



Consent Item 13

TO: East Bay Community Energy Board of Directors

FROM: Jessie Denver, Distributed Energy Resources Program Manager -
Transportation Electrification and Community Resilience

SUBJECT: Adopt a Resolution authorizing the CEO to negotiate and execute a
Consulting Services Agreement with CALSTART

DATE: July 15, 2020

RECOMMENDATION

Adopt a Resolution of the Board of Directors of the East Bay Community Energy Authority authorizing the CEO or his designee to negotiate and execute a two year Consulting Services Agreement with CALSTART to conduct services necessary to assist with medium and heavy-duty commercial fleet electrification pilot project development and implementation.

BACKGROUND

California is the largest gateway for international trade and domestic commerce in the U.S., with an interconnected system of ports, highways, and roads that allow freight from around the world to move nationwide. Alameda County plays a significant role in this economy as an important logistics hub and home to one of the busiest container ports in the country, the Port of Oakland. Additionally, 1.5 million tons of air freight move through Oakland International Airport annually to warehouses throughout Alameda, neighboring San Joaquin County, and beyond.

Within EBCE's service area a network of interstates and highways move this freight to regional, state and national markets. These include I-5, I-80, I-580, I-680, I-880 and I-980 each of which are among the most heavily used roadways in the nine county San Francisco Bay Area. Although freight trucks and delivery vans represent a small share of all vehicles on the road, they contribute to a disproportionate fraction of fuel consumption, greenhouse gas ("GHG") emissions and air pollution. As a result, residents living along freight corridors in Alameda and San Joaquin counties are exposed to some

of the highest levels of air pollutants in the state including toxic diesel particulate matter.¹

California is working to meet challenging mandates to reduce air pollutants in order to protect public health and meet state climate change targets including:

- Federal health-based ambient air quality standards (key dates in 2023 and 2031)
- 40% reduction in GHGs by 2030;
- 80% reduction in GHGs by 2050; and
- 50% reduction in petroleum use by 2030

Achieving these goals requires a rapid transformation of the transportation and goods movement sector with significant contributions from public agencies and private businesses.

EBCE's Local Development Business Plan prioritizes development of partnerships, projects and programs that will curb freight emissions in its service area and contribute to meeting the state's goals. To that end, in 2019 EBCE joined the *Global Commercial Vehicle Drive to Zero Program* ("Drive to Zero"). Drive to Zero is a first-of-its-kind initiative led by CALSTART, a nonprofit organization recognized nationally and internationally for its industry leading medium and heavy-duty ("M/HD") market and zero-emission vehicle technology expertise. CALSTART is also the administrator of both of California's major M/HD incentive programs: The Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project ("HVIP") and the Clean Off-Road Equipment Voucher Incentive Project ("CORE").

Drive to Zero is accelerating the growth of zero-emission commercial vehicles and is built upon a technology strategy that identifies the market segments where these technologies will succeed and help drive growth in other commercial vehicle segments. Together with CALSTART, EBCE aims to establish its service area as a first mover market for M/HD-duty commercial fleet electrification.

Approving this Resolution will allow EBCE to analyze the ecosystem of M/HD vehicle fleets operating in Alameda and San Joaquin counties. It will also enable development and implementation of a technical assistance Pilot Project that will make it simple and cost effective for commercial fleet operators to transition to zero-emission M/HD technologies powered by EBCE.

DISCUSSION

On June 25, 2020 the California adopted the most ambitious zero-emission M/HD truck policy in the world. The state's Air Resources Board approved the *Advanced Clean Truck rule* ("ACT"), which is part of a comprehensive approach to accelerate a large-scale transition of zero-emission M/HD vehicles from Class 2b to Class 8. The regulation has

¹ [Alameda County Freeway System Fact Sheet \(2018\)](#)

two components including a manufacturer sales requirement and a large company and fleet reporting requirement.

- Zero-emission truck sales: Manufacturers who certify Class 2b-8 chassis or complete vehicles with combustion engines would be required to sell zero-emission trucks as an increasing percentage of their annual California sales from 2024 to 2035. By 2035, zero-emission truck/chassis sales would need to be 55% of Class 2b - 3 truck sales, 75% of Class 4 - 8 straight truck sales, and 40% of truck tractor sales.
- Company and fleet reporting: Large employers including retailers, manufacturers, brokers and others would be required to report information about shipments and shuttle services. Fleet owners, with 50 or more trucks, would be required to report about their existing fleet operations. This information would help identify future strategies to ensure that fleets purchase available zero-emission trucks and place them in service where suitable to meet their needs.

The ACT has set an unprecedented signal to manufacturers that California is creating the premier first-mover market for zero-emission trucks in the world. As a result, the state is also well positioned to see the majority of the accompanying economic, jobs, clean air and climate benefits. To ensure the success of the ACT, EBCE's Local Development program will work to create an ecosystem of complementary, aligned projects, incentives and investments throughout Alameda and San Joaquin counties.

The first of these efforts will be to develop and implement a no-cost technical assistance Pilot Project for target fleet operators in collaboration with CALSTART. The Pilot Project will provide comprehensive fleet and charging infrastructure assessments, analysis of the business case (e.g., total cost of ownership), and offer fleet operators vehicle/charging infrastructure incentive application support.

EBCE's Pilot Project "concierge service" is intended to help fleet operators overcome the perceived barriers associated with M/HD zero-emission vehicles listed below. Eliminating these hurdles will also help accelerate the State's goals and position EBCE's service area as a first mover market for urban delivery and freight electrification.

- Concerns about the feasibility of zero-emission vehicles for M/HD operations
- Prohibitive initial vehicle purchase price
- Clarification of the vehicle / charging infrastructure value proposition (e.g., difficult to calculate total cost of ownership)
- Inadequate charging infrastructure/siting limitations (e.g., electric service panel and transformer upgrades; parking configurations, etc.)
- Inadequate product availability
- Vehicle maintenance costs and needs are unfamiliar to staff
- Concerns about reliability and resilience in the event of a grid outage

- Limited experience with zero-emission vehicles, charging infrastructure project financing options
- Difficult to get buy-in and budget from corporate leadership

To develop the Pilot Project, EBCE will work with CALSTART to first analyze applicable DMV registration data. This will enable EBCE to understand the vehicle classes (Class 2-8) on the road today and identify target fleet categories as well as specific fleets and freight users that would benefit from the Pilot Project.

Sole Source Procurement

EBCE's Procurement Policy permits the Board to dispense with the otherwise applicable competitive solicitation procedures for the procurement of services when it is apparent that the needed service is uniquely available from a single source, or for all practical purposes, it is justifiably in the best interest of EBCE. This exception to the solicitation requirements is necessary for EBCE's agreement with CALSTART.

CALSTART is a California based nonprofit with offices throughout the state including in Berkeley and has demonstrated national and international experience providing services that align with EBCE's needs. Through the Drive to Zero program, CALSTART also has the necessary industry relationships that will assist EBCE in creating a first mover market for M/HD zero-emission vehicles in Alameda and San Joaquin counties. Finally, CALSTART is also the source of the resources noted below which will be key to Pilot Project implementation.

- CALSTART administers *both* of California's M/HD zero-emission, charging infrastructure and off road equipment incentive programs: HVIP and CORE
- Because CALSTART is the administrator of the State's incentive programs, they also have access to up to date DMV vehicle registration data. The private sector does not have access to this information.
- CALSTART administers the Global Commercial Drive to Zero program of which EBCE is a pledge partner.
- CALSTART's Drive to Zero program and the State's ACT are closely aligned.
- CALSTART developed and manages the Zero Emission Technology Inventory. CALSTART also developed the industry's leading Total Cost of Ownership calculator. These tools will be used to provide technical assistance to fleets participating in the Pilot Project.

EBCE will manage CALSTART tasks and deliverables, coordination with Pilot Project stakeholders, and the associated project budget. It is recommended that the Board authorize the CEO to negotiate and execute a consulting services agreement in substantially the same form attached as Exhibit A with CALSTART to conduct services necessary to assist with development and implementation of the Pilot Project.

Fiscal/Policy Impact

The total value of this contract is NTE \$200,000. All program costs will be funded through Local Development.

Attachments

- A. Resolution to negotiate execute a consulting services agreement with CALSTART
- B. DRAFT Consulting Services Agreement

RESOLUTION NO. R-2020-__

A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CHIEF
EXECUTIVE OFFICER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH CALSTART TO
PROVIDE TECHNICAL ASSISTANCE THAT WILL ACCELERATE MEDIUM AND HEAVY-DUTY
COMMERCIAL FLEET ELECTRIFICATION

WHEREAS, The East Bay Community Energy Authority (“EBCE”) was formed as a community choice aggregation agency (“CCA”) on December 1, 2016, Under the Joint Exercise of Power Act, California Government Code sections 6500 *et seq.*, among the County of Alameda, and the Cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Piedmont, Oakland, San Leandro, and Union City to study, promote, develop, conduct, operate, and manage energy-related climate change programs in all of the member jurisdictions. The cities of Newark and Pleasanton, located in Alameda County, along with the City of Tracy, located in San Joaquin County, were added as members of EBCE and parties to the JPA in March of 2020.

WHEREAS, On July 18, 2018, the Board approved the Local Development Business Plan (“LDBP”). The LDBP identifies a series of local development early actions, including transportation and goods movement electrification in EBCE’s service area.

WHEREAS, Supporting market transformation of medium and heavy-duty zero-emission commercial vehicles and charging infrastructure is critical to achieving the state’s goals, improving local air quality and the economy, and increasing EBCE load.

WHEREAS, Although medium and heavy-duty commercial freight trucks and delivery vans represent a small share of all vehicles on the road, they contribute to a disproportionate fraction of fuel consumption, greenhouse gas emissions and air pollution.

WHEREAS, In 2019, EBCE joined the Global Commercial Vehicle Drive to Zero Program, an initiative of the nonprofit organization CALSTART which is accelerating the growth of medium and heavy-duty zero-emission commercial vehicles through development of key first-mover markets.

WHEREAS, On June 25, 2020 State of California adopted the Advanced Clean Truck rule, the most ambitious zero-emission medium and heavy-duty commercial truck policy in the world.

WHEREAS, EBCE aims to establish its service area as a first-mover market for medium and heavy-duty zero-emission commercial vehicles to help achieve the goals of California’s Advanced Clean Truck rule.

WHEREAS, EBCE seeks to enter into a contract with CALSTART to assist with the development and implementation of a technical assistance pilot project that will be offered to target commercial fleet operators.

WHEREAS, EBCE seeks to enter into a contract with CALSTART to assist with the development and implementation of a technical assistance pilot project that will be offered to target commercial fleet operators.

WHEREAS, CALSTART is the only provider capable of performing the evaluation and technical assistance required to achieve the goals of the pilot project.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY DOES HEREBY FIND, RESOLVE AND ORDER AS FOLLOWS:

Section 1. The Board of Directors hereby finds that the services needed by EBCE to establish its service area as a first-mover market for medium and heavy-duty zero-emission commercial vehicles, are uniquely available from CALSTART, and that it is in the best interest of EBCE to dispense with the competitive solicitation process to enter into an agreement with CALSTART to provide such services.

Section 2. The CEO is hereby authorized to negotiate and execute a Consulting Services Agreement with CALSTART to assist EBCE with development and implementation of a medium and heavy-duty commercial fleet technical assistance pilot, provided that any such agreement is in substantially the same form attached hereto as Exhibit A, that it shall be effective for a period of no less than 24 months, and that it shall not exceed \$200,000 in total compensation. The CEO is further authorized to execute any clarifying or clerical changes to the Agreement, which must be approved by General Counsel.

ADOPTED AND APPROVED this 15th day of July, 2020.

Dan Kalb, Chair

ATTEST:

Stephanie Cabrera, Clerk of the Board

**Consulting Services Agreement for
Services By And Between East Bay Community Energy Authority and
CALSTART, Inc.**

This Consulting Services Agreement (“Agreement”) is made this fifteenth (15) day of July 2020, (“Effective Date”) by and between East Bay Community Energy Authority, a joint powers authority formed under the laws of the State of California (“EBCE”) and CALSTART, Inc, a California corporation (“Consultant”) for the purpose of providing professional services to EBCE that result in development and implementation of a medium and heavy-duty commercial fleet vehicle electrification technical assistance pilot project.

Section 1. Recitals

1.1 The Authority is an independent joint powers authority duly organized under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) (“Act”) with the power to conduct its business and enter into agreements.

1.2 Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement pursuant to the terms and conditions described herein.

NOW THEREFORE, for good and valuable consideration, the amount and sufficiency of which is hereby acknowledged, the Parties to this Agreement, agree as follows:

Section 2. Term

The term of this Agreement is from the Effective Date of this Agreement through July 15, 2022, unless terminated earlier pursuant to Section 8.

Section 3. Scope of Work/Compliance with Laws and Regulations

3.1 Consultant agrees to perform the scope of work (the “Work”) in Exhibit A in accordance with the compliance schedule in Exhibit B.

3.2 Consultant represents and warrants that it has the skill and expertise to perform the Work. Consultant agrees to obtain any and all necessary licenses, approvals or permits necessary to perform the Work.

3.3 Consultant and its Subconsultants must comply with all federal, state and local laws and regulations in performing the Work under this Agreement.

Section 4. Consultant Staffing

Exhibit C contains a list of Consultant's project manager and all team members. Consultant will not change or substitute the project manager or any team members or add additional team members without consultation with EBCE.

Section 5. Subconsultants

5.1 Consultant agrees to use only those Subconsultants listed on Exhibit D. Consultant shall notify EBCE within a reasonable period of time of any changes, additions, or removals of a Subconsultant.

5.2 Consultant agrees to require all Subconsultants to comply with the terms of this Agreement, including without limitation, maintaining insurance in compliance with the insurance obligations under Section 9, the Confidentiality requirements under Section 11 and indemnifying EBCE under Section 12.

Section 6. Compensation and Payment

6.1 The maximum compensation under this Agreement is \$200,000.

6.2 If the Work under this Agreement is to be performed on a time and materials basis, Consultant must submit invoices to EBCE on a monthly basis, complete with the name of the individual that conducted the Work, the time spent, and a brief description of the tasks performed during that time. On all invoices, Consultant must include the contract number provided by EBCE and the total compensation left on the Agreement after deducting the amount of the invoice. Notification to EBCE is required once the contract budget has been used up by 80% (including invoiced work and work that may not have been invoiced yet) which is \$160,000 for this Agreement. Invoices must be submitted to EBCE by the 20th of the month following the month in which Consultant performed the Work.

6.3 If the Work under this Agreement is to be performed on a task or project basis, the Consultant will submit an invoice within thirty (30) days of completing the project to the satisfaction of EBCE for full payment, unless other arrangements have been made.

6.4 EBCE will not agree to pay any markups on Subconsultant Services or supplies unless such markups are included in Exhibit E, Compensation/Budget and such markups were included in Consultant's bid, if applicable.

6.5 The following are conditions on EBCE's obligation to process any payments under this Agreement:

6.5.1 If the Consultant is a U.S. based person or entity, the Consultant must provide to EBCE a properly completed Internal Revenue Service Form W-9 before EBCE will process payment. If the Consultant is a U.S. based person or entity but has neither a

permanent place of business in California nor is registered with the California Secretary of State to do business in California, the Consultant must provide EBCE with a properly completed California Franchise Tax Board form related to nonresident withholding of California source income before EBCE will process payment.

6.5.2 If the Consultant is not a U.S. based person or entity, the Consultant must provide EBCE with the applicable Internal Revenue Service form related to its foreign status and a California Franchise Tax Board form related to nonresident withholding before EBCE will process payment.

6.6 EBCE agrees to pay invoices within forty-five (45) days of receipt. Invoices may be sent to EBCE by U.S. mail or electronic mail to AP@EBCE.org. Invoices will be deemed received on the next business day following the date of transmission via electronic mail or three days after placement in the U.S. mail.

6.7 EBCE, as a Joint Powers Authority, is a separate public entity from its constituent members and will be solely responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Consultant acknowledges that it will have no rights and agrees not to make any claims, take any actions or assert any remedies against any of EBCE's constituent members in connection with this Agreement.

Section 7. Records Retention and Ownership of Work Product

7.1 The Consultant must retain all ledgers, books of accounts, invoices, vouchers, cancelled checks, background materials, or other records relating to its performance under this Agreement for a period of three years following termination of this Agreement.

7.2 EBCE owns all rights, including without limitation, all licenses, copyrights, service marks and patents, in and to all Work Product(s), whether written or electronic, without restriction or limitation upon their use and immediately when and as created by the Consultant, any Subconsultants, or any other person engaged directly or indirectly by the Consultant to perform under this Agreement. "Work Product(s)" means all writings, reports, drawings, plans, data, video, media, photographs, renderings, plans, software, models, and other similar documents and materials developed or created by Consultant or its Subconsultants on behalf of or for use by EBCE under this Agreement. All Work Product(s) will be considered "works made for hire," and together with any and all intellectual property rights arising from their creation will be and remain the property of EBCE without restriction or limitation upon their use, duplication or dissemination by EBCE. Consultant agrees not to obtain or attempt to obtain copyright protection in its own name for any Work Product.

Section 8. Termination

8.1 EBCE may terminate this Agreement for any reason by giving Consultant written notice. The termination notice may set the date of termination, but if no such date is given, termination is effective seven (7) days following the date of the written notice.

8.2 EBCE may terminate this Agreement immediately upon written notice for any material breach of this Agreement by Consultant or any of its Subconsultants. If EBCE terminates this Agreement for cause and obtains the same services from another consultant at a greater cost, the Consultant is responsible for such excess costs in addition to any other remedies available to EBCE.

8.3 Upon termination for any reason, EBCE has the option of requiring the Consultant to complete work up to the date of termination or to cease work immediately. EBCE has the further option to require Consultant to provide EBCE any finished or unfinished Work or Work Product prepared by the Consultant up to the date of termination.

8.4 EBCE will pay Consultant the reasonable value of services satisfactorily rendered by the Consultant to EBCE up to the date of written Notice of Termination. If EBCE authorizes Consultant to continue performing the Work through the date of termination, EBCE will pay Consultant the reasonable value of services satisfactorily rendered up through the date of termination, providing such services are in compliance with the Compensation/Budget in Exhibit E.

8.5 Upon termination of this Agreement, and at no cost to EBCE, Consultant, its Subconsultants and anyone working for EBCE under control of Consultant must return all Work Product to EBCE. Consultant may only retain copies of the Work Product by express written permission of EBCE.

Section 9. Insurance

9.1 Consultant must procure, maintain and comply with the insurance requirements in Exhibit F throughout the full Term of this Agreement. Consultant must provide proof of insurance either in the form of a certificate of insurance or, if requested by EBCE, a copy of the insurance policy, prior to performing any work under this Agreement.

9.2 Consultant agrees not to terminate any of the required insurance coverage during the term of this Agreement. Consultant must give EBCE ten (10) days written notice and obtain EBCE's written approval prior to making any modifications in the insurance coverage.

9.3 Consultant must either include Subconsultants under its insurance policies or require each Subconsultant to comply with the insurance obligations in Exhibit F.

Section 10. No Discrimination or Conflict of Interest

10.1 Consultant represents and warrants, on behalf of itself and its Subconsultants, that it has not and will not discriminate against anyone based on his/her age, color religion, sex, sexual orientation, disability, race or national origin.

10.2 Consultant represents and warrants, on behalf of itself and its Subconsultants, that it is familiar with local, state and federal conflict of interest laws, that in entering into this Agreement it is not violating any of the conflict of interest laws, that it will avoid any conflicts of interest during the term of this Agreement, and that it will notify EBCE immediately if it identifies any conflicts of interest Consultant understands that violations of this Section 10 could result in immediate termination of this Agreement and disgorgement of compensation.

10.3 In accordance with the California Political Reform Act (Cal. Gov't Code section 81000 *et seq.*), Consultant will cause each of the following people performing services under this Agreement to file a Form 700 within 30 days after the person begins performing services under this Agreement and subsequently on an annual basis in conformance with the requirements of the Political Reform Act by filing the original with the EBCE Clerk to the Board of Directors. Form 700 submissions should be sent to cob@ebce.org, with carbon copy to the EBCE contact. Each of the identified positions must disclose interests in accordance with the EBCE Resolution-2018-7, Conflict of Interest Code, which may be amended from time to time. For the work currently outlined in Exhibit A, this Agreement does not require the Filing of Form 700 at this time.

Name	Position or Assignment

Section 11. Confidentiality

11.1 Except as authorized by EBCE or as otherwise required by law, Consultant shall not disclose to any third party/ies any draft or final Work Product, discussions or written correspondence between Consultant and its Subconsultants or discussions or written correspondence between Consultant and EBCE staff. In the event Consultant receives a request from any third-party requesting disclosure of any Work Product, discussions, communications or any other information Consultant is prohibited from disclosing,

Consultant will immediately notify EBCE and wait for direction from EBCE before disclosing the information.

11.2 For the purposes of this Section 11, “third parties” refers to any person or group other than EBCE staff and Board members. For example, “third parties” include community groups, Board advisory groups, other governmental agencies, other consultants or members of the community.

11.3 This Section 11 will survive the expiration or termination of this Agreement.

Section 12. Indemnity

12.1 Except with regard to any matter involving professional negligence, Consultant agrees, at its sole cost and expense, to indemnify, defend with counsel reasonably approved by EBCE, and protect and hold harmless EBCE, its officers, directors, employees, agents, attorneys, designated volunteers, successors and assigns, and those EBCE agents serving as independent contractors in the role of EBCE staff (collectively “EBCE Indemnitees”) from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, penalties, judgements, liens and losses of whatever nature (“Claims”) that arise, directly or indirectly, in whole or in part, out of or are in any way related to Consultant’s or Subconsultant’s performance or failure to perform the Work under this Agreement, regardless of whether the Consultant or its Subconsultants acted or failed to act intentionally, willfully, recklessly or negligently. Consultant agrees that its indemnity and defense obligations include all costs and expenses, including all attorney fees, expert fees, mediation, arbitration, or court costs in connection with the defense. Consultant further agrees to indemnify, defend, protect and hold harmless Indemnitees from and against any breach of this Agreement and any infringement of patent rights, trade secret, trade name, copyright, trademark, service mark or any other proprietary right of any person(s) caused by EBCE’s use of any services, Work Product or other items provided by Consultant or its Subconsultants under this Agreement.

12.2 With regard to any matter involving professional negligence, Consultant agrees, at its sole cost and expense, to indemnify, defend with counsel reasonably approved by EBCE, and protect and hold harmless the EBCE Indemnitees from and against any and all Claims to the extent arising out of or resulting from Consultant’s or Subconsultant’s negligence, recklessness, or willful misconduct. In no event shall the cost to defend charged to Consultant exceed the Consultant’s proportionate percentage of fault.

12.3 Consultant’s obligations in Subsection 12.1 and 12.2 do not apply to the extent any Claim results from the sole negligence or willful misconduct of the EBCE Indemnitees.

12.4 Except as limited by Subsection 12.2, Consultant’s obligation to defend EBCE applies to the maximum extent allowed by law and includes defending Indemnitees as set forth in California Civil Code sections 2778 and 2782.8.

12.5 The Consultant's obligations under Section 12 applies regardless of the existence or amount of insurance the Consultant carries or has made available to EBCE.

12.6 The Parties agree that this Section 12 survives the expiration or earlier termination of the Agreement.

Section 13. Consultant is an Independent Contractor

13.1 Consultant and its Subconsultant(s) are and at all times will be independent contractors. Consultant has complete control over its operations and employees and is not an agent or employee of the EBCE and must not represent or act as the EBCE's agent or employee. Consultant agrees, on behalf of itself and its employees and Subconsultants, that it does not have any rights to retirement benefits or other benefits accruing to EBCE employees, and expressly waives any claim it may have to any such rights.

13.2 As an independent contractor, Consultant has complete control over its Subconsultants, Sub, suppliers, affiliates agents and any other person or entity with whom the Consultant contracts in furtherance of this Agreement (collectively "Subconsultants"). Subject to the requirements of Section 5 of this Agreement, Consultant is solely responsible for selecting, managing and compensating its Subconsultants, and for ensuring they comply with this Agreement.

Section 14. Miscellaneous Terms and Conditions

14.1 EBCE Authority.

The Chief Executive Officer or his/her designee is authorized to take all actions under this Agreement, including without limitation, amendments that fall within the Chief Executive Officer's signing authority, termination or modification of terms.

14.2 Waiver.

Waiver by either party of any one or more conditions, Sections, provisions or performance of this Agreement will not be a waiver of any other provision; nor will failure to enforce a provision or Section in one instance waive the right to enforce such provision or Section in the future. In no event will payment by EBCE to Consultant constitute or be construed as a waiver by EBCE of any breach or default of this Agreement, nor will such payment prejudice any of EBCE's other rights or remedies.

14.3 Governing Law.

Consultant and EBCE agree that this Agreement will be interpreted under the laws of the State of California.

14.4 Venue.

Any litigation resulting from this Agreement will be filed and resolved by a state court in Alameda County, California, or if appropriate, the federal courts in the Northern District of California located in San Francisco.

14.5 Audit Rights.

All records or documents required to be kept pursuant to this Agreement must be made available for audit at no cost to EBCE, at any time during regular business hours, upon written request by EBCE. Copies of such records or documents shall be provided to EBCE at EBCE's offices unless an alternative location is mutually agreed upon.

14.6 Recitals and Exhibits.

The Recitals in Section 1 above are intentionally made a part of this Agreement. All Exhibits and any other documents incorporated by reference are a part of this Agreement.

14.7 Notices.

Any notices required to be given under this Agreement must be made in writing and may be delivered a) personally, in which case they are effective upon receipt; b) by U.S. Mail, in which case they are effective three (3) days following deposit in the U.S. Mail, unless accompanied by a return receipt in which case, they are effective upon the date on the receipt; or c) by electronic mail, in which case they are effective upon confirmation of receipt, and if no confirmation of receipt, they are effective one day after transmission, providing that a hard copy is also sent via U.S. mail. All notices must be sent to the addresses below:

EBCE

Attn: Jessie Denver
1999 Harrison Street, Suite 800
Oakland, CA 94612
Email: jdenver@ebce.org
Phone: 510-827-2052

Consultant

Attn: Jasna Tomic
CALSTART, Inc.
48 South Chester Avenue
Pasadena, CA 91106
Email: jtomic@calstart.org
Phone: 626-744-5595

14.8 Assignment.

Except to the extent this Agreement authorizes Consultant to use Subconsultants, Consultant will not assign any part of this Agreement without the EBCE's prior written consent. EBCE, at its sole discretion, may void this Agreement if a violation of this provision occurs.

14.9 Integrated Agreement.

The Recitals, this Agreement and the Exhibits attached to this Agreement contain the complete understanding between EBCE and Consultant and supersedes any prior or contemporaneous negotiations, representations, agreements, understandings and statements, written or oral respecting the Work up through the Effective Date of this Agreement.

14.10 Amendments.

Any and all amendments or modifications to this Agreement must be made in writing and signed by each Party before such amendment will be effective.

14.11 Government Claims Act.

Nothing in this Agreement waives the requirements to comply with the Governmental Claims Act, where applicable.

14.12 Severability.

If a court of competent jurisdiction holds any Section or part of this Agreement to be invalid or unenforceable for any reason and the Work can still be performed, the Parties agree to sever the invalid or unenforceable Section from this Agreement and that all remaining Sections or parts of this Agreement will continue to be enforceable.

14.13 Counterparts

This Agreement may be executed in one or more counterparts, all of which taken together will constitute one and the same instrument and each of which will be deemed an original.

14.14 No Party Deemed Drafter

This Agreement will be considered for all purposes as prepared through the joint efforts of the Parties and will not be construed against one Party or the other as a result of the preparation, substitution, submission, or other event of negotiation, drafting or execution hereof.

Section 15. Authorized Signatories

15.1 Proper Countersignatures

Type of Entity	Authorized Signatories		
For a corporation:	Pursuant to California Corporations Code Section 313 proof of authority to execute the Agreement is established if one of the corporate officers listed in Column A below and one of the corporate officers listed in Column B below both sign the documents.		
	Column A	AND	Column B
	Chairman of the Board, or		Secretary, or
	President, or		Assistant Secretary, or
	Vice President		Chief Financial Officer, or Assistant Treasurer
	If the agreement is signed by any combination of persons other than those listed above or by an individual, then the agreement must be accompanied by a copy of the Board minutes, resolution, Corporate Secretary's certificate, or articles of incorporation stating that the signatories have the authority to bind the corporation.		
For a general partnership, a limited partnership, or a limited liability partnership:	All the general partners must sign the Agreement (a general partnership agreement is sufficient to establish the names of all general partners) unless the person signing the Agreement provides proof that he/she has authority to bind the partnership.		
For a limited liability company (LLC)	Copies of the following documents should be provided to establish who has authority to bind the LLC: (1) State Forms LLC-1 and LLC-12 if the company was formed in California; and (2) the operating agreement for the LLC – whether formed in California or another state.		
For a sole proprietor, or a sole proprietor doing business under another name:	Only the individual who owns the business can sign. Either a Fictitious Business Name Statement or a EBCE Business Tax Certificate is sufficient to establish the authority of an individual to bind a sole proprietorship.		

[signatures on following page]

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed as of the date set forth above.

CALSTART, Inc.
A California Corporation

By Piero Stillitano
Title Chief Financial Officer
Date _____

By Jasna Tomic
Title Vice President
Date _____

EAST BAY COMMUNITY ENERGY
AUTHORITY
A Joint Powers Authority

By _____
Title _____
Date _____

APPROVED AS TO FORM:

EBCE Counsel

LIST OF EXHIBITS

EXHIBIT A: SCOPE OF WORK

EXHIBIT B: SCHEDULE

EXHIBIT C: CONSULTANT STAFFING

EXHIBIT D: SUBCONSULTANTS

EXHIBIT E: COMPENSATION/BUDGET

EXHIBIT F: INSURANCE REQUIREMENTS

Exhibit A

SCOPE OF WORK

CALSTART will work closely with EBCE to assess the ecosystem of medium and heavy-duty vehicles operating in its service area. CALSTART will also assist EBCE with the development and implementation of a technical assistance pilot project that provides commercial fleet operators with support that makes the transition to zero-emission vehicle technologies simple and cost effective.

Phase 0: Grant Tracking, Project Team and Proposal Development Support (Duration: Ongoing)

Task 0.1: Identify and evaluate near-term funding opportunities (e.g., CARB Zero-Emission Drayage, CEC Infrastructure, CEC Block Grant, EPIC, etc.); engage with potential project stakeholders and develop/submit up to three (3) project proposals in collaboration with EBCE.

Target Deliverables

1. Grant tracking matrix that includes eligibility and scoring criteria, scope, project funding available, and timeline
2. List of pre-identified stakeholders (e.g., leverage EBCE's engagement with Numi Tea, Prism Logistics, etc.) and expand upon list
3. Develop individual project templates with details that align with assumed funding opportunity criteria
4. Support development and submission of grant proposals with EBCE and potential pre-identified stakeholders

Tasks and deliverables identified in Phases 1-3 below are not contingent on the outcome of Phase 0.

Phase 1: Fleet Technical Assistance Pilot Project Development (Duration: 3 months)

Task 1.1: Identify target urban delivery and goods movement stakeholders and fleets, scope pilot project technical assistance, hold stakeholder meeting(s), confirm fleet and/or other stakeholder participation in Pilot Project(s).

Deliverables from this phase include CALSTART analysis of DMV registration data (EBCE and CALSTART databases) to identify target fleet categories as well as specific fleets/freight users EBCE's service area based on technology readiness. CALSTART will align vehicle and infrastructure opportunities for target fleets, and work with EBCE to provide technical assistance to Pilot Project participants in the subsequent phases (e.g.,

fleet and charging assessment, business case calculator, vehicle/charging infrastructure incentive application concierge).

Target Deliverables

1. Completed DMV registration analysis and database
2. List of fleet categories based on analysis of DMV registration data (with vehicle class), including target fleet categories based on best duty cycles and technology readiness
3. Map of fleets within target fleet categories
4. Contact database of target fleets/freight users including prioritization of stakeholders that has been cross-referenced with CALSTART's existing member network and other industry connections to identify outreach/engagement opportunities
5. Report describing the main fleet/freight users in logistics, distribution, and regional delivery (e.g., who hires M/HD vehicles including third-party logistic providers (e.g., warehouses, corporations and/or distribution centers) within EBCE's service area
6. Completed technical assistance scope to be offered to pilot project participants (e.g., fleet and charging assessment, business case calculator, vehicle/charging infrastructure incentive application concierge, etc.)
7. Technical assistance metrics (ex., number of target fleets; number of total equipment deployed including vehicles and chargers; cost savings per fleet; greenhouse gas emission reductions; etc.).
8. Tracking matrix of vehicle and charging infrastructure funding opportunities (e.g., incentives, etc.) for target fleets based on technology readiness

Task 1.2: Identify school district stakeholders, develop technical assistance scope (e.g., fleet and charging infrastructure assessment, business case calculator, vehicle/charging infrastructure incentive application concierge), develop agenda for a future *School District Fleet Electrification Symposium*.

Target Deliverables

1. Analysis of DMV registration data in EBCE's service area (e.g., size and age of bus fleets by school district).
2. List of school district stakeholders in service territory (e.g., leverage EBCE's existing list and expand as needed).
3. Completed technical assistance scope including the number of fleets EBCE and CALSTART are able to support.
4. Completed agenda for Symposium including potential session topics, speakers, possible venues, desired outcomes and role of CALSTART (or other stakeholder) as a facilitator.

Phase 2: Pilot Project Stakeholder Outreach (Duration: 3 months)

Task 2.1: EBCE and CALSTART will organize target stakeholder workshops and/or one-on-one meetings to present the goals of the Pilot Project, outline the technical assistance offering, and confirm stakeholder participation in the Pilot Project.

Target Deliverables

1. Completed scope/presentation for EBCE/CALSTART technical assistance Pilot Project offering (e.g., fleet and charging assessment, business case calculator, vehicle/charging infrastructure incentive application concierge) for target stakeholders.
2. Organize and hold 2 workshop(s) and/or up to 10 one-on-one meeting(s) with the target fleets and other stakeholders.
3. Memo highlighting key outcomes of Deliverable 2 including participants, questions received, concerns/barriers, future opportunities to engage participants beyond Pilot Project participation.
4. List of confirmed Pilot Project participants.

Phase 3: Technical Assistance Pilot Project Implementation (Duration: 12 months)

Task 3.1: Per Task 2.1, CALSTART will provide technical assistance to three to four (3-4) Pilot Project participants (e.g., fleets, other stakeholders) and will work with each participant and EBCE to:

- identify individual fleet needs (e.g., daily routes, access to fueling, domicile location(s), fleet parking requirements, vehicle procurement cycle, etc.)
- identify charging infrastructure needs where vehicles are domiciled, barriers and solutions
- evaluate the financial payback and business case for each Pilot Project
- provide support to Pilot Project participants that makes applying for and tracking applicable incentives and/or grants more streamlined

CALSTART's support will assist Pilot Project participants to fully implement their identified fleet electrification goals. CALSTART will build teams needed to accomplish Task 3.1 (e.g., assigned project manager, data collection and evaluation, reporting, incentive application completion, etc.).

Note: The development of technical assistance offerings beyond the initial 3-4 Pilot Projects may require additional time and funding.

Target Deliverables

1. Develop Pilot Project tracker
2. Develop template and individual Pilot Project information (3-4 projects)
3. Technical assistance metrics and deliverables are pending and will be finalized prior to CSA execution
4. Final report

Additional Services:

Consultant will not provide additional services outside of the services identified in Exhibit A, unless it obtains advance written authorization from the project manager or lead EBCE representative prior to commencement of any additional services.

Exhibit B

SCHEDULE

Twenty-four (24) months, starting July 15, 2020.

Exhibit C**CONSULTANT STAFFING**

Name	Title	CALSTART Staff Category
Mitul Aurora	Associate PM	Associate Project Manager
Danielle Jones	Contract Financial Analyst	Project Manager
Avelina Sarmiento	Senior Staff Accountant	Project Manager
Campbell Scott	Project Manager	Project Manager
Jonathan Norris	Senior Project Manager	Senior Project Manager
Baha Al Alawi	Senior Manager of Market and Industry Analysis	Senior Project Manager
Kevin Leong	Program Manager	Program Manager
Alycia Gilde	Senior Director	Senior Program Manager/Director
Jasna Tomic	Vice President	Senior Manager/Executive

Exhibit D**SUBCONSULTANTS**

Subconsultants are not authorized under this Agreement.

Exhibit E**COMPENSATION/BUDGET**

Services under this Agreement will be compensated on an hourly basis based on the following rates:

<i>CALSTART Staff Category</i>	<i>Hourly Rate July 15, 2020 – September 30, 2021</i>	<i>Hourly Rate October 1, 2021 – September 30, 2022</i>
Administrative/Intern Staff	\$73.59	\$76.54
Associate Project Manager	\$100.50	\$104.51
Project Manager	\$139.13	\$144.68
Program Manager /Sr. Project Manager	\$190.60	\$198.24
Senior Program Manager	\$307.34	\$315.05
Senior Manager/Executive	\$407.38	\$407.38

The maximum compensation under this Agreement is not to exceed \$200,000.

Exhibit F

INSURANCE REQUIREMENTS

A. Minimum Scope and Limits of Insurance. Consultant must procure, and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

1) Commercial General Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000.00) per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of Two Million Dollars (\$2,000,000.00) per project or location. If Consultant is a limited liability company, the commercial general liability coverage must be amended so that Consultant and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

2) Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of One Million Dollars (\$1,000,000.00) per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant must obtain a non-owned auto endorsement to the Commercial General Liability policy required under subparagraph A.1) of this Exhibit F.

3) Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required, but Consultant must execute a declaration that it has no employees.

4) Professional Liability/Errors & Omissions Insurance with minimum limits of Two Million Dollars (\$2,000,000.00) per claim and in aggregate.

B. Acceptability of Insurers. The insurance policies required under this Exhibit F must be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide.

C. Additional Insured/Additional Named Insured. The automobile liability policies must contain an endorsement naming EBCE, its officers, employees, agents and volunteers as additional insureds. The commercial general liability policy must contain an endorsement naming EBCE, its officers, employees, agents and volunteers as additional named insureds.

D. Primary and Non-Contributing. The insurance policies required under this Agreement must apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to EBCE. Any insurance or self-insurance maintained by EBCE, its officers, employees, agents or volunteers, will be in excess of Consultant's insurance and will not contribute with it.

E. Consultant's Waiver of Subrogation. The insurance policies required under this Agreement will not prohibit Consultant and Consultant's employees, agents or Subconsultants from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against EBCE.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by EBCE. At EBCE's option, Consultant must either reduce or eliminate the deductibles or self-insured retentions with respect to EBCE, or Consultant must procure a bond guaranteeing payment of losses and expenses.

G. Cancellations or Modifications to Coverage. Consultant agrees not to cancel any insurance coverage during the Term. Consultant further agrees not to, reduce or otherwise modify the insurance policies required by this Agreement during the term of this Agreement, without the prior written approval of EBCE. The commercial general and automobile liability policies required under this Agreement must be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to EBCE. If any insurance policy required under Agreement is canceled or reduced in coverage or limits, Consultant must, within two business days of notice from the insurer, phone and notify EBCE via electronic mail and certified mail, return receipt requested, of the cancellation of or reductions to any policy.

H. EBCE Remedy for Noncompliance. If Consultant does not maintain the policies of insurance required under this Agreement in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements of this Exhibit F, EBCE may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, EBCE may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant must promptly reimburse EBCE for any premium paid by EBCE or EBCE, in its sole discretion, may withhold amounts sufficient to pay the premiums from payments due to Consultant.

I. Evidence of Insurance. Prior to the performance of Services under this Agreement, Consultant must furnish EBCE with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Agreement. The endorsements are subject to EBCE's approval. EBCE may request, and Consultant must provide complete, certified copies of all required insurance policies to EBCE. Consultant must maintain current endorsements on file with EBCE. Consultant must provide proof to EBCE that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant must furnish such proof at least two weeks prior to the expiration of the coverages.

J. Indemnity Requirements not Limiting. Procurement of insurance by Consultant will not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify EBCE under Section 12 of this Agreement.

K. Subconsultant Insurance Requirements. Consultant's insurance coverage must include its Subconsultants or Consultant must require each of its Subconsultants that perform Work under this Agreement to maintain insurance coverage that meets all the requirements of this Exhibit F.