



**California Energy Commission
February 28, 2023 Business Meeting
Backup Materials for Agenda Item No 3g:
Hell's Kitchen Geothermal, LLC**

The following backup materials for the above-referenced agenda item are available in this PDF packet as listed below:

1. Proposed Resolution (attached below).
2. Grant Request Form or Grant Amendment Request Form or Contract Request Form or Loan Request Form (applicable form attached below).
3. CEQA documents (if applicable, attached below).
4. Other relevant documentation or link to other documentation (if applicable, attached below).

STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

RESOLUTION: Hell's Kitchen Geothermal LLC

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 a mutual termination for Agreement EPC-19-018 with Hell's Kitchen Geothermal, LLC. The grant was to design and demonstrate a pretreatment process for geothermal brine to prepare the brine for lithium recovery. Phase I of the grant was completed. Phase II of the grant has not been approved and the project cannot be completed as proposed. Hell's Kitchen Geothermal, LLC was awarded \$1,460,735 and \$64,400 of that amount was dispensed for Phase I of the grant. This termination is proposed because the recipient changed their business practices on lithium pretreatment technologies and no longer requires CEC funds; and

FURTHER BE IT RESOLVED, that the Executive Director or their 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 February 28, 2023.

AYE:

NAY:

ABSENT:

ABSTAIN:

Dated:

Liza Lopez
Secretariat



STATE OF CALIFORNIA

GRANT AMENDMENT REQUEST FORM (GARF)

CEC-277 (Revised 12/2019)

CALIFORNIA ENERGY COMMISSION

Original Agreement # EPC-19-018 Amendment # 1

Division	Agreement Manager:	MS-	Phone
ERDD	Zack Bradford		

Recipient's Legal Name	Federal ID #
Hell's Kitchen Geothermal LLC	81-1914243

Revisions: (check all that apply)	Additional Requirements
<input type="checkbox"/> Term Extension New End Date:	Include revised schedule and complete items A, B, C, & F below.
<input type="checkbox"/> Budget Augmentation Amendment Amount: \$ 0	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 type="checkbox"/> Novation/Name Change of Prime Recipient	Include novation documentation and complete items A, B, C, & F below.
<input 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 Resolution
 Proposed Business Meeting Date 2/28/2023 ☒ Consent ☐ Discussion

Business Meeting Presenter Zack Bradford Time Needed: 0 minutes

Please select one list serve. EPIC (Electric Program Investment Charge)

Agenda Item Subject and Description:

Hell's Kitchen Geothermal LLC. Proposed resolution approving a mutual termination for Agreement EPC-19-018 with Hell's Kitchen Geothermal, LLC. The grant was to design and demonstrate a pretreatment process for geothermal brine to prepare the brine for lithium recovery. Phase I of the grant was completed. Phase II of the grant has not been approved and the project cannot be completed as proposed. Hell's Kitchen Geothermal, LLC was awarded \$1,460,735 and \$64,400 of that amount was dispensed for Phase I of the grant. This termination is proposed because the recipient changed their business practices on lithium pretreatment technologies and no longer requires CEC funds. (EPIC Funding) Contact: Zack Bradford

**GRANT AMENDMENT REQUEST FORM (GARF)****B) List all subcontractors (major and minor) and equipment vendors: (attach additional sheets as necessary)**

Legal Company Name:	Budget
JFMPE, Inc.	\$ 50,000
Nalco Water Pretreatment Solutions, LLC	\$ 50,000
San Diego State University Foundation	\$ 72,355
PMC Global Inc	\$ 90,000
DOE- Lawrence Berkeley National Laboratory	\$ 246,380
TBD General Contractor	\$ 80,000
TBD General Contractor 2	\$ 90,000
General Contractor # 3 TBD	\$ 50,000

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

Legal Company Name:

D) Budget Information (only include amendment amount information)

Funding Source	Funding Year of Appropriation	Budget List Number	Amount
			\$

R&D Program Area: EGRB: Renewables

TOTAL: \$ 0

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 mutual termination of the agreement will not cause direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment because no further activities will occur under this agreement. A project includes an activity which is supported in whole or in part through public agency contracts or grants from a public agency. Here the Recipient and the CEC are terminating the agreement and no additional work will occur under or be funded under the Agreement. Further, CEQA does not apply to projects which a public agency disapproves or decides not to fund.

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)



GRANT AMENDMENT REQUEST FORM (GARF)

Explain reason why Agreement is exempt under the above section:

- 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/Schedule | <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 checked="" type="checkbox"/> N/A | <input type="checkbox"/> Attached |
| 5. CEC 105, Questionnaire for Identifying Conflicts | <input checked="" type="checkbox"/> N/A | <input type="checkbox"/> Attached |

Agreement Manager

Date

Office Manager

Date

Deputy Director

Date

MUTUAL TERMINATION AND SETTLEMENT AGREEMENT

The State Energy Resources Conservation and Development Commission and Hell's Kitchen Geothermal, LLC enter into this Mutual Termination and Settlement Agreement ("Agreement").

1. Definitions

In addition to any terms that might be defined elsewhere in this Agreement, the following terms shall have the following meanings:

- 1.1 "Energy Commission" or "Commission" means the State Energy Resources Conservation and Development Commission, located at 715 P Street, Sacramento, California 95814.
- 1.2 "Hell's Kitchen" means Hell's Kitchen Geothermal, LLC, located at 124 W 9th Street, Suite 101, Imperial, CA, 92251.
- 1.3 "Agreement" means this Mutual Termination.
- 1.4 "Grant" means the grant agreement entered into between the Parties (Energy Commission grant number EPC-19-018).
- 1.5 "Effective Date" means the date the Parties execute this Agreement, which is the date the last of the Parties signs it.
- 1.6 "Parties" refers to both the Energy Commission and Hell's Kitchen.
- 1.7 "Party" refers to either the Energy Commission or Hell's Kitchen.

2. Recitals

Parties make this Agreement in reference to the following facts and events, which they mutually acknowledge:

- 2.1 The Parties entered into the Grant on August 28, 2020, for a pre-treatment process based on the chemical composition of the geothermal fluids at the project site and demonstrate its technical performance on a pilot-scale.
- 2.2 Phase I of the Grant was authorized by the Energy Commission and Phase II work required additional approval by the Energy Commission.
- 2.3 Hell's Kitchen completed Phase I work under the Grant.

- 2.4 Hell's Kitchen changed their business practices regarding lithium pretreatment technologies and will no longer be requiring CEC funds.
- 2.5 Hell's Kitchen has no outstanding invoices and does not seek any additional funds under the Grant.
- 2.6 Both Parties desire to mutually terminate the Grant.

3. Release

The Parties hereby release and discharge each other, including any and all agents, officers, directors, employees, contractors, attorneys, and their respective predecessors, successors, and assigns, from any and all claims, actions, charges, complaints, demands, grievances, losses, damages, liquidated damages, debts, causes of action, injuries, costs, interest, statutory penalties, attorneys' fees or other claims of any kind and nature, whether known or unknown, relating to or arising from the Grant.

4. Waiver of Statutory Rights

The Parties acknowledge that they have been advised by their attorneys concerning, and are familiar with, California Civil Code Section 1542, which provides:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

The Parties, being aware of said Code section, hereby expressly waive any rights they may have thereunder for claims relating to or arising from the Grant.

5. Mutual Termination and Settlement

The Grant is terminated as of this Agreement's Effective Date; Hell's Kitchen is not obligated to perform any further work on the tasks in the Grant's scope of work, and the Energy Commission is not obligated to disburse any further funds to Hell's Kitchen, relative to this Grant. Hell's Kitchen is not obligated to repay any of the \$64,400 paid out under this Grant to the Energy Commission. Both Parties voluntarily enter into this Agreement in an effort to efficiently end the Grant.

6. General Provisions

6.1 Governing Law and Venue

This Agreement is entered into, and shall be construed and interpreted, in accordance with the laws of the State of California, without giving effect to California's conflicts of laws principles. If a dispute between the Parties progresses to the point of being filed in court, the Parties agree that such litigation shall be conducted in the Superior Court of California, County of Sacramento.

6.2 Modifications in Writing Only

This Agreement may not be amended or modified in any respect except by a written instrument duly executed by the Parties to this Agreement.

6.3 Severability

Should any one or more of the terms or provisions of this Agreement be determined to be illegal or unenforceable, all other terms and provisions will nevertheless remain effective.

6.4 Counterparts

The Parties hereby agree that electronic or faxed signatures of the Parties to this Agreement shall be as binding and enforceable as original signatures. This Agreement may be executed in any number of counterparts and by different Parties hereto in separate counterparts, with the same effect as if all Parties had signed the same document. All such counterparts shall be deemed an original, shall be construed together, and shall constitute one and the same instrument.

6.5 Entire Agreement

This Agreement contains the entire agreement between the Parties.

6.6 No Third Party Benefits

This Agreement is made for the sole benefit of the Parties, and no other person or entity shall have any rights or remedies under or by reason of this Agreement, unless otherwise expressly provided for herein.

6.7 No Admission of Liability

It is understood and agreed that this Agreement represents a settlement of disputed claims and that nothing in this Agreement, including but not limited to the Release (Section 3 above) and Mutual Termination and Settlement (Section 5 above), shall be deemed or construed as an admission of liability by the Commission or Hell's Kitchen or by anyone else in any way affiliated with the Parties. The Parties further acknowledge that the Grant is not being terminated for cause or default.

6.8 Preparation of this Agreement

This Agreement is the product of negotiation and preparation by and among the Parties and their respective attorneys. Therefore, the Parties acknowledge and agree that this Agreement shall not be deemed prepared or drafted by one Party or another and should be construed accordingly.

6.9 Waiver

No waiver of any provision of this Agreement shall be binding unless executed by the Party making the waiver. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver.

6.10 Warranty of Authorized Signatures

Each Party to this Agreement represents and warrants that the person who has signed this Agreement on its behalf is duly authorized to enter into this Agreement, and bind that Party to the requirements in this Agreement.

CALIFORNIA ENERGY COMMISSION		Hell’s Kitchen Geothermal, LLC	
AUTHORIZED SIGNATURE	DATE	AUTHORIZED SIGNATURE	DATE
NAME Drew Bohan		NAME	
TITLE Executive Director		TITLE	
CALIFORNIA ENERGY COMMISSION ADDRESS 715 P Street, Sacramento, CA 95814			