



STATE OF CALIFORNIA

**GRANT AMENDMENT REQUEST FORM (GARF)**

CEC-277 (Revised 12/2019)

CALIFORNIA ENERGY COMMISSION

Original Agreement # ARV-15-001 Amendment # 4

Division	Agreement Manager:	MS-	Phone
600 Fuels and Transportation Division	Alex Wan	27	916-654-4880

Recipient's Legal Name	Federal ID #
Cummins Electrified Power NA Inc.	20-5546260

Revisions: (check all that apply)	Additional Requirements
<input checked="" type="checkbox"/> Term Extension New End Date: 06 / 30 / 2022	Include revised schedule and complete items A, B, C, & F below.
<input type="checkbox"/> Budget Augmentation Amendment Amount: \$	Include revised budget and complete items A, B, C, D, & F below.
<input type="checkbox"/> Budget Reallocation	Include revised budget and complete items A, B, C, & F below.
<input type="checkbox"/> Scope of Work Revision	Include revised scope of work and complete items A, B, C, E, & F below.
<input type="checkbox"/> Change in Project Location or Demonstration Site	Include revised scope of work and complete items A, B, C, E, & F below.
<input checked="" type="checkbox"/> Novation/Name Change of Prime Recipient	Include novation documentation and complete items A, B, C, & F below.
<input checked="" type="checkbox"/> Terms and Conditions Modification	Include applicable exhibits with bold/underline/ strikeout and complete items A, B, C, & F below.

**A) Business Meeting Information****Business Meeting approval is not required for the following types of Agreements:**☐ Minor amendments delegated to Executive Director per December 2013 ResolutionProposed Business Meeting Date 12 / 09 / 2020 ☒ Consent ☐ Discussion

Business Meeting Presenter Alex Wan Time Needed: N/A minutes

Please select one list serve. Altfuels (AB118- ARFVTP)

**Agenda Item Subject and Description:**

CUMMINS ELECTRIFIED POWER NA INC. Proposed resolution approving Amendment #4 to Agreement ARV-15-001 with Hydrogenics USA, Inc. to: 1) change the Prime Recipient from Hydrogenics USA, Inc. to Cummins Electrified Power NA Inc; 2) extend the agreement from 2/28/2022 to 6/30/2022 ; 3) include an updated Special Terms and Conditions with a liquidated damages provision; and 4) adopt staff's determination that the action is exempt from CEQA. (Clean Transportation Program funding). Contact: Alex Wan.

**B) List all subcontractors (major and minor) and equipment vendors: (attach additional sheets as necessary)**



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<b>Legal Company Name:</b>	<b>Budget</b>
Siemens Industry, Inc.	\$ 145,152.00
New Flyer	\$ 1,666,850.00
Sunline Transit Agency	\$ 290,875.00

**C) List all key partners:** (attach additional sheets as necessary)

<b>Legal Company Name:</b>
Sunline Transit Agency

**D) Budget Information** (only include amendment amount information)

<b>Funding Source</b>	<b>Funding Year of Appropriation</b>	<b>Budget List Number</b>	<b>Amount</b>
Funding Source			\$
Funding Source			\$
Funding Source			\$
Funding Source			\$
Funding Source			\$

R&amp;D Program Area: Select Program Area      TOTAL: \$

Explanation for "Other" selection

Federal Agreement #:

**E) California Environmental Quality Act (CEQA) Compliance**

## 1. Is Agreement considered a "Project" under CEQA?

☐ Yes (skip to question 2)    ☒ No (complete the following (PRC 21065 and 14 CCR 15378)):

Explain why Agreement is not considered a "Project":

Agreement will not cause direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment because the project will demonstrate hydrogen fuel cell technology in a transit bus. The the building of a hydrogen fuel cell transit bus will occur at an existing vehicle technology provider facility. The CEC made CEQA findings pertaining to this grant, including it is not a project under CEQA, when it approved this grant at a previous business meeting. The currently proposed changes through this amendment involve a change to the Prime Recipient's name, minor modifications to the terms, schedule, and end date. The changes will not result in any impact to the environment beyond those already considered when this grant was originally approved and as previously amended and do not change the fact that this grant is not a project under CEQA.

## 2. If Agreement is considered a "Project" under CEQA:

a) ☐ Agreement **IS** exempt.☐ Statutory Exemption. List PRC and/or CCR section number:☐ Categorical Exemption. List CCR section number:☐ Common Sense Exemption. 14 CCR 15061 (b) (3) Explain reason why Agreement is exempt under the above section:



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- b) ☐ Agreement **IS NOT** exempt. (consult with the legal office to determine next steps)

Check all that apply

- ☐ Initial Study  
☐ Negative Declaration  
☐ Mitigated Negative Declaration  
☐ Environmental Impact Report  
☐ Statement of Overriding Considerations

### F) The following items should be attached to this GARF (as applicable)

- |   |   |  |
|---|---|--|
| 1. Exhibit A, Scope of Work                         | <input checked="" type="checkbox"/> N/A | <input type="checkbox"/> Attached            |
| 2. Exhibit B, Budget Detail                         | <input checked="" type="checkbox"/> N/A | <input type="checkbox"/> Attached            |
| 3. CEQA Documentation                               | <input checked="" type="checkbox"/> N/A | <input type="checkbox"/> Attached            |
| 4. Novation Documentation                           | <input type="checkbox"/> N/A            | <input checked="" type="checkbox"/> Attached |
| 5. CEC 105, Questionnaire for Identifying Conflicts |   | <input checked="" type="checkbox"/> Attached |

Alexander Wan  
**Agreement Manager**

11/13/2020  
**Date**

Elizabeth John  
**Office Manager**

11/13/2020  
**Date**

John P. Butler II  
**Deputy Director**

11/16/2020  
**Date**

## **EXHIBIT I**

Dated December 9, 2020

### **NOVATION AGREEMENT for GRANT NUMBER ARV-15-001**

This Novation Agreement is made and entered into by Hydrogenics USA, Inc. (hereinafter "Transferor"), Cummins Electrified Power NA Inc. (hereinafter "Transferee") and the State Energy Resources Conservation and Development Commission (hereinafter "Energy Commission"). The Transferor, Transferee and Energy Commission are collectively referred to in this Novation Agreement as the "Parties."

On August 21, 2015, Transferor and the Energy Commission entered into grant agreement number ARV-15-001 for Transferor to demonstrate the technical and commercial viability of an advanced hydrogen fuel cell propulsion system in a bus (the "Project"). The total amount of the grant is \$ 2,148,177.

On or about September 1, 2020 Transferor requested Energy Commission approval of a novation to ARV-15-001. The proposed novation would remove Transferor as a party to ARV-15-001, substitute Transferee as the recipient under ARV-15-001, and transfer all of Transferor's obligations and duties under ARV-15-001 to Transferee.

#### **Agreement**

In consideration for the mutual promises contained in this Novation Agreement, the Parties agree as follows:

1. Transferor hereby assigns, transfers, conveys and delivers to Transferee all of the Transferor's rights, title and interest in grant agreement number ARV-15-001.
2. Transferee agrees to complete the Project under grant agreement number ARV-15-001, and reimbursements made by the Energy Commission to the recipient under grant agreement number ARV-15-001, if any, will be to Transferee from the time of this Novation Agreement forward.
3. Transferee hereby accepts such assignment and agrees to assume all of Transferor's rights, duties, liabilities, and obligations in, to and under the grant agreement number ARV-15-001 as Transferee's full responsibility.
4. Transferee agrees to be bound by all the terms and conditions of grant agreement number ARV-15-001 as if Transferee was the original recipient of the grant agreement. The Transferee also assumes all obligations and liabilities of, and all claims against, the Transferor under the grant agreement number ARV-15-001 as if the Transferee was the original party to the grant agreement.
5. The Parties hereby agree that this Novation Agreement shall constitute a novation of the obligations of Transferor under the grant agreement number ARV-15-001. Accordingly, all of the rights, duties and obligations of Transferor under the grant agreement number ARV-15-001 are extinguished. The Energy Commission recognizes Transferee as Transferor's successor in interest in and to all of Transferor's rights, duties and obligations in, to and under the grant agreement number ARV-15-001.
6. The grant agreement number ARV-15-001 shall remain in full force and effect, except as modified by this Novation Agreement.

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**Hydrogenics USA, Inc. (Transferor)**

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**TRANSFEROR'S NAME (If other than an individual, state whether a corporation, partnership, etc)**

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BY (Authorized Signature)

DATE SIGNED (Do not type)





NAME AND TITLE OF PERSON SIGNING

ADDRESS

12707 High Bluff Dr, Ste. 200  
San Diego, CA 92130

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**Cummins Electrified Power NA Inc. (Transferee)**

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**TRANSFEE'S NAME (If other than an individual, state whether a corporation, partnership, etc)**

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BY (Authorized Signature)

DATE SIGNED (Do not type)





NAME AND TITLE OF PERSON SIGNING

ADDRESS

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**STATE OF CALIFORNIA**

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AGENCY NAME

State Energy Resources Conservation and Development Commission

---

BY (Authorized Signature)

DATE SIGNED (Do not type)





NAME AND TITLE OF PERSON SIGNING

Adrienne Winuk, Contracts, Grants, and Loans Office Manager

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ADDRESS

1516 Ninth Street, MS-18  
Sacramento, CA 95814-5512

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STATE OF CALIFORNIA

STATE ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION

RESOLUTION - RE: CUMMINS ELECTRIFIED POWER NA INC.

**RESOLVED**, that the State Energy Resources Conservation and Development Commission (CEC) adopts the staff CEQA findings contained in the Agreement or Amendment Request Form (as applicable); and

**RESOLVED**, that the CEC approves Amendment #4 to Agreement ARV-15-001 with Cummins Electrified Power NA Inc. to: 1) change the Prime Recipient from Hydrogenics USA, Inc. to Cummins Electrified Power NA Inc.; 2) extend the agreement from February 28, 2022 to June 30, 2022; 3) include an updated Special Terms and Conditions with a liquidated damages provision; and

**FURTHER BE IT RESOLVED**, that the Executive Director or his/her designee shall execute the same on behalf of the CEC.

**CERTIFICATION**

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly and regularly adopted at a meeting of the CEC held on December 9, 2020.

AYE:

NAY:

ABSENT:

ABSTAIN:

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Cody Goldthrite  
Secretariat