

**City and County of San Francisco
Office of Contract Administration
Purchasing Division**

Amendment No. Four

**CS-247(R), Customer and Administrative Services for Community Choice Aggregation
Program**

THIS AMENDMENT (this “Amendment”) is made as of [Insert date], in San Francisco, California, by and between Calpine Energy Solutions, LLC (“Contractor”), and the City and County of San Francisco, a municipal corporation (“City”), acting by and through its Director of the Office of Contract Administration.

Recitals

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the performance period, increase the contract amount, and update standard contractual clauses; and

WHEREAS, On May 29, 2015, the City competitively procured the Agreement in accordance with San Francisco Administrative Code Section 21.1 through a Request for Proposals (RFP) and this Amendment is consistent therewith; and

WHEREAS, On June 18, 2012, the San Francisco Public Utilities Commission obtained approval for the original Agreement from the Department of Human Resources on behalf of the Civil Service Commission under PSC number 4141-11/12 in the amount of \$8,000,000 for the period of four years and 30 weeks; and

WHEREAS, On April 1, 2024, the SFPUC obtained approval for this Amendment from the Civil Service Commission under PSC number 4141-11/12 in the amount of \$35,600,000 for the period of 12 years and 43 weeks; and

WHEREAS, On May 14, 2024, the City’s Public Utilities Commission approved this Amendment by Resolution No. 24-0112; and

WHEREAS, On [Insert date of Board action], the City’s Board of Supervisors approved this Amendment pursuant to San Francisco Charter Section 9.118 by Resolution No. [Insert resolution number].

NOW, THEREFORE, Contractor and the City agree as follows;

1. Definitions. The following definitions shall apply to this Amendment:

1a. Agreement. The term “Agreement” shall mean the Agreement dated October 28, 2015 between Contractor and City, as amended by the:

Certification of Name Change dated January 24, 2017,
First Amendment, dated August 23, 2018,
Second Amendment, dated August 1, 2019, and
Third Amendment dated September 1, 2021.

1b. Other Terms. Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

1c. San Francisco Labor and Employment Code. As of January 4, 2024, San Francisco Administrative Code Chapters 21C (Miscellaneous Prevailing Wage Requirements), 12B (Nondiscrimination in Contracts), 12C (Nondiscrimination in Property Contracts), 12K (Salary History), 12P (Minimum Compensation), 12Q (Health Care Accountability), 12T (City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions), and 12U (Sweatfree Contracting) are redesignated as Articles 102 (Miscellaneous Prevailing Wage Requirements), 131 (Nondiscrimination in Contracts), 132 (Nondiscrimination in Property Contracts), 141 (Salary History), 111 (Minimum Compensation), 121 (Health Care Accountability), 142 (City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions), and 151 (Sweatfree Contracting) of the San Francisco Labor and Employment Code, respectively. Wherever this Agreement refers to San Francisco Administrative Code Chapters 21C, 12B, 12C, 12K, 12P, 12Q, 12T, and 12U, it shall be construed to mean San Francisco Labor and Employment Code Articles 102, 131, 132, 141, 111, 121, 142, and 151, respectively.

2. Amendments to the Agreement. The Agreement is hereby modified as follows:

2a. Section 2. *Section 2 Term of the Agreement of the Agreement currently reads as follows:*

2. Term of the Agreement. Subject to Section I, the term of this Agreement shall be from November 1, 2015 to October 31, 2024.

Such section is hereby amended in its entirety to read as follows:

2. Term of the Agreement. Subject to Section I, the term of this Agreement shall be from November 1, 2015 to April 30, 2025.

2b. Section 5. *Section 5 Compensation of the Agreement currently reads as follows:*

5. Compensation. Compensation shall be made in monthly payments on or before the thirtieth day of each month for work, as set forth in Section 4 of this Agreement, that the General Manager of the San Francisco Public Utilities Commission, in his or her reasonable discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed \$32,645,425 (Thirty Two Million Six Hundred Forty Five Thousand Four Hundred Twenty Five Dollars). The breakdown of costs associated with this Agreement appears in Appendix B, June 2021 Revision, " attached hereto and incorporated by reference as though fully set forth herein. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the San

Francisco Public Utilities Commission as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement. In no event shall City be liable for interest or late charges for any late payments. Contractor shall have no obligation to perform Services in excess of the amount designated hereinabove, as such amount may be amended from time to time by mutual agreement between the Parties.

Such section is hereby amended in its entirety to read as follows:

5. Compensation. Compensation shall be made in monthly payments on or before the thirtieth day of each month for work, as set forth in Section 4 of this Agreement, that the General Manager of the San Francisco Public Utilities Commission, in his or her reasonable discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed \$35,145,425 (Thirty Five Million One Hundred Forty Five Thousand Four Hundred and Twenty Five Dollars). The breakdown of costs associated with this Agreement appears in Appendix B, June 2021 Revision.” No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the San Francisco Public Utilities Commission as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement. In no event shall City be liable for interest or late charges for any late payments. Contractor shall have no obligation to perform Services in excess of the amount designated hereinabove, as such amount may be amended from time to time by mutual agreement between the Parties.

2c. Section 58. Section 58 (Reserved) is hereby replaced it its entirety to read as follows:

58. Consideration of Salary History. Contractor shall comply with San Francisco Labor and Employment Code Article 141, the Consideration of Salary History Ordinance or “Pay Parity Act.” Contractor is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant to the extent that such applicant is applying for employment to be performed on this Agreement or in furtherance of this Agreement, and whose application, in whole or part, will be solicited, received, processed or considered, whether or not through an interview, in the City or on City property. The ordinance also prohibits employers from (1) asking such applicants about their current or past salary or (2) disclosing a current or former employee’s salary history without that employee’s authorization unless the salary history is publicly available. Contractor is subject to the enforcement and penalty provisions in Article 141. Information about and the text of Article 141 is available on the web at <https://sfgov.org/olse/consideration-salary-history>. Contractor is required to comply with all of the applicable provisions of Article 141, irrespective of the listing of obligations in this Section.

3. Effective Date. Each of the modifications set forth in Section 2 shall be effective on and after the date of this Amendment.

4. Legal Effect. Except as expressly modified by this Amendment, all of the terms and

conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

CONTRACTOR

Recommended by:

Calpine Energy Solutions, LLC

Dennis J. Herrera
General Manager
San Francisco Public Utilities Commission

Drake Welch
Senior Vice President
City Supplier Number: 0000027863

Approved as to Form:

David Chiu
City Attorney

By: _____
Gustin R. Guibert
Deputy City Attorney

Approved:

Sailaja Kurella
Director of the Office of Contract
Administration, and Purchaser

By: _____