1. **Payment Contingent Upon Completion of Critical Milestones:** Time is of the essence in project completion. To ensure timely project completion, in addition to meeting other Agreement requirements, **the Recipient must complete certain activities by certain dates to receive payment by the California Energy Commission (CEC) under this Agreement**.

For stations funded under this Agreement (resulting from GFO-22-607), funding will be disbursed on a station-by-station basis as the Recipient proves to the CEC that all four Critical Milestones have been met for each station by the dates specified in Exhibit A-1 to this Agreement, the “Schedule of Products and Due Dates.” In other words, **the CEC will not pay the Recipient any money under this Agreement unless the Recipient meets all four Critical Milestones, and proves so to CEC staff’s satisfaction, by the dates specified in Exhibit A-1**. Following completion of the Critical Milestones, payment will be made pursuant to the Staged Reimbursement described in Section 5 below.

The Critical Milestones are as follows:

***Critical Milestone #1:*** The Recipient shall hold the following meetings:

* An in-person, telephone, or web-based pre-application meeting for permits to build and operate each proposed hydrogen refueling station with relevant planning and/or building department staff of the authority having jurisdiction (AHJ) over project entitlement and permit approval. The meeting should include but not be limited to discussion of:
* The entitlement and permitting process for a hydrogen refueling station within the AHJ
* Zoning requirements for the chosen site
* Design or aesthetic requirements for the chosen site
* The expected CEQA process
* Project timeline

The meeting may be, for example, a scheduled presentation given by the Recipient to AHJ staff, or an unscheduled discussion with AHJ staff.

* An in-person, telephone, or web-based pre-application meeting, at the same time or separately from the meeting with the AHJ planning and/or building department staff, with a representative of the Office of the Fire Marshal, or equivalent fire control office, in the AHJ. The meeting should include but not be limited to discussion about how to obtain compliance with local fire code requirements and National Fire Protection Association (NFPA) 2 requirements.
* A telephone or web-based meeting with a representative of the Pacific Northwest National Laboratory (PNNL) Hydrogen Safety Panel (HSP) to establish a common understanding of the Hydrogen Safety Plan and station design review process that will be required of Recipients.

The Recipient must provide to the CEC proof of having met this Critical Milestone by submitting notes from each meeting, not to exceed five pages per station, including date, time, location, names and titles of meeting participants, a summary of the topics discussed, action items, and next steps, to the CAM on or before the date specified in Exhibit A-1 to this Agreement.

***Critical Milestone #2:*** The Recipient shall have control and possession of the site at which each hydrogen refueling station is to be constructed.

The Recipient must provide to the CEC proof of having met this Critical Milestone for each hydrogen refueling station to be constructed under this Agreement by submitting adequate documentation of site control and possession to the CAM on or before the date specified in Exhibit A-1 to this Agreement. Documentation of site control and possession may include, but is not limited to, an executed lease for the land on which the station will be constructed.

***Critical Milestone #3:*** The Recipient shall meet with representatives of the utility company that will serve each hydrogen refueling station to be constructed under this Agreement to arrange the utility connection. The Recipient must provide to the CEC proof of having met this Critical Milestone by submitting meeting notes, including date, time, location, names and titles of meeting participants, a summary of the topics discussed, action items, and next steps to the CAM on or before the date specified in Exhibit A-1 to this Agreement.

***Critical Milestone #4:*** The Recipient shall meet with representatives of the hydrogen fuel supplier that will serve each hydrogen refueling station to be constructed under this Agreement to arrange the supply chain and hydrogen delivery. The Recipient must provide to the CEC proof of having met this Critical Milestone by submitting meeting notes, including date, time, location, names and titles of meeting participants, a summary of the topics discussed, action items, and next steps, to the CAM on or before the date specified in Exhibit A-1 to this Agreement.

CEC staff will determine whether the documentation submitted by the Recipient is sufficient to show that each Critical Milestone has been met.

1. **Amendment to Critical Milestone Due Dates:** The timelines to complete any Critical Milestone can be changed only by a written amendment to this Agreement via the Amendment provision in Exhibit C, which the CEC is only likely to approve in unusual circumstances.
2. **Right to Terminate Agreement due to Non-Compliance with Critical Milestones:** In addition to the payment restrictions associated with meeting the Critical Milestones listed in Section 1 above, the CEC reserves the right to terminate this Agreement via the Termination provision in Exhibit C, in addition to any other rights held by the CEC, if any of the Critical Milestones are missed or if the supporting evidence is inadequate to show that the Critical Milestones have been reached. In the event that the CEC terminates this Agreement before the Recipient meets the requirements in these Special Terms and Conditions and other requirements under this Agreement to receive payment, the CEC is not liable for any costs incurred by the Recipient under this Agreement.
3. In the event of any conflict between these Special Terms & Conditions and Exhibit C, these Special Terms & Conditions shall prevail.
4. **Staged Reimbursement of CEC Funds:** CEC funds will only be available to reimburse a Recipient for actual, allowable, and allocable costs under the Agreement. The CEC will reimburse expenses in stages for each station, as follows:

**Stage 1**: Recipient has completed all Critical Milestones, completed the preliminary station design plans, and ordered the necessary equipment. Up to 25 percent of the CEC funding allocated to the station or the actual, allowable, and allocable costs incurred (whichever is less) will be reimbursed.

**Stage 2**: Recipient has submitted documentation to the CEC showing they have submitted an entitlement application or initial permit application for the station, and submitted the preliminary Hydrogen Safety Plan to the PNNL HSP. Up to 50 percent of the CEC funding allocated to the station or the actual, allowable, and allocable costs incurred (whichever is less) will be reimbursed.

**Stage 3**: Recipient has provided documentation to the CEC that equipment is assembled and ready for shipping and has received a permit to build from the AHJ. Up to 75 percent of the CEC funding allocated to the station or the actual, allowable, and allocable costs incurred (whichever is less) will be reimbursed.

**Stage 4**: Recipient has submitted the final Hydrogen Safety Plan to the PNNL HSP. Recipient has also submitted an Open Retail Station Checklist to the CEC and the station has achieved open retail status. Up to 90 percent of the CEC funding allocated to the station or the actual, allowable, and allocable equipment costs incurred (whichever is less) will be reimbursed. The remaining 10 percent of the CEC funding allocated to the station will be held as retention.

**Stage 5**: Recipient has completed the required data collection using the National Renewable Energy Laboratory (NREL) Data Collection Tool, submitted a Final Report that the CEC’s CAM approves, and timely submitted an invoice to the CEC for the retention. Timely submitted in this context means with enough time before the funds liquidate for the CEC to have the State Controller’s Office issue the check without having to pay any charges for expedited processing. The 10 percent retention will be released.