarWorks at the Systemwide Digital Library; or PubMed Central. The Subrecipient shall notify the CEC when the Peer-Reviewed Manuscript is available on an CEC- approved repository.
- h. If the Subrecipient is unable to ensure that its Peer-Reviewed Manuscript is accessible on an CEC-approved, publicly accessible repository, the Subrecipient may comply by providing the manuscript to the CEC not later than twelve (12) months after the official date of publication.
- i. For any publications other than a Peer-Reviewed Manuscript, (herein referred to as "Other Publications") including scientific meeting abstracts, developed within the scope of this Agreement, the Subrecipient shall:
  - 1) Provide an electronic version of the Other Publications to the CEC not later than twelve (12) months after the official date of publication.
  - 2) Ensure that any publishing or copyright agreements concerning Other Publications:
    - a. Do not conflict with the CEC's rights under this Agreement.
    - b. Secure for the CEC the rights provided under this Agreement, including the rights to Intellectual Property as specified in Section 20.
- j. The Act states that "Grantees are authorized to use grant money for publication costs, including fees charged by a publisher for color and page charges, or fees for digital distribution." Subrecipient agrees that for purposes of this Agreement, the Subrecipient is only authorized to use funds under this Agreement, including Matching funds, for these purposes **if the expenses are included in the Agreement's Budget (Exhibit B) and meet the other Agreement requirements for payment, including that the CEC will only reimburse the Subrecipient for expenditures incurred during the Agreement term. If these expenses are not included in the Budget, both parties must agree and amend the Budget to include such expenditures before**



**Subrecipient is authorized to use Agreement funds, either reimbursable expenses or match, for these purposes.**

- k. Should a conflict exist between the terms in this Section 24 and other terms of this Agreement, the terms in this section prevail.

**25. COMMISSION REMEDIES FOR SUBRECIPIENT'S NON-COMPLIANCE**

Without limiting any of its other rights and remedies, the CEC may, for Subrecipient's noncompliance of any Agreement requirement, withhold future payments, demand and be entitled to repayment of past reimbursements, or suspend or terminate this Agreement. The tasks in the Scope of Work (Exhibit A) are non-severable, and completion of all of them is material to this Agreement. Thus, the Commission, without limiting its other rights and remedies, is entitled to repayment of all funds paid to Subrecipient if the Subrecipient does not timely complete all tasks in the Scope of Work (Exhibit A).

If over the course of performing under this Agreement, the CEC and the Subrecipient agree that a change is warranted to the Scope of Work (Exhibit A), the parties can amend this Agreement.

**26. RECEIPT OF CONFIDENTIAL INFORMATION AND PERSONAL INFORMATION**

- a. For the purposes of this Section, "confidential information" refers to information the CEC has designated as confidential pursuant to Title 20 CCR Section 2505 et seq., information the CEC has otherwise deemed or stated to be confidential, and other information exempt from public disclosure under the provisions of the California Public Records Act or other applicable state or federal laws.
- b. For the purposes of this Section, "personal information" refers to information that meets the definition of "personal information" in California Civil Code section 1798.3(a) or one (1) of the data elements set forth in California Civil Code section 1798.29(g)(1) or (g)(2). **Personal information is a type of confidential information and is therefore subject to all requirements for confidential information provided in this Agreement and applicable law. However, there are additional requirements specific to personal information.**
- c. For the purposes of this Section, "special terms for confidential information" refers to the CEC's special terms and conditions for the receipt of confidential information and personal information. The CEC's special terms for confidential information include, but are not limited to, having in place an Information Security Program Plan, and obtaining nondisclosure agreements from all individuals who will be provided access to confidential information or personal information.

- d. If the Subrecipient will receive confidential information or personal information from the CEC or a third-party for the performance of this Agreement, the Subrecipient must first agree to and comply with the CEC's special terms for confidential information.
- e. If any other individual or entity participating in any way with this Agreement, including but not limited to Subrecipients, and Lower-Tier Subrecipients, Vendors, and other project partners, will receive confidential information or personal information from the CEC or a third-party for the performance of this Agreement, that individual or entity must first agree to and comply with the CEC's special terms for confidential information. The Subrecipient must flow-down the CEC's special terms for confidential information into each Subcontract, Subaward, Vendor agreement, or other project partner agreement that will be provided access to confidential information or personal information before the individual or entity has access to any such information. Subrecipient must also require all individuals and entities to flow-down this Section to any Lower-Tier Subrecipients, subcontractors, Vendors, project partners, and other individual or entity participating in any way with this Agreement that will be provided access to Confidential Information or Personal Information before the individual or entity has access to any such information.
- f. If this Agreement does not include the CEC's special terms for confidential information and CEC determines the Subrecipient or any other individual or entity participating in any way with this Agreement will receive confidential information or personal information from the CEC or a third-party for the performance of this Agreement, the CEC reserves the option to amend this Agreement to add its special terms for confidential information.
- g. Except as provided in Title 20 CCR Sections 2506, 2507, and 2508, and the CEC's special terms for confidential information, Subrecipient or any other individual or entity participating in any way with this Agreement may not disclose any information provided to it by the CEC or a third party for the performance of this Agreement if the information has been designated as confidential or is the subject of a pending application for confidential designation.

## **27. DEFINITIONS**

- **Agreement** means this grant agreement executed between the CEC and the Subrecipient.
- **Agreement Term** means the length of this Agreement, as specified on the Agreement signature page (form CEC-146).
- **Budget Categories** means the following categories in Exhibit B (the

Budget): Direct Labor, Fringe Benefits, Travel, Equipment, Materials and Miscellaneous, Subrecipients and Vendors, and Indirect Costs and Profit. Budget Category means one (1) of these Budget Categories.

- **CAM** means Commission Agreement Manager.
- **CAO** means Commission Agreement Officer.
- **CEC** means California Energy Commission.
- **Data** means any recorded information that relates to the project funded by the Agreement, whether created or collected before or after the Agreement's effective date.
- **Effective Date** means the date on which this Agreement is signed by the last party required to sign, provided that signature occurs after the Agreement has been approved by the CEC at a business meeting or by the Executive Director or their designee.
- **Equipment** means products, objects, machinery, apparatus, implements, or tools that are purchased or constructed with Energy Commission funds for the project, and that have a useful life of at least one (1) year and an acquisition unit cost of at least \$5,000. "Equipment" includes products, objects, machinery, apparatus, implements, or tools that are composed by over thirty percent (30%) of materials purchased for the project. For purposes of determining depreciated value of equipment used in the Agreement, the project will terminate at the end of the normal useful life of the equipment purchased and/or developed with CEC funds. The CEC may determine the normal useful life of the equipment.
- **Incurred Costs** means an expense for which the Subrecipient has become liable (legally obligated) to pay.
- **Intellectual Property** means: (a) inventions, technologies, designs, drawings, data, software, formulas, compositions, processes, techniques, works of authorship, trademarks, service marks, and logos that are created, conceived, discovered, made, developed, altered, or reduced to practice with Agreement or Match Funds during or after the Agreement term; (b) any associated proprietary rights to these items, such as patent and copyright; and (c) any upgrades or revisions to these items.

"Works of authorship" does not include written products created for Agreement reporting and management purposes, such as reports, summaries, lists, letters, agendas, schedules, and invoices.
- **Invention** means intellectual property that is patentable.
- **Lower-Tier Subrecipient (also referred to as Sub-Subrecipient)** means a person or entity that receives grant funds directly from the

Subrecipient or a Lower-Tier Subrecipient and is entrusted by the Subrecipient or Lower-Tier Subrecipient, to make decisions about how to conduct some of this Agreement's activities. A Lower-Tier Subrecipient's role involves discretion over grant activities and is not merely just selling goods or services.

- **Match Funds** means cash or in-kind (i.e., non-cash) contributions provided by the Subrecipient, Lower-Tier Subrecipients, Lower-Tier Subrecipients, Vendors, or a third party for a project funded by the CEC. If this Agreement resulted from a solicitation, refer to the solicitation's discussion of match funding for guidelines specific to the project.
- **Materials** means the substances used to construct, or as part of, a finished object, commodity, device, article, or product and that does not meet the definition of Equipment.
- **MTDC (Modified Total Direct Costs)** means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of which subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, rental costs, tuition remission, scholarships and fellowships, and the portion of each subaward in excess of \$25,000.
- **Ownership** means exclusive possession of all rights to property, including the right to use and transfer property.
- **Paid Costs** means an expense for which the Subrecipient has already made payment.
- **Product** means any tangible item specified for delivery to the CEC in the Scope of Work (Exhibit A).
- **Project** means the entire effort undertaken and planned by the Subrecipient and consisting of the work funded by the CEC. The project may coincide with or extend beyond the Agreement term.
- **Subrecipient** means the entity that executed this Agreement with the CEC and subrecipient of EECBG Funds (CEC Funds).
- **State** means the state of California and all California state agencies within it, including but not limited to commissions, boards, offices, and departments.
- **Subaward** for the Subrecipient means all agreements it has with Lower-Tier Subrecipients.
- **Subcontract** means all agreements between Subrecipient or Lower-Tier Subrecipients and Vendors.

- ***Unrelated Company*** has the meaning set forth in section 7.g. of this Exhibit C.
- ***Vendor*** means a person or entity that sells goods or services to the Subrecipient or any Lower-Tier Subrecipient, in exchange for some of the grant funds, and does not make decisions about how to perform the grant's activities. The Vendor's role is ministerial and does not involve discretion over this Agreement's activities.

**EXHIBIT D  
FEDERAL AWARD TERMS AND CONDITIONS**

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## Subpart A. Award Provisions

### 1. Purpose

The purpose of this exhibit is to provide the federal terms and conditions for California Energy Commission (CEC)'s award to Subrecipient under this Agreement. This award is made pursuant to the Section 40552 of the Infrastructure Investment and Jobs Act, which provides funds through the Energy Efficiency and Conservation Block Grant (EECBG) Program. The EECBG Program was originally created by the Federal Energy Independence and Security Act of 2007 (Public Law No. 110-140, 121 Stat. 1667).

### 2. Summary of Award

Name of Federal awarding agency	U.S. Department of Energy
Name of Recipient /pass-through entity, and contact information for awarding official of the Recipient	California Energy Commission
Name of Subrecipient	County of Nevada
Subrecipient's unique entity identifier (DUNS)	01-0979029
Federal award identification number (FAIN)	DE-SE0000299
Federal Award Date of award to the Recipient by the Federal agency	05/20/2024
Subaward period of performance start and end date	05/01/2024 through 04/30/2027
Amount of Federal funds obligated by this action by the pass-through entity to the Subrecipient	\$700,000
Total amount of Federal funds obligated to the Subrecipient by the pass-through entity including the current obligation	\$700,000
Total amount of the Federal award committed to the Subrecipient by the pass-through entity	\$700,000
Federal award description as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA)	The program provides financial and technical assistance to assist State and local governments create and implement a variety of energy efficiency and conservation projects. The programs objectives are: * To reduce fossil fuel emissions created as a result of activities within the jurisdictions of eligible entities; * To reduce the total energy use of the eligible entities; and * To improve energy efficiency in the transportation, building, and other sectors. This assistance was originally issued as part of the American Recovery and Reinvestment Act (ARRA) of 2009. All ARRA funding expired by law on



Federal award description as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA) <b>continued</b>	on 09/30/2015. However, this Assistance Listing is being employed again under the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law [BIL]) of 2021. Funding was made available in fiscal year (FY) 2023.
Assistance Listings number and Title; the pass-through entity must identify the dollar amount made available under each Federal award and the Assistance Listings Number at time of disbursement;	81.128 - Energy Efficiency and Conservation Block Grant Program (EECBG)
Identification of whether the award is research and development (R&D)	No, the Award is not R&D.
Indirect cost rate for Federal award (including if the application of the de minimis rate per § 200.414 Indirect (F&A) costs)	[refer to Subrecipient's grant application]

### 3. Resolution of Conflicting Terms

In the event of any conflict in the terms of this Agreement, this Exhibit will take precedence.

### 4. Documents Incorporated by Reference

The following documents are hereby incorporated by reference:

- a. Award Agreement between the U.S. Department of Energy (DOE) and CEC, Award No. DE-SE0000299 (Award).
- b. Public Law 117-58 Bipartisan Infrastructure Law.
- c. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 200 as amended by 2 CFR part 910, located at <http://www.eCFR.gov>.
- d. The Administrative and Legal Requirements Document (ALRD) for EECBG Program Formula Awards, located at <https://www.energy.gov/scep/eecbg-program-formula-grant-application-hub>.
- e. The standard DOE financial assistance intellectual property provisions applicable to various types of recipients, located at: <https://energy.gov/gc/standard-intellectual-property-ip-provisions-financial-assistance-awards>.
- f. The National Policy Assurances, located at: <http://www.nsf.gov/awards/managing/rtc.jsp> and <https://www.energy.gov/management/articles/national-policy-assurances-be-incorporated-award-terms>.
- g. Research Terms and Conditions and the DOE Agency Specific Requirements at <http://www.nsf.gov/bfa/dias/policy/rtc/index.jsp> (if the Award is for research and the Award is to a university or non-profit).

### 5. Funding Restrictions

Funding is contingent upon the availability of funds appropriated by Congress for the purpose of this program and the availability of future-year budget authority.

Without limitation to any other of CEC's rights and remedies, if any of the federal funding for the EECBG program, become unavailable; are reduced; or are deleted, for any reason including but not limited to DOE's failure to provide sufficient funds to reimburse the state of California for the work identified in Exhibit A, as CEC may in its sole discretion determine, the CEC shall have the option to either: 1) cancel this Agreement with no liability occurring to the CEC; or 2) offer an Agreement amendment to the Subrecipient to reflect a reduced amount of funds. Should CEC choose to cancel this Agreement, CEC shall have no liability to pay any funds whatsoever to the Agreement Subrecipient, any Lower-Tier Subrecipients, and any Vendors; nor to furnish any other consideration under this Agreement; and the Subrecipient shall not be obligated to perform any provisions of this Agreement.

## **6. Flow down requirements**

- a. Subrecipient must require inclusion in all lower tier subrecipient or subcontract agreements, all federal award terms and conditions in 2 CFR part 200 as amended by 2 CFR part 910 as set forth in 2 CFR 200.101 and ensure strict compliance.
- b. Subrecipient must require inclusion in all lower tier subrecipient or subcontract agreements all applicable Intellectual Property provisions and National Policy Assurances incorporated by reference in Subpart A.4.
- c. Subrecipient must require inclusion in all lower tier subrecipient or subcontract agreements, all other requirements as applicable in this Exhibit or elsewhere in the Agreement.

## **7. Reporting Requirements**

- a. The federal reporting requirements are described in the Federal Assistance Reporting Checklist, Attachment 2 to the Award.
- b. CEC's noncompliance with reporting requirements may result in withholding of future payments, suspension, or termination of the Award, and withholding of future federal awards.
- c. Subrecipient must assist CEC with meeting all federal reporting requirements by providing all information requested by CEC for reporting purposes within the timeframes requested by CEC. Failure by Subrecipient to comply with this requirement is a material breach of this Agreement.
- d. Scientific and Technical Information (STI) generated under this Award will be submitted to DOE via the Office of Scientific and Technical Information's Energy Link system. STI submitted under this Award will be disseminated via DOE's OSTI.gov website subject to approved access limitations. Citations for journal articles produced under the Award will appear on the DOE PAGES website. STI submitted to E-Link must not contain any Protected Personal Identifiable Information (PII), limited rights data (proprietary data), classified information, information subject to export control classification, or other information not subject to release.

## **8. Stewardship**

- a. CEC and the Office of State and Community Energy Programs (SCEP) within DOE will exercise normal stewardship in overseeing the project activities performed under this Agreement. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to address deficiencies that develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the project objectives have been accomplished.

- b. Subrecipient may be required to participate in, or provide information, documents, or other assistance requested by CEC or SCEP for the purpose of CEC's or SCEP's federal stewardship.

## **9. CEC and Federal Involvement**

- a. Subrecipient may be required to participate in periodic review meetings with SCEP to assess work performance under the Award and the timely achievement of technical milestones and deliverables. SCEP will determine the frequency of review meetings and select the day, time, and location of each review meeting. Subrecipient may be required to provide an overview of work performed under this Agreement, including but not limited to:
  - i. Technical progress compared to the Milestone Summary Table stated in Attachment 1 of the Award.
  - ii. Subrecipient's actual expenditures compared to the approved budget in Attachment 3 to this Award.
  - iii. Other subject matter specified by the DOE Technology Manager/Project Officer.
- b. Subrecipient must notify CEC, who in turn will notify SCEP, in advance of scheduled tests and internal project meetings that would entail discussion of topics that could result in major changes to the baseline project technical scope/approach, cost, or schedule. Upon request by CEC or SCEP, Subrecipient must provide CEC and SCEP with reasonable access (by telephone, webinar, or otherwise) to the tests and project meetings.
- c. CEC and SCEP's authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. Subrecipient must provide, and must require any lower tier subrecipients to provide, reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.
- d. Subrecipient must provide, and must require any lower tier subrecipients to provide, any information, documents, site access, or other assistance requested by CEC SCEP for the purpose of federal stewardship or substantial involvement.

## **10. Audits**

- a. Subrecipient and its lower tier subrecipients, contractors, and subcontractors must provide any information, documents, site access, or other assistance requested by SCEP, DOE or Federal auditing agencies (e.g., DOE Inspector General, Government Accountability Office) for the purpose of audits and investigations. Such assistance may include, but is not limited to, reasonable access to records of the Subrecipient and its lower tier subrecipients, contractors, and subcontractors relating to this Agreement.
- b. Consistent with 2 CFR part 200 as amended by 2 CFR part 910, DOE may audit the financial records or administrative records of the Subrecipient and its lower tier subrecipients, contractors, and subcontractors relating to this Award at any time. Government-initiated audits are generally paid for by DOE.
- c. DOE may conduct a final audit at the end of the project period (or the termination of the Award, if applicable). Upon completion of the audit, the Subrecipient and its lower tier subrecipients, contractors, and subcontractors are required to refund to DOE any payments

for costs that were determined to be unallowable. If the audit has not been performed or completed prior to the closeout of the award, DOE retains the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

- d. DOE will provide reasonable advance notice of audits and will minimize interference with ongoing work, to the maximum extent practicable.

#### **11. Refund Obligation**

Subrecipient must refund any excess payments, received from CEC, including any interest. This obligation to refund excess payment also applies to any Subrecipient costs determined unallowable by CEC or DOE.

#### **12. Foreign Travel**

Subrecipient must obtain the prior written approval of CEC for any foreign travel costs.

#### **13. Program Income**

If the Subrecipient earns program income during the project period as a result of this Agreement, Subrecipient must add the program income to the funds committed to this Agreement and used to further eligible project objectives.

#### **14. Decontamination and/or Decommissioning (D&D) Costs**

Notwithstanding any other provision, DOE or CEC are not responsible for or have any obligation to Subrecipient for (1) Decontamination and/or Decommissioning (D&D) of any of Subrecipient's facilities, or (2) any costs which may be incurred by Subrecipient in connection with the D&D of any of its facilities due to the performance of the work under this Agreement, whether said work was performed prior to or subsequent to the effective date of this Agreement.

#### **15. National Environmental Policy Act**

- a. DOE must comply with the National Environmental Policy Act prior to authorizing the use of Federal funds.
- b. SCEP has made a NEPA determination by issuing a categorical exclusion for all activities listed in the Activity File approved by the Contracting Officer and the DOE NEPA Determination. Subrecipient is thereby authorized to use Federal funds for the defined project activities, subject to this Section 15 and the restrictions set forth elsewhere in the Award.
- c. This NEPA Determination only applies to activities funded by the Administrative and Legal Requirements Documents (ALRD) for the EECBG Program Formula Infrastructure Investment and Jobs Act (EECBG Formula – IIJA) awarded to non-tribal recipients proposing non-ground disturbing activities within states that have a DOE executed Historic Preservation Programmatic Agreement.
- d. Activities not listed under "Blueprints and additional activities" within this NEPA determination are subject to additional NEPA review and approval by DOE. For activities requiring additional NEPA review, Subrecipient may be required to complete the environmental questionnaire found at <https://www.eere-pmc.energy.gov/NEPA.aspx> and receive notification from DOE that the NEPA review has been completed and approved by DOE's Contracting Officer prior to initiating the project or activities.

- e. Activities proposed on tribal lands or tribal properties would be restricted to homes/buildings less than forty-five (45) years old and without ground disturbance. For proposed activities on tribal homes/buildings forty-five (45) years and older and/or with ground disturbance, Subrecipient must provide advance written notice to CEC and Subrecipient may not begin such activities without prior written approval from CEC. CEC must contact the DOE Project Officer for a Historic Preservation Worksheet to request a review of activities on tribal homes/buildings forty-five (45) years and older and/or ground disturbing activities. The DOE NEPA team must review the Historic Preservation Worksheet and notify the CEC's DOE Project Officer before activities listed on the Historic Preservation Worksheet may begin.
- f. This authorization does not include activities where the following elements exist: extraordinary circumstances; cumulative impacts or connected actions that may lead to significant effects on the human environment; or any inconsistency with the "integral elements" (as contained in 10 CFR Part 1021, Appendix B) as they relate to a particular project.
- g. Subrecipient must identify and promptly notify CEC of extraordinary circumstances, cumulative impacts or connected actions that may lead to significant effects on the human environment, or any inconsistency with the "integral elements" (as contained in 10 CFR Part 1021, Appendix B) as they relate to project activities.
- h. Subrecipient must adhere to the terms and restrictions of California's DOE executed Historic Preservation Programmatic Agreement. DOE executed historic preservation programmatic agreements are available on the Office of State and Community Energy Programs website: <https://www.energy.gov/scep/historic-preservation-executed-programmatic-agreements>.
- i. Subrecipients are responsible for completing the online NEPA and Historic preservation training at <http://www.energy.gov/node/4816816> and contacting NEPA with any questions [GONEPA@ee.doe.gov](mailto:GONEPA@ee.doe.gov).
- j. This authorization is specific to the project activities and locations as described in the Activity File approved by the Contracting Officer and the DOE NEPA Determination. If Subrecipient intends to undertake activities or projects that do not fall within the activities and location as described in the approved Activity File and the NEPA determination, those activities and projects are subject to additional NEPA review by DOE and are not authorized for Federal funding unless and until DOE's Contracting Officer provides written authorization on those additions or modifications. Should Subrecipient elect to undertake activities or projects prior to written authorization from DOE's Contracting Officer, Subrecipient does so at risk of not receiving Federal funding for those activities and projects, and such costs may not be recognized as allowable cost match.

## 16. Historic Preservation

- a. DOE must comply with the requirements of Section 106 of the National Historic Preservation Act prior to authorizing the use of Federal funds. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places.
- b. Subrecipient must comply with all the Stipulations of California's DOE executed historic preservation Programmatic Agreement (PA). All DOE executed PAs are available on the Office of State and Community Energy Programs website: <https://www.energy.gov/scep/historic-preservation-executed-programmatic-agreements>.
- c. In addition to the Stipulations in their PAs, Subrecipients must notify CEC, who will in turn DOE via [GONEPA@ee.doe.gov](mailto:GONEPA@ee.doe.gov) whenever:

- i. Subrecipient or the State Historic Preservation Office (SHPO)/Tribal Historic Preservation Office (THPO) believes that the Criteria of Adverse Effect pursuant to 36 CFR § 800.5, apply to the proposal under consideration by DOE;
- ii. There is a disagreement between an applicant, or its authorized representative, and the SHPO/THPO about the scope of the area of potential effects, identification and evaluation of historic properties and/or the assessment of effects;
- iii. There is an objection from a consulting party or the public regarding their involvement in the review process established by 36 CFR Part 800, Section 106 findings and determinations, or implementation of agreed upon measures; or
- iv. There is the potential for a foreclosure situation or anticipatory demolition as defined under 36 CFR § 800.9 (b) and 36 CFR § 800.9 (c).

## **17. Intellectual Property**

Intellectual property rights are subject to 2 CFR 200.315 (e.g., institution of higher education or nonprofit organizations) or 2 CFR 910.362 (e.g., for-profit).

## **18. Performance of Work in United States**

- a. All work performed under this Agreement must be performed in the United States unless DOE provides a waiver. This requirement does not apply to the purchase of supplies and equipment; however, Subrecipient should make every effort to purchase supplies and equipment within the United States.
- b. If Subrecipient fails to comply with the Performance of Work in the United States requirement, DOE's Contracting Officer may deny reimbursement for the work conducted outside the United States and such costs may not be recognized as allowable Subrecipient cost share regardless if the work is performed by Subrecipient or its lower tier subrecipients, vendors or other project partners.
- c. DOE may approve the performance of a portion of the work outside the United States under limited circumstances. Contractor must obtain a waiver via CEC prior to conducting any work outside the U.S.
- d. Subrecipient must obtain a waiver from DOE's Contracting Officer prior to conducting any work outside the U.S. To request a waiver, the Contractor must submit a written request to CEC, who in turn will provide to DOE, that includes:
  - i. The rationale for performing the work outside the U.S.;
  - ii. A description of the work proposed to be performed outside the U.S.;
  - iii. The proposed budget of work to be performed; and
  - iv. The countries in which the work is proposed to be performed.

The rationale must demonstrate to the satisfaction of DOE that the performance of work outside the United States would further the purposes of the Federal Program and is in the economic interests of the United States. DOE's Contracting Officer may require additional information before considering such a request.

## 19. Foreign National Involvement

Subrecipient and its lower tier subrecipients and contractors who anticipate involving foreign nationals in the performance of an award, may be required to provide CEC and DOE with specific information about each foreign national to satisfy requirements for foreign national participation. A foreign national is defined as any person who is not a U.S. citizen by birth or naturalization. The volume and type of information collected may depend on various factors associated with the award.

## 20. Publications

Subrecipient is required to include the following acknowledgement in publications arising out of, or relating to, work performed under this Agreement, whether copyrighted or not:

- a. *Acknowledgment*: "This material is based upon work supported by the U.S. Department of Energy's Office of State and Community Energy Programs (SCEP) under the Energy Efficiency and Block Grant Conservation Program (EECBG) Award Number DE-SE000299."
- b. *Full Legal Disclaimer*: "This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof."

*Abridged Legal Disclaimer*: "The views expressed herein do not necessarily represent the views of the U.S. Department of Energy or the United States Government."

Subrecipient should make every effort to include the full Legal Disclaimer. However, in the event Subrecipient is constrained by formatting and/or page limitations set by the publisher, the abridged Legal Disclaimer is an acceptable alternative.

## 21. Budget Changes

- a. Any increase in the total project cost, whether DOE share or Cost Share, must be approved in advance and in writing by CEC and DOE's Contracting Officer. Any change that alters the project scope, milestones or deliverables requires prior written approval of CEC and DOE's Contracting Officer. SCEP may deny reimbursement for any failure to comply with the requirements in this term.
- b. Subrecipient must submit written notification to CEC, who will in turn notify the DOE Project Officer, of any transfer of funds among direct cost categories where the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total project cost. Upon receipt of adequate notification by the Project Officer, the Subrecipient is authorized to transfer funds among direct cost categories for program activities consistent with the approved State/Annual Plan, without prior approval by DOE. Limitations on supplies and equipment under the applicable [Grant Guidance] still apply.
- c. Subrecipient must obtain the prior written approval for any transfer of funds between direct and indirect cost categories. If Subrecipient's actual allowable indirect costs are less than those budgeted, Subrecipient may use the difference to pay additional allowable direct costs

during the project period so long as the total difference is less than 10% of total project costs and the difference is reflected in actual requests for reimbursement.

## 22. Interim Conflict of Interest Policy for Financial Assistance

- a. The DOE interim Conflict of Interest Policy for Financial Assistance (COI Policy) can be found at <https://www.energy.gov/management/pf-2022-17-department-energy-interim-conflict-interest-policy-requirements-financial>. This policy is applicable to all non-Federal entities applying for, or that receive, DOE funding by means of a financial assistance award (e.g., a grant, cooperative agreement, or technology investment agreement) and, through the implementation of this policy by the entity, to each Investigator who is planning to participate in, or is participating in, the project funded wholly or in part under this Award. The term "Investigator" means the Principal Investigator and any other person, regardless of title or position, who is responsible for the purpose, design, conduct, or reporting of a project funded by DOE or proposed for funding by DOE.
- b. Subrecipient must flow down the requirements of the interim COI Policy to any lower tier subrecipients, with the exception of DOE National Laboratories.
- c. Further, Subrecipient must identify all financial conflicts of interests (FCOI), i.e., managed and unmanaged/ unmanageable, in its initial and ongoing FCOI reports. It is understood that non-Federal entities and individuals receiving DOE financial assistance awards will need sufficient time to come into full compliance with DOE's interim COI Policy. To provide some flexibility, DOE allows for a staggered implementation. **Specifically, prior to award, Subrecipient must ensure all Investigators on this Award complete their significant financial disclosures; review the disclosures; determine whether a FCOI exists; develop and implement a management plan for FCOIs; and provide DOE with an initial FCOI report that includes all FCOIs (i.e., managed and unmanaged/ unmanageable).** Subrecipient will have 180 days from the date of this Award to come into full compliance with the other requirements set forth in DOE's interim COI Policy.

## 23. Terms Subject to Change Upon Obligation of Full Formula Award Allocation

- a. These terms and conditions cover the initial allocation of funds for this program. Subrecipient is advised that some terms may be added, modified, or removed upon CEC's application and approval for the full formula allocation under this program, in order to properly implement all programmatic requirements associated with the program.
- b. Additional terms that may be incorporated include, but are not limited to:
  - i. Publication of Information on the Internet
  - ii. Certification and Registration
  - iii. Whistleblowers and False Claims

## 24. Reporting Tracking and Segregation of Incurred Costs

BIL funds may be used in conjunction with other funding, as necessary to complete projects, but tracking and reporting must be separate. Subrecipient must keep separate records for BIL funds and must ensure those records comply with the requirements of the BIL.



## **Subpart B. General Provisions**

### **1. Compliance with Federal, State, and Municipal Law**

- a. Subrecipient must comply with all applicable federal, state, and local laws and regulations for all work performed under this Agreement.
- b. Subrecipient must obtain all necessary federal, state, and local permits, authorizations, and approvals for all work performed under this Agreement.
- c. Any apparent inconsistency between federal and state laws and regulations and the terms and conditions of this Award must be referred to CEC's Contract Administration Manager for guidance.

### **2. Record Retention**

Subrecipient is required to retain records relating to this Award consistent with 2 CFR 200.334 through 200.338.

### **3. Allowable costs**

- a. Allowable costs are determined in accordance with 2 CFR part 200 as amended by 2 CFR part 910. All project costs must be allowable, allocable, and reasonable in accordance with the applicable federal cost principles. Pursuant to 2 CFR 910.352, the cost principles in the Federal Acquisition Regulations (48 CFR Part 31.2) apply to for-profit entities. The cost principles contained in 2 CFR Part 200, Subpart E apply to all entities other than for-profits. Costs to support or oppose union organizing, whether directly or as an offset for other funds, are unallowable.
- b. Subrecipient must document and maintain records of all project costs, including, but not limited to, the costs paid by Federal funds, costs claimed by its lower-tier subrecipients and project costs that the Subrecipient claims as cost sharing, including in-kind contributions. Subrecipient is responsible for maintaining records adequate to demonstrate that costs claimed have been incurred, are reasonable, allowable and allocable, and comply with the cost principles. Upon request, the Subrecipient is required to provide such records. Such records are subject to audit. Failure to provide adequate supporting documentation may result in a determination that those costs are unallowable.
- c. Payments made for costs determined to be unallowable by either DOE, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also 2 CFR 200.300 through 200.309.

### **4. Indirect Costs**

Subrecipient's indirect costs must be appropriately managed, be allowable, and comply with the requirements of the Award and 2 CFR Part 200 as amended by 2 CFR Part 910.

### **5. Profit or Fees**

See 2 CFR 910.358 for limitations pertaining to profit and fees.

## **6. Project Closeout**

In addition to any other requirements set forth in this Agreement, Subrecipient must comply with the project closeout requirements in 2 CFR 200.344.

## **7. Property Standards**

See 2 CFR 200.310 through 200.316 for requirements. Also see 2 CFR 910.360 for additional requirements for real property and equipment for For-Profit Subrecipients, which include but are not limited to prior approval for real property or equipment with an acquisition cost per unit of \$5,000 or more and, in certain circumstances, recording UCC financing statements.

## **8. Insurance Coverage**

See 2 CFR 200.310 for insurance requirements for real property and equipment acquired or improved with Federal funds. Also see 2 CFR 910.360(d) for additional requirements for real property and equipment for For-Profit recipients.

## **9. Real Property**

- a. Subject to the conditions set forth in 2 CFR 200.311, title to real property acquired or improved under a Federal award will conditionally vest upon acquisition in the recipient or subrecipient. The recipient or subrecipient cannot encumber this property and must follow the requirements of 2 CFR 200.311 before disposing of the property.
- b. Except as otherwise provided by Federal statutes or by the Federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose. When real property is no longer needed for the originally authorized purpose, the recipient or subrecipient must obtain disposition instructions from DOE or pass-through entity. The instructions must provide for one of the following alternatives: (1) retain title after compensating DOE as described in 2 CFR 200.311(d)(1); (2) Sell the property and compensate DOE as specified in 2 CFR 200.311(d)(2); or (3) transfer title to DOE or to a third party designated/approved by DOE as specified in 2 CFR 200.311(d)(3).
- c. See 2 CFR 200.311 for additional requirements pertaining to real property acquired or improved under a Federal award. Also see 2 CFR 910.360 for additional requirements for real property for For-Profit recipients.

## **10. Equipment**

- a. Subject to the conditions provided in 2 CFR 200.313, title to equipment (property) acquired under a Federal award will vest conditionally with the recipient or subrecipient. The recipient or subrecipient cannot encumber this property and must follow the requirements of 2 CFR 200.313 before disposing of the property.
- b. States must use equipment acquired under a Federal award by the state in accordance with state laws and procedures.
- c. Equipment must be used by the recipient or subrecipient entity in the program or project for which it was acquired as long as it is needed, whether or not the project or program continues to be supported by the Federal award. When no longer needed for the originally authorized purpose, the equipment may be used by programs supported by DOE in the priority order specified in 2 CFR 200.313(c)(1)(i) and (ii).
- d. Management requirements, including inventory and control systems, for equipment are provided in 2 CFR 200.313(d).
- e. When equipment acquired under a Federal award is no longer needed, the recipient or subrecipient must obtain disposition instructions from DOE or pass-through entity.

- f. Disposition will be made as follows: (a) items of equipment with a current fair market value of \$5,000 or less may be retained, sold, or otherwise disposed of with no further obligation to DOE; (b) recipient or subrecipient may retain title or sell the equipment after compensating DOE as described in 2 CFR Part 200.313(e)(2); or (c) transfer title to DOE or to an eligible third Party as specified in CFR Part 200.313(e)(3).
- g. See 2 CFR 200.313 for additional requirements pertaining to equipment acquired under a Federal award. Also see 2 CFR 910.360 for additional requirements for equipment for For-Profit recipients. See also 2 CFR 200.439 Equipment and other capital expenditures.

## **11. Supplies**

See 2 CFR 200.314 for requirements pertaining to supplies acquired under a Federal award. See also 2 CFR 200.453 Materials and supplies costs, including costs of computing devices.

## **12. Property Trust Relationship**

Real property, equipment, and intangible property, that are acquired or improved with a Federal award must be held in trust by the recipient or subrecipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. See 2 CFR 200.316 for additional requirements pertaining to real property, equipment, and intangible property acquired or improved under a Federal award.

## **13. Uniform Commercial Code (UCC) Financing Statements**

Per 2 CFR 910.360 (Real Property and Equipment), when applicable, requires when Subrecipient purchases with federal funds, and federal share of the financial assistance agreement is more than \$1,000,000, Subrecipient must:

Properly record, and consent to DOE's ability to properly record if the Subrecipient fails to do so, UCC financing statement(s) for all equipment in excess of \$5,000 purchased with project funds. These financing statement(s) must be approved in writing by the DOE Contracting Officer prior to the recording, and they shall provide notice that the recipient's title to all equipment (not real property) purchased with federal funds under the financial assistance agreement is conditional pursuant to the terms of this section, and that the government retains an undivided reversionary interest in the equipment. The UCC financing statement(s) must be filed before the DOE Contracting Officer may reimburse the recipient for the federal share of the equipment unless otherwise provided for in the relevant financial assistance agreement. The recipient shall further make any amendments to the financing statements or additional recordings, including appropriate continuation statements, as necessary or as the Contracting Officer may direct.

## **14. Conference Spending**

Subrecipient must not expend any funds on a conference not directly and programmatically related to the purpose for which the grant or cooperative agreement was awarded that would defray the cost to the United States Government of a conference held by any Executive branch department, agency, board, commission, or office for which the cost to the United States Government would otherwise exceed \$20,000, thereby circumventing the required notification by the head of any such Executive Branch department, agency, board, commission, or office to the Inspector General (or senior ethics official for any entity without an Inspector General), of the date, location, and number of employees attending such conference.

## **15. Lobbying**

- a. By accepting funds under this Award, the Subrecipient agrees that it must not use, directly or indirectly, any federal funds to influence or attempt to influence, directly or indirectly,

congressional action on any legislative or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913 This restriction is in addition to those prescribed elsewhere in statute and regulation.

- b. If this Award to subrecipient exceeds \$100,000, the Subrecipient must complete and submit SF-LLL, "Disclosure of Lobbying Activities" (<https://www.grants.gov/web/grants/forms/sf-424-individual-family.html>) to ensure that non-federal funds have not been paid and will not be paid to any person for influencing or attempting to influence any of the following in connection with the application for this Program.

## **16. Telecommunications and Video Surveillance Services or Equipment Prohibition**

As set forth in 2 CFR 200.216, Subrecipient is prohibited from obligating or expending project funds (Federal funds and Subrecipient cost share) to:

- a. Procure or obtain;
- b. Extend or renew a contract to procure or obtain; or
- c. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
  - i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
  - ii. Telecommunications or video surveillance services provided by such entities or using such equipment.
  - iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

See Public Law 115-232, section 889, 2 CFR 200.216, and 2 CFR 200.471 for additional information.

## **17. Affirmative Action and Pay Transparency Requirements**

All federally assisted construction contracts exceeding \$10,000 annually will be subject to the requirements of Executive Order 11246:

- a. Subrecipient and its subrecipients, contractors and subcontractors are prohibited from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin.
- b. Subrecipient and its subrecipients, contractors and subcontractors are required to take affirmative action to ensure that equal opportunity is provided in all aspects of their

employment. This includes flowing down the appropriate language to all subrecipients, contractors and subcontractors.

- c. Subrecipient and its subrecipients, contractors and subcontractors are prohibited from taking adverse employment actions against applicants and employees for asking about, discussing, or sharing information about their pay or, under certain circumstances, the pay of their co-workers.

The Department of Labor's (DOL) Office of Federal Contractor Compliance Programs (OFCCP) uses a neutral process to schedule contractors for compliance evaluations. OFCCP's Technical Assistance Guide<sup>1</sup> should be consulted to gain an understanding of the requirements and possible actions the Subrecipient and its subrecipients, contractors and subcontractors must take. Additionally, for construction projects valued at \$35 million or more and lasting more than one year, the Subrecipient and its subrecipients, contractors and subcontractors may be selected by OFCCP as a mega construction project. If selected, DOE, under relevant legal authorities including Sections 205 and 303(a) of Executive Order 11246, will require participation as a condition of the award. This program offers extensive compliance assistance with EO 11246. For more information regarding this program, see <https://www.dol.gov/agencies/ofccp/construction/mega-program>.

## **18. Nondiscrimination**

By signing this agreement or accepting funds under this agreement, Subrecipient assures that it will comply with applicable provisions of the following, national policies prohibiting discrimination:

- a. On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.), as implemented by DOE regulations at 10 CFR part 1040.
- b. On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 [3 CFR, 1964-1965 Comp., p. 339], as implemented by Department of Labor regulations at 41 CFR part 60.
- c. On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), as implemented by DOE regulations at 10 CFR parts 1041 and 1042.
- d. On the basis of age, in the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90 and DOE at 10 CFR part 1040.
- e. On the basis of handicap, in (1) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DOE regulations at 10 CFR part 1041 and (2) The Architectural Barriers Act of 1968 (42 U.S.C. 4151, et seq.).

## **19. Americans with Disabilities Act of 1990**

Subrecipient shall comply with: (i) section 504 of the Rehabilitation Act of 1973 which prohibits discrimination on the basis of disability in federally assisted programs; (ii) the Americans with Disabilities Act (ADA) of 1990 which prohibits discrimination on the basis of disability irrespective of funding; and (iii) all applicable regulations and guidelines issued pursuant to both the Rehabilitation Act and the ADA.

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<sup>1</sup> See OFCCP's Technical Assistance Guide at: <https://www.dol.gov/sites/dolgov/files/ofccp/Construction/files/ConstructionTAG.pdf?msclkid=9e397d68c4b111ec9d8e6fecb6c710ec>. Also see the National Policy Assurances at <http://www.nsf.gov/awards/managing/rtc.jsp>.

## 20. Promoting Free Speech and Religious Liberty

States, local governments, or other public entities may not condition sub-awards in a manner that would discriminate, or disadvantage sub-recipients based on their religious character.

## 21. Nondisclosure and Confidentiality Agreement Assurances

- a. By entering into this Agreement, Subrecipient attests that it does not and will not require its employees or contractors to sign internal nondisclosure or confidentiality agreements or statements prohibiting or otherwise restricting its employees or contractors from lawfully reporting waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

- b. The Subrecipient further attests that it **does not and will not** use any Federal funds to implement or enforce any nondisclosure and/or confidentiality policy, form, or agreement it uses unless it contains the following provisions:

*“These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General or any investigative or law enforcement representative of a Federal department or agency of a suspected violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.”*

- c. The limitation above shall not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.
- d. Notwithstanding the provision listed in paragraph (a), a nondisclosure or confidentiality policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure or confidentiality forms shall also make it clear that they do not bar disclosures to Congress, or to an authorized official of an executive agency or the Department of Justice, that are essential to reporting a substantial violation of law.

## 22. Export Control

- a. The United States Government regulates the transfer of information, commodities, technology, and software considered to be strategically important to the U.S. to protect national security, foreign policy, and economic interests without imposing undue regulatory burdens on legitimate international trade. There is a network of federal agencies and regulations that govern exports that are collectively referred to as “Export Controls”. Subrecipient is responsible for ensuring compliance with all applicable U.S. Export Control laws and regulations relating to any work performed under this Award, at the Subrecipient or lower tier level.
- b. Subrecipient must immediately report to DOE any export control violations related to the project funded under this Award, at the Subrecipient or a lower tier level, and provide the

corrective actions to prevent future violations.

### **23. Corporate Felony Conviction and Federal Tax Liability Assurances**

- a. By entering into this agreement, Subrecipient attests that it has not been convicted of a felony criminal violation under Federal law in the 24 months preceding the date of signature.
- b. Subrecipient further attests that it does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- c. For purposes of these assurances, the following definitions apply:

A Corporation includes any entity that has filed articles of incorporation in any of the 50 states, the District of Columbia, or the various territories of the United States [but not foreign corporations]. It includes both for-profit and non-profit organizations.

### **24. Insolvency, Bankruptcy or Receivership**

- a. Subrecipient shall immediately notify the CEC, who will in turn notify DOE, of the occurrence of any of the following events:
  - i. the Subrecipient, or its parent's filing of a voluntary case seeking liquidation or reorganization under the Bankruptcy Act;
  - ii. the Subrecipient's consent to the institution of an involuntary case under the Bankruptcy Act against the Subrecipient, or its parent;
  - iii. the filing of any similar proceeding for or against the Subrecipient, or its parent, or its consent to, the dissolution, winding-up or readjustment of the Subrecipient's debts, appointment of a receiver, conservator, trustee, or other officer with similar powers over the Subrecipient under any other applicable state or federal law; or
  - iv. The Subrecipient's insolvency due to its inability to pay its debts generally as they become due.
- b. Such notification shall be in writing and shall:
  - i. specifically set out the details of the occurrence of an event referenced in paragraph (a);
  - ii. provide the facts surrounding that event; and
  - iii. provide the impact such event will have on the project being funded by this Award.
- c. Upon the occurrence of any of the four events described in the first paragraph, CEC and DOE, reserve the right to conduct a review of the Subrecipient's, award to determine the Subrecipient's compliance with the required elements of the Award (including such items as cost share, progress towards technical project objectives, and submission of required reports). If the DOE review determines that there are significant deficiencies or concerns with the Subrecipient's performance under the Award, the DOE reserves the right to impose additional requirements, as needed, including
  - i. change the Subrecipient's payment method; or

- ii. institute payment controls.
- d. Failure of the Subrecipient to comply with this term may be considered a material noncompliance of this financial assistance award by the DOE Contracting Officer.

## **25. Contract Provisions for Contracts Under Federal Awards**

All contracts made by a recipient or subrecipient under the Federal award, including those made by the Subrecipient, must contain the provisions listed in Appendix II to 2 CFR Part 200.

## **26. Final Incurred Cost Audit**

In accordance with 2 CFR Part 200 as amended by 2 CFR Part 910, the CEC and/or DOE reserves the right to initiate a final incurred cost audit on this Award. If the audit has not been performed or completed prior to the closeout of the award, the CEC and/or DOE retains the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

## **27. Required Reporting under the Federal Funding and Transparency Act of 2006**

- a. Public Law 109-282, the Federal Funding Accountability and Transparency Act of 2006 as amended (FFATA), requires certain disclosures of entities and organizations receiving federal funds. The administrative requirements for complying with FFATA are contained in 2 CFR Part 170. Subrecipient must comply, as applicable, with all FFATA requirements including but not limited to providing CEC with any required data within the timeframe requested by CEC.
- b. Unless an exemption applies, CEC must report each action that equals or exceeds \$30,000 in Federal funds for a subaward to an "non-federal entity" as defined in 2 CFR Part 170 to <https://www.fsrs.gov>.
- c. Unless an exemption applies, CEC must report the names and total compensation of each of Subrecipient's five most highly compensated executives for the preceding fiscal year if:
  - i. In Subrecipient's preceding fiscal year, Subrecipient received: (a) 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 (b) \$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)
  - ii. 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>).
- d. Additional definitions relevant to this Section are contained in 2 CFR Part 170.

## **28. Unique Entity Identifier**

- a. Unique Entity Identifier refers to the identifier assigned by the Federal repository, System for Award Management (SAM), to uniquely identify business entities.
- b. No entity may receive a subaward under this Program from CEC until the Subrecipient entity



has provided its Unique Entity Identifier to CEC. CEC may not make a subaward to an entity unless the entity has provided its Unique Entity Identifier number to CEC.

- c. Entity includes non-Federal entities as defined at 2 CFR 200.1 and also includes all of the following for purposes of this Section:
  - i. A foreign organization;
  - ii. A foreign public entity;
  - iii. A domestic for-profit organization; and
  - iv. A Federal agency.
- d. Subaward has the meaning given in 2 CFR 200.1.
- e. Subrecipient has the meaning given in 2 CFR 200.1.

## **29. Annual Independent Audits**

- a. Subrecipient must comply with the annual independent audit requirements in 2 CFR 200.500 through .521 for institutions of higher education, nonprofit organizations, and state and local governments (Single audit), and 2 CFR 910.500 through .521 for for-profit entities (Compliance audit).
- b. The annual independent audits are separate from any Government-initiated audits and must be paid for by Subrecipient. To minimize expense, Subrecipient may have a Compliance audit in conjunction with its annual audit of financial statements. The financial statement audit is **not** a substitute for the Compliance audit. If the audit (Single audit or Compliance audit, depending on Subrecipient entity type) has not been performed or completed prior to the closeout of the award, DOE may impose one or more of the actions outlined in 2 CFR 200.339, Remedies for Noncompliance.

## **30. Integrity and Performance Matters**

- a. Subrecipient must immediately notify CEC of any civil, criminal, or administrative proceedings as described in part b. of this Section, below.
- b. Subrecipient must submit information as directed by CEC about each proceeding that (1) is in connection with the award or performance of a Financial Assistance, cooperative agreement, or procurement contract from the Federal Government; (2) reached its final disposition during the most recent five-year period; and (3) is one of the following:
  - i. A criminal proceeding that resulted in a conviction (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*).
  - ii. 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.
  - iii. An administrative proceeding, 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. An administrative proceeding is 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 Financial Assistance awards. It does not include audits, site visits, corrective plans, or inspection of deliverables.

- iv. Any other criminal, civil, or administrative proceeding if (1) it could have led to an outcome described in paragraph i., ii., or .iii., above; (2) it had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and (3) the requirement in this Section to disclose information about the proceeding does not conflict with applicable laws and regulations.

### **31. Equal Employment Opportunity**

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

### **32. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)**

Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

### **33. Rights to Inventions Made Under a Contract or Agreement.**

If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the Recipient or Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the Recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

### **34. Clean Air Act and the Federal Water Pollution Control Act**

If this award to Subrecipient exceeds \$150,000, Subrecipient agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the CEC, which will in turn report to the DOE and the Regional Office of the Environmental Protection Agency (EPA).

### **35. Debarment and Suspension**

Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR

180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

### **36. Procurement of recovered materials**

A Subrecipient that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

### **37. Domestic Preferences for Procurements**

- a. As appropriate and to the extent consistent with law, Subrecipient should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- b. For purposes of this section:
  - i. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
  - ii. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
  - iii. Federal agencies providing Federal financial assistance for infrastructure projects must implement the Buy America preferences set forth in 2 CFR part 184.

### **38. Fraud, Waste, and Abuse**

- a. The mission of the DOE Office of Inspector General (OIG) is to strengthen the integrity, economy and efficiency of DOE's programs and operations including deterring and detecting fraud, waste, abuse, and mismanagement. The OIG accomplishes this mission primarily through investigations, audits, and inspections of Department of Energy activities to include grants, cooperative agreements, loans, and contracts. The OIG maintains a Hotline for reporting allegations of fraud, waste, abuse, or mismanagement. To report such allegations, please visit <https://www.energy.gov/ig/ig-hotline>.
- b. Subrecipient must disclose, in a timely manner, in writing to CEC and DOE all violations of

State and Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

- c. Failure to make the required disclosures can result in any of the remedies described in 2 CFR 200.339. (See also 2 CFR part 180, 31 U.S.C. 3321, and 41 U.S.C. 2313.)

### **39. Davis Bacon Act**

- a. All laborers and mechanics employed by the Recipient, subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair work in excess of \$2000 on an Award funded directly by or assisted in whole or in part by funds made available under this Award shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code commonly referred to as the "Davis-Bacon Act" (DBA).
- b. By accepting this Award, the Subrecipient acknowledges the DBA requirements for the Award and confirms that all of the laborers and mechanics performing construction, alteration, or repair work in excess of \$2000 on projects funded directly by or assisted in whole or in part by and through funding under the Award are paid or will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act).
- c. The Subrecipient must comply with all of the Davis-Bacon Act requirements, including but not limited to:
  - i. ensuring that the wage determination(s) and appropriate Davis-Bacon clauses and requirements are flowed down to and incorporated into any applicable subcontracts or subrecipient awards.
  - ii. being responsible for compliance by any subcontractor or subrecipient with the Davis-Bacon labor standards.
  - iii. receiving and reviewing certified weekly payrolls submitted by all subcontractors and subrecipients for accuracy and to identify potential compliance issues.
  - iv. maintaining original certified weekly payrolls for 3 years after the completion of the project and must make those payrolls available to the DOE or the Department of Labor upon request, as required by 29 CFR 5.6(a)(2)
  - v. conducting payroll and job-site reviews for construction work, including interviews with employees, with such frequency as may be necessary to assure compliance by its subcontractors and subrecipients and as requested or directed by the DOE.
  - vi. cooperating with any authorized representative of the Department of Labor in their inspection of records, interviews with employees, and other actions undertaken as part of a Department of Labor investigation.
  - vii. posting in a prominent and accessible place the wage determination(s) and Department of Labor Publication: WH-1321, Notice to Employees Working on Federal or Federally Assisted Construction Projects.
  - viii. notifying the Contracting Officer of all labor standards issues, including all complaints regarding incorrect payment of prevailing wages and/or fringe benefits, received from the

recipient, subrecipient, contractor, or subcontractor employees; significant labor standards violations, as defined in 29 CFR 5.7; disputes concerning labor standards pursuant to 29 CFR parts 4, 6, and 8 and as defined in FAR 52.222-14; disputed labor standards determinations; Department of Labor investigations; or legal or judicial proceedings related to the labor standards under this Contract, a subcontract, or subrecipient award.

- ix. preparing and submitting to the Contracting Officer, the Office of Management and Budget Control Number 1910-5165, Davis Bacon Semi-Annual Labor Compliance Report, by April 21 and October 21 of each year. Form submittal will be administered through the iBenefits system (<https://doeibenefits2.energy.gov>) or its successor system.
- d. The Subrecipient must undergo Davis-Bacon Act compliance training and must maintain competency in Davis-Bacon Act compliance. The DOE's Contracting Officer will notify the Subrecipient of any DOE sponsored Davis-Bacon Act compliance trainings. The U.S. Department of Labor ("DOL") offers free Prevailing Wage Seminars several times a year that meet this requirement, at <https://www.dol.gov/agencies/whd/government-contracts/construction/seminars/events>.
- e. For additional guidance on how to comply with the Davis-Bacon provisions and clauses, see <https://www.dol.gov/agencies/whd/government-contracts/construction> and <https://www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in-construction>.

#### **40. Buy America Requirements for Infrastructure Projects**

- a. Definitions. For purposes of the Buy America requirements, the following definitions apply:
  - i. *Construction Materials* includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is, or consists primarily of:
    - Non-ferrous metals;
    - Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
    - Glass (including optic glass);
    - Lumber; or
    - Drywall.

Subrecipient may also seek a DOE waiver of domestic procurement requirements based on applicable public interest factors, such as relating to minor components, international trade obligations, or other considerations

- ii. *Infrastructure* includes, at a minimum, the structures, facilities, and equipment for, in the United States:
  - Roads, highways, and bridges;
  - Public transportation;

- Dams, ports, harbors, and other maritime facilities;
- Intercity passenger and freight railroads;
- Freight and intermodal facilities;
- Airports;
- Water systems, including drinking water and wastewater systems;
- Electrical transmission facilities and systems;
- Utilities;
- Broadband infrastructure; and
- Buildings and real property

In addition to the above, the infrastructure in question must be publicly-owned or must serve a public function; privately owned infrastructure that is solely utilized for private use is not considered “infrastructure” for purposes of Buy America applicability. DOE will have the final say as to whether a given project includes infrastructure, as defined herein.

- iii. *Project* means the construction, alteration, maintenance, or repair of infrastructure in the United States.
  - iv. *Domestic content procurement preference* means and refers to the same thing as “Buy America Preference.”
- b. Buy America Preference

In accordance with section 70914 of the BIL, none of the project funds (includes federal share and recipient cost share) may be used for a project for infrastructure unless:

- i. All iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- ii. All manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- iii. All construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America Preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought into the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America Preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure

project but are not an integral part of the structure or permanently affixed to the infrastructure project.

c. Flown down

These requirements must flow down to all lower tier subrecipients, contractors, and subcontractors, and purchase orders for work performed under the proposed project. Based on guidance from Office of Management and Budget (OMB) Memorandum M-22-11, the Buy America requirements of the BIL do not apply to DOE projects in which the prime recipient is a for-profit entity; the requirements only apply to projects whose prime recipient is a State, local government, Indian tribe, Institution of Higher Education, or nonprofit organization.

For additional information related to the implementation of these Buy America requirements, please see OMB Memorandum M-22-11, issued April 18, 2022:  
<https://www.whitehouse.gov/wp-content/uploads/2022/04/M-22-11.pdf>.

d. Waivers

In limited circumstances, DOE may waive the application of the Buy America requirements where DOE determines that:

- i. Applying the Buy America Preference would be inconsistent with the public interest;
- ii. The types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- iii. The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

Requests to waive the Buy America Preference must include the following:

- A detailed justification for the use of “non-domestic” iron, steel, manufactured products, or construction materials to include an explanation as to how the nondomestic item(s) is essential to the project;
- A certification that the recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and non-proprietary communications with potential suppliers;
- Applicant /Recipient name and Unique Entity Identifier (UEI)
- Total estimated project cost, with estimated Federal share and recipient cost share breakdowns;
- Total estimated project cost, DOE and cost-share amounts;
- Project description and location (to the extent known)
- List and description of iron or steel item(s), manufactured goods, and construction material(s) the applicant or recipient seeks to waive from Domestic Content Procurement Preference requirement, including name, cost, country(ies) of origin (if known), and relevant PSC and NAICS code for each.
- Waiver justification including due diligence performed (e.g., market research, industry

outreach) by the applicant or recipient

- Anticipated impact if no waiver is issued.

DOE may require additional information before considering the waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office. There may be instances where an award qualifies, in whole or in part, for an existing waiver described at <https://www.madeinamerica.gov/financialassistance/>.

- e. The applicant or recipient does not have the right to appeal DOE's decision concerning a waiver request.



# EXHIBIT E

## Agreement Contacts

<p><b>Commission Agreement Manager:</b></p> <p>Lien Huynh  California Energy Commission  715 P Street, MS-28  Sacramento, CA 95814  Phone: (916) 246-8252  e-mail: <a href="mailto:lien.huynh@energy.ca.gov">lien.huynh@energy.ca.gov</a></p>	<p><b>Subrecipient Project Manager:</b></p> <p>Pat Souza  Facilities Project Manager  Nevada County Facilities Management  10014 N. Bloomfield Road  Nevada City, CA 95959  Phone: (530) 470-2562  Email: <a href="mailto:pat.souza@nevadacountyca.gov">pat.souza@nevadacountyca.gov</a></p>
<p><b>Confidential Deliverables/Products</b></p> <p>California Energy Commission  Contracts, Grants and Loans Office  715 P Street, MS-18  Sacramento, CA 95814</p>	<p><b>Subrecipient Administrator:</b></p> <p>Elise Strickler  Chief Financial Administrative Officer  950 Maidu Ave  Nevada City, CA 95959  Phone: 530-265-1705  Email: <a href="mailto:elise.strickler@nevadacountyca.gov">elise.strickler@nevadacountyca.gov</a></p>
<p><b>Invoices, Progress Reports and Non-Confidential Deliverables to:</b></p> <p>California Energy Commission  Accounting Office  715 P Street, MS-2  Sacramento, CA 95814  e-mail: <a href="mailto:invoices@energy.ca.gov">invoices@energy.ca.gov</a></p>	<p><b>Remittance for Payment:</b></p> <p>Elise Strickler  Chief Financial Administrative Officer  950 Maidu Ave  Nevada City, CA 95959  Phone: 530-265-1705  Email: <a href="mailto:elise.strickler@nevadacountyca.gov">elise.strickler@nevadacountyca.gov</a></p>
<p><b>Commission Legal Notices:</b></p> <p>Gordon Kashiwagi, Loans Manager  California Energy Commission  Contracts, Grants, and Loans Office  715 P Street, MS-18  Sacramento, CA 95814  Phone: (916) 891-8527  e-mail: <a href="mailto:gordon.kashiwagi@energy.ca.gov">gordon.kashiwagi@energy.ca.gov</a></p>	<p><b>Subrecipient Legal Notices:</b></p> <p>Katharine L. Elliott  County Counsel  Office of the County Counsel  County of Nevada  950 Maidu Ave  Nevada City, CA 95959  Phone: 530-265-1514  Email: <a href="mailto:kit.elliott@nevadacountyca.gov">kit.elliott@nevadacountyca.gov</a></p>

## **EXHIBIT F**

### **Special Terms and Conditions**

#### ***1. INSOLVENCY, BANKRUPTCY OR RECEIVERSHIP***

The Subrecipient shall immediately, but no later than five calendar days, notify the CEC if the Subrecipient, the Subrecipient's parent, a Sub-Subrecipient, a vendor, or a site host is planning for any of the following events: (1) the entity's filing of a voluntary case seeking liquidation or reorganization under the Bankruptcy Act or similar applicable law; (2) the entity's consent to the institution of an involuntary case under the Bankruptcy Act or similar applicable law; (3) the filing, or planning of filing, of any similar proceeding for or against the entity, or the entity's consent to the dissolution, winding-up or readjustment of its debts, appointment of a receiver, conservator, trustee, or other officer with similar powers over the entity, under any other applicable law; or (4) the entity's insolvency due to its inability to pay debts generally as they become due.

Such notification shall be in writing and shall: (1) specifically set out the details of the occurrence of the event; (2) provide the facts surrounding that event; and (3) provide the impact such event will have on the project being funded by this Agreement.

Upon the occurrence of any of the four events described above, the CEC reserves the right to conduct a review of the Agreement to determine the Subrecipient's compliance with the required elements of the Agreement (including such items as match share, progress towards project objectives, and submission of required products). If the CEC review determines that there are significant deficiencies or concerns with the Subrecipient's continued performance under the Agreement, the CEC reserves the right to take any action available under this Agreement including, but not limited to, issuing a Stop Work Order or terminating the Agreement.

Failure of the Subrecipient to comply with this term may be considered a material breach of this Agreement.

This term shall be flowed-down to all subawards and site host agreements.