

SCOID: 4265 1911056

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 03/2019)

AGREEMENT NUMBER

19-11056

PURCHASING AUTHORITY NUMBER (If Applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

California Department of Public Health

CONTRACTOR NAME

Bloom Energy Corporation

2. The term of this Agreement is:

START DATE

3/26/2020

THROUGH END DATE

9/30/2020

3. The maximum amount of this Agreement is:

\$1,000,000.00

One Million Dollars and Zero Cents

4. 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.

Exhibits	Title	Pages
Exhibit A	Scope of Work	5
Exhibit B	Budget Detail and Payment Provisions	1
Exhibit C	Additional Provisions	5

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (If other than an individual, state whether a corporation, partnership, etc.)

CONTRACTOR BUSINESS ADDRESS

4353 North 1st Street

CITY

San Jose

STATE

CA

ZIP

95134

PRINTED NAME OF PERSON SIGNING

Susan Brennan

TITLE

COO

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

3/27/20

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

CONTRACTING AGENCY ADDRESS

1616 Capitol Ave

CITY

Sacramento

STATE

CA

ZIP

95814

PRINTED NAME OF PERSON SIGNING

Tim Bow

TITLE

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

3/27/20

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

PCC 1102 / EO N-25-20

Exhibit A

Bloom Energy Ventilator Refurbish/Repair Agreement

This Equipment Service Agreement (this "Agreement") is by and between Bloom Energy Corporation, A San Jose(U.S.A.) corporation, having a place of business at 4353 North 1st Street, San Jose CA 95134 ("Bloom") and the California Health Department whose name is set forth in the signature page of this Agreement ("Customer"). The effective date of this Agreement is the date notated on Exhibit A.

Recitals

A. Bloom is engaged in the Refurbish/Repair of ventilators for the California Department of Public Health (CDPH) to support the emergency during COVID19 outbreak in CA.

B. CDPH desires Bloom to supply Refurbish/Repair services for equipment specified herein.

Agreement

In consideration of the matters stated in the Recitals hereto and the mutual covenants contained in this Agreement, the parties agree as follows:

1. DEFINITIONS

When used in this Agreement, each of the following terms shall have the definition set out below:

Agreement: means this agreement, together with all Exhibits

Service Personnel: means Bloom employees, its affiliates, or subcontractors hired to provide service support including but not limited to Ventilator service

LABORIE Plan: means the specified services herein, which Bloom, or its affiliates, shall perform relating to the Equipment listed in Exhibit B.

Coverage Term: shall begin on the Effective Date and will end on the date set forth on the signature page of this agreement.

Equipment: means LTV 1200 series Ventilators and products and the supplies related thereto, as listed in Exhibit A.

2. COVERAGE TERMS AND PROCEDURES

A. Subject to the additional terms and conditions of this Agreement, for the Coverage Term Bloom, through its Service Personnel, shall perform the following services:

1. Test and Calibration all agreed upon Equipment;

2. Refurbish /Repair and re pack and ship equipment with in agreed upon time

B. PROCEDURES.

1. Bloom shall provide all parts and labor necessary to complete the refurbish/repair to equipment's current specifications or replace at Bloom's discretion. Bloom reserves the right to use qualified, quality-assured parts for repairs hereunder.

C. EXCEPTIONS. This Agreement shall not cover:

1. Any Un-discovered pre-existing defects or damage to the Equipment resulting from non-usage over extended period of time.

2. Defects or damage from consumables and supplies, including common replacement items such as cables, filters, connectors, lamps, and plugs.

3. Any components, parts, and materials not manufactured or distributed by Bloom, not labeled with the Bloom brand, or not installed by Bloom.

4. Any Equipment which has been disassembled, repaired, tampered with, altered, changed, or modified by Customer or any other persons other than Bloom.

D. OBLIGATIONS.

1. After the return of the Equipment, Customer will be responsible to ensure that the end user will follow all cleaning, reprocessing, operating, and maintenance procedures for the Equipment, in accordance with all applicable federal, state and local laws.

2. Customer will ensure that the end user will not clinically utilize any Equipment that is damaged or malfunctioning in any way.

3. Customer will provide all reasonable assistance necessary for diagnosing and correcting Equipment problems.

4. Though every effort will be made to pack and ship the equipment correctly, Bloom will not assume the risk of loss or damage to Equipment while Equipment is in transit to and from the Customer's facility to Bloom's service facilities.

E. WARRANTY

Customer warrants that the Equipment will comply with all applicable laws, statutes, regulations, rules, ordinances, codes, and standards, including but not limited to any export laws of the U.S. and abroad, and that Provider will obtain at its expense any permits, approvals, licenses, authorizations, or consents necessary for the Equipment as provided to Bloom under this Agreement.

THE SERVICE PERSONNEL AND ANY WORK BY BLOOM HEREUNDER WILL BE PROVIDED TO CUSTOMER "AS-IS" WITH NO WARRANTY OF ANY KIND. BLOOM HEREBY DISCLAIMS ALL WARRANTIES, WHETHER STATUTORY OR IMPLIED, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, INDUSTRY-SPECIFIC QUALIFICATION, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. IN NO EVENT WILL BLOOM BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL DAMAGES OR SIMILAR DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF LIFE AND OTHER MEDICAL CONDITIONS), IRRESPECTIVE OF WHETHER BLOOM HAS ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES, ARISING FROM THIS

AGREEMENT. IN NO EVENT WILL BLOOM BE LIABLE FOR ANY DAMAGES UNDER OR ARISING OUT OF THIS AGREEMENT. THE PARTIES AGREE THAT THE LIMITATIONS OF LIABILITY SET FORTH IN THE AGREEMENT ARE INDEPENDENT OF ANY EXCLUSIVE OR LIMITED REMEDIES, AND SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT AND APPLY EVEN IF SUCH REMEDIES ARE FOUND TO HAVE VAILED OF THEIR ESSENTIAL PURPOSE.

Bloom will not indemnify, defend Customer, nor hold Customer harmless from and against any allegation that the Equipment (including any modifications thereto) or Service Personnel have violated any warranty or third party's Intellectual Property Rights in connection with any Equipment, Personnel Services or any other goods or services provided under this Agreement.

3. PAYMENT

The pricing for Bloom refurb/repair Plan is included in Exhibit B.

A. Payment for the full plan is due Net 30 upon Invoice.

4. TERMINATION

Either party may terminate this Agreement at any time upon Seven (7) days prior written notice to the other party.

5. INTELLECTUAL PROPERTY RIGHTS

All Intellectual property rights relating to the Equipment and this Agreement, including all names, trademarks, copyrights, patents, mask works, trade secrets, know-how, technology, computer software and related documentation and source code and other Intellectual property rights, are and shall remain the property of Bloom and nothing in this Agreement shall be deemed to grant to Customer a license or other right to use Bloom's Intellectual property without Bloom's consent.

6. INDEMNIFICATION

A. To the extent possible by law, customer shall indemnify, hold harmless and defend Bloom and its Service Personnel, employees, officers, directors and agents from any and all third party liabilities, losses, damages, claims, suits and expenses, including reasonable legal expenses and all liabilities under this Agreement of whatsoever kind or nature imposed on, incurred by, or asserted against Bloom, its agents, end users, employees, successors, and assigns relating to or arising out of a claim that (i) caused any damage to any bodily injury (including death), destruction or damage to any real, tangible or personal property by the Equipment; (ii) as a result of or in connection with the performance under this Agreement of Customer, its end users, or its employees, officers, agents, representatives, or subcontractors; (iii) cause by Company's breach of any term or provision of this Agreement or any negligent or willful acts, errors or omissions by Company, its employees, officers, agents, representatives, or subcontractors in the performance of this Agreement; (iv) contamination of or adverse effects on the environment and any cleanup costs in connection therewith, or any violation of governmental law, regulation, or orders in connection with this Agreement; (v) any product design or specifications provided by Customer (if the alleged infringement would not have occurred but for the design, and could not have been avoided in implementing the specification) under this Agreement,

infringe any patent, trade secret, trademark, copyright, or other intellectual property rights of a third party.

B. In the event of the foregoing events, Bloom will notify customer in writing of such action and allow Customer full and complete authority, information, and assistance to settle or defend such action. Customer shall have the sole responsibility and authority to defend and/or settle any claim under this provision, provided, however, that Customer shall not agree to the settlement of any claim which adversely affects its business practices or which does not contain a full release of Bloom, unless Bloom consent is first obtained. Bloom may, at its own cost, retain separate representation and participate in any action, at Bloom's discretion.

7. GENERAL

A. **AUTHORIZATION.** The Customer acknowledges that, when entering into this Agreement, Bloom has relied upon Customer's representation that the Equipment will be used only by Customer or its authorized representative and only for purpose it is intended to be used. The Customer shall be responsible for all end users who use the Equipment under this Agreement. The Customer represents that it has the power to enter into this Agreement and that the person executing this Agreement on behalf of the Customer has been duly authorized and has all required corporate approvals.

B. **ENTIRE AGREEMENT.** This Agreement constitutes the entire Agreement between the parties concerning the subject matter hereof and supersedes any prior written or verbal agreements or understandings in connection herewith. No amendment, waiver or modification hereto or hereunder shall be valid unless in writing and signed by an authorized signatory of each of the parties hereto. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person other than the parties to this Agreement and their respective successors and permitted assigns.

C. **COUNTERPARTS AND ELECTRONIC SIGNATURES.** This Agreement may be executed in any number of counterparts and each counterpart will constitute an original, but all counterparts when taken together will constitute one and the same agreement. An executed signature page that is sent by facsimile, pdf file, or other electronic means will constitute an original signature for all purposes.

D. **NOTICES.** All notices and other communications required or permitted hereunder shall be in writing and shall be mailed by registered, international courier service or certified mail or delivery either by hand or by messenger, or sent via fax, computer mail or other electronic means, addressed to the address set forth in the preamble of this Agreement. Any notice or other communication so addressed and mailed by registered or certified mail (in each case, with return receipt requested) shall be deemed to be delivered and given when so mailed. Any notice so addressed or otherwise delivered shall be deemed to be given when actually received by the addressee.

E. **SEVERABILITY.** If for any reason any provision of this Agreement shall be deemed by a court of competent jurisdiction to be legally invalid or unenforceable in any jurisdiction to which it otherwise applies, the validity of the remainder of the Agreement shall not be affected and the offending provision shall be deemed modified to the minimum extent necessary to make it consistent with applicable law, and, in its modified form, the provision shall then be enforceable and enforced.

F. CAPTIONS; COUNTERPARTS. The section heading and captions of this Agreement are for convenience and reference only and in no way define, limit or describe the scope or intent of this Agreement nor substantively affect it in any way. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all such counterparts together shall constitute but one and the same instrument.

G. ASSIGNMENT. Neither this Agreement nor any rights granted hereby may be assigned by Bloom voluntarily or by operation of law without Customer's prior written consent, which shall not be unreasonably withheld, and any such attempted assignment shall be null and void.

H. GOVERNING LAW AND VENUE. All matters arising out of or related to this Agreement, including without limitation all matters connected with its performance, will be construed, interpreted, applied and governed in all respects in accordance with the laws of the United States of America and the State of California, without reference to conflict of laws principles. The provisions of the United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. All disputes and litigation arising out of or related to this Agreement, including without limitation matters connected with its performance, will be subject to the exclusive jurisdiction of the courts of the State of California or of the Federal courts sitting therein. Each Party hereby irrevocably submits to the personal jurisdiction of such courts and irrevocably waives all objections to such venue.

I. SURVIVAL. Any right or legal obligation of a party contained in this Agreement, that by its express term or nature would reasonably extend for a period beyond the term of the Agreement, shall survive the termination of the Agreement.

*Including without limitation " Section 2E
and Section 2F " — SSB AB State*

Exhibit B & Signature page for Ventilator refurbish/repair Service Agreement

Model Serial number: LTV 1200

Price Each: Time and Material not to exceed \$2,000 per unit

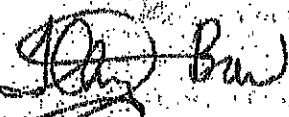
Total Units to refurbish / Repair: up to 514 Units

Contract Effective Date: March 26, 2020

Contract Total: Not to exceed \$1,000,000

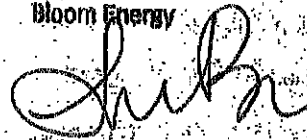
IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives as of the day and year first written below.

California Department of Public Health



Date 3/27/20

Bloom Energy



Date 3/27/20

Exhibit C

1. PROJECT REPRESENTATIVES

A. The project representatives during the term of this agreement will be:

California Department of Public Health Contact Person TBD Telephone: TBD E-mail: TBD@cdph.ca.gov	Bloom Energy Corporation Susan Brennan Telephone: (408) 772-8699 E-mail: Susan.Brennan@bloomenergy.com
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B. Direct all inquiries to:

California Department of Public Health Attention: Tim Bow Telephone: (916) 208-9946 E-mail: Tim.bow@cdph.ca.gov	Bloom Energy Corporation Susan Brennan Telephone: (408) 772-8699 E-mail: Susan.Brennan@bloomenergy.com
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C. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this agreement.

2. INVOICING AND PAYMENT

A. Invoices shall include the Agreement Number and shall be submitted not more frequently than monthly in arrears to:

TBD

California Department of Public Health

EPO MS 7002

1615 Capitol Ave, 73.373

Sacramento, CA 95814

B. Invoice shall:

- 1) Be prepared on Contractor letterhead. If Invoices are not on produced letterhead Invoices must be signed by an authorized official, employee or agent certifying that the expenditures claimed represent activities performed and are in accordance with Exhibit A.
- 2) Invoices must be submitted to CDPH either electronically or in hard copies.
- 3) Identify the billing and/or performance period covered by the invoice.
- 4) Itemize costs for the billing period in the same or greater level of detail as indicated in this agreement. Subject to the terms of this agreement, reimbursement may only be sought for those costs and/or cost categories expressly identified as allowable in this agreement and approved by CDPH.

3. Federal Emergency Management Agency (FEMA) Requirements

3.1 Changes

Any cost of a change, modification, change order, or constructive change to the Agreement must be allowable and allocable within the scope of this Agreement, and reasonable for the completion of project scope. Changes can be made by either Party to alter the method, price, or schedule of the work without breaching the Agreement if both Parties approve in writing.

3.2 Compliance with Federal Law, Regulations, and Executive Orders

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract only. The Contractor will comply with all federal law, regulations, executive orders, FEMA policies, procedures, and directives.

3.3 No Obligation by Federal Government

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.

3.4 Program Fraud and False or Fraudulent Statements or Related Acts

The Contractor acknowledges the 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's action pertaining to this contract.

3.5 Clean Air Act

3.5.1 The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

3.5.2 The Contractor agrees to report each violation to the (name of applicant entering into the contract) and understands and agrees that the (name of the applicant entering into the contract) will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

3.5.3 The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

3.6 Federal Water Pollution Control Act

3.6.1 The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

3.6.2 The Contractor agrees to report each violation to the (name of the applicant entering into the contract) and understands and agrees that the (name of the applicant entering into the contract) will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

3.6.3 The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

3.7 Debarment and Suspension

3.7.3 This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. § 180.905) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

3.7.4 The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

3.7.5 This certification is a material representation of fact relied upon by (insert name of recipient/subrecipient/applicant). If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (insert name of recipient/subrecipient/applicant), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

- 3.7.6 The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

3.8 Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

- 3.8.1 Contractor who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

3.9 PROCUREMENT OF RECOVERED MATERIALS

- 3.9.1 In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

3.9.1.1 Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site:
<https://www.epa.gov/anm/comprehensive-procurement-guideline-cpg-program>.

- 3.9.2 The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

3.9.2.1 Competitively within a timeframe providing for compliance with the contract performance schedule;

3.9.2.2 Meeting contract performance requirements; or

3.9.2.3 At a reasonable price.

Bloom Energy

19-11056

Exhibit C


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Contractor Certification Clause

CCC 04/2017

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Contractor/Bidder Firm Name (Printed)	Federal ID Number
Bloom Energy	770565408
By (Authorized Signature)	
	
Printed Name and Title of Person Signing	
Susan Brennan	
Date Executed	Executed in the County of
3/27/20	Santa Clara

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and

2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably

required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. **DOMESTIC PARTNERS:** For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

8. **GENDER IDENTITY:** For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. **CONFLICT OF INTEREST:** Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification:

Current State Employees (Pub. Contract Code §10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. **LABOR CODE/WORKERS' COMPENSATION:** Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and

Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor 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 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.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 03/2019)

AGREEMENT NUMBER

19-11056 A-1

PURCHASING AUTHORITY NUMBER (If Applicable)

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CONTRACTING AGENCY NAME

California Department of Public Health

CONTRACTOR NAME

Bloom Energy Corporation

2. The term of this Agreement is:

START DATE

3/26/2020

THROUGH END DATE

9/30/2020

3. The maximum amount of this Agreement is:

\$1,500,000.00

One Million Five Hundred Thousand Dollars and Zero Cents

4. 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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Exhibit B	Budget Detail and Payment Provisions (Revised 4/4/20)	1
Exhibit C	Additional Provisions	5
+	NOTE: Amendment (1) adds an additional \$500,000 and revises Exhibit B	
-		

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

CONTRACTOR BUSINESS ADDRESS

4353 North 1st Street

CITY

San Jose

STATE

CA

ZIP

95134

PRINTED NAME OF PERSON SIGNING

Susan Brennan

Chief Operations Officer

CONTRACTOR AUTHORIZED SIGNATURE



DATE SIGNED

4/4/20

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

CONTRACTING AGENCY ADDRESS

1616 Capitol Ave

CITY

Sacramento

STATE

CA

ZIP

95814

PRINTED NAME OF PERSON SIGNING

Tim Bow

TITLE

CONTRACTING AGENCY AUTHORIZED SIGNATURE



DATE SIGNED

4/4/20

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

PCC1102/ EO N-25-20-COVID-19

Exhibit B & Signature page for Ventilator refurbish/repair Service Agreement

Model Serial number: ~~LP 1200~~ As requested by the State *JB*

Price Each: Time and Material ~~not to exceed \$2,000 per unit~~ Not to exceed \$2,500 per unit *JB*

Total Units to refurbish / Repair: up to ~~514~~ Units As requested by the State *JB*

Contract Effective Date: March 26, 2020

Contract Total: Not to exceed ~~\$1,000,000~~ 1,500,000 *JB*

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives as of the day and year first written below.

California Department of Public Health

[Signature]

Date 3/27/20

Bloom Energy

[Signature]

Date 3/27/20

This Amendment succeeds any prior amendments

Approved by

CDPH Timothy Bow *J. Bow* 4/4/20

Bloom Energy *[Signature]* 4/4/20

STANDARD AGREEMENT - AMENDMENT

STD 213A (Rev. 10/2019)

☒ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED 1 PAGES

AGREEMENT NUMBER

19-11056

AMENDMENT NUMBER

A02

Purchasing Authority Number

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY NAME

California Department of Public Health

CONTRACTOR NAME

Bloom Energy Corporation

2. The term of this Agreement is:

START DATE

3/26/20

THROUGH END DATE

9/30/20

3. The maximum amount of this Agreement after this Amendment is:

\$2,000,000.00

Two Million Dollars and Zero Cents

4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

I. The purpose of this amendment is to increase the agreement amount by \$5,000.00, changing the total agreement amount from \$1,500,000.00 to the new agreement total of \$2,000,000.00.

II. See attached page

All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (If other than an individual, state whether a corporation, partnership, etc.)

Bloom Energy Corporation

CONTRACTOR BUSINESS ADDRESS

4353 North 1st Street

CITY

San Jose

STATE

CA

ZIP

95134

PRINTED NAME OF PERSON SIGNING

Susan Brennan

TITLE

Chief Operations Officer

CONTRACTOR AUTHORIZED SIGNATURE



DATE SIGNED 4/13/2020

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

California Department of Public Health

CONTRACTING AGENCY ADDRESS

1615 Capitol Ave

CITY

Sacramento

STATE

CA

ZIP

95814

PRINTED NAME OF PERSON SIGNING

Tim Bow

TITLE

Procurement Officer

CONTRACTING AGENCY AUTHORIZED SIGNATURE

Timothy Bow

Digitally signed by Timothy Bow
Date: 2020.04.11 13:35:56 -07'00'

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

PCC 1102

Executive Order N-25-20-COVID-19

213A pg. 2

Model Serial number: ~~LTV-1200~~ As requested by the State

Price Each: Time and Material not to exceed ~~\$2,000~~ \$2,500 per unit

Total Units to refurbish / Repair: up to ~~514 Units~~ As requested by the State

Contract Effective Date: March 26, 2020

Contract Total: Not to exceed ~~\$1,000,000.00~~ ~~\$1,500,000.00~~ \$2,000,000.00