

## **First Amendment**

**Between the City and County of San Francisco  
(through the San Francisco Public Utilities Commission) and  
APX Inc. for  
Power Scheduling Coordination and Related Support Services  
PRO.0152**

THIS AMENDMENT (this “Amendment”) is made as of January 6, 2023, in San Francisco, California, by and between **APX Inc.**, 2150 N. First Street, Suite 200, San Jose, CA 95131 (“Contractor”) and City.

### **Recitals**

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

WHEREAS, the City’s Board of Supervisors approved this Agreement by 79-22 on March 14, 2022; and

WHEREAS, the San Francisco Public Utilities Commission approved this Agreement by resolution number 22-0014 on January 11, 2022; and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to increase the contract amount by \$125 million as a result of the increases in the price of power obtained through the California Independent System Operator; and

WHEREAS, this Agreement was competitively procured as required by San Francisco Administrative Code Chapter 21.1 through a Request for Proposal (“RFP”) issued on July 16, 2021, in which City selected Contractor as the highest qualified scorer pursuant to the RFP; and

WHEREAS, there is no Local Business Enterprise (“LBE”) subcontracting participation requirement for this Agreement; and

WHEREAS, the General Manager of the PUC may purchase power and related products using contracts requiring expenditures of 10 million dollars or more including amendments to such agreements with an impact of greater than \$500,000, so long as the contract term, including any amendments, does not exceed 25 years and the annual expenditure for all agreements entered under this section does not exceed 150 million dollars per year pursuant to San Francisco Administrative Code Chapter 21.43; and

WHEREAS, the City’s Civil Service Commission approved PSC number 49372-21/22 on April 4, 2022 and this amendment does not add or increase the cost of any services; and

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

## Definitions

The following definitions shall apply to this Amendment:

- 1.1 **Agreement.** The term “Agreement” shall mean the Agreement dated May 26, 2022 between Contractor and City.
- 1.2 **Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

## Article 2 Modifications to the Agreement

The Agreement is hereby modified as follows:

- 2.1 **Compensation.** Section 3.3.2 of the Agreement currently reads as follows:

**3.3.2 Payment of CAISO Pass-Through Charges.** As part of the SC Services set forth in Appendix A, Contractor is responsible for processing payments of the City’s CAISO Pass-Through Charges through the designated Clearing Account for the City in accordance with the CAISO Tariff. The total amount of City’s CAISO Pass-Through Charges settled through this Agreement shall not exceed One Hundred Thirty Million and Five Hundred Thousand Dollars (\$130,500,000) (“Pass-Through Charge Amount”). The Pass-Through Charge Amount represents the value of City’s CAISO Pass-Through Charges only, and does not alter the amount of compensation due to Contractor under Section 3.3.1 of this Agreement or any other right, obligation, or duty of either Party.

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

**3.3.2 Payment of CAISO Pass-Through Charges.** As part of the SC Services set forth in Appendix A, Contractor is responsible for processing payments of the City’s CAISO Pass-Through Charges through the designated Clearing Account for the City in accordance with the CAISO Tariff. The total amount of City’s CAISO Pass-Through Charges settled through this Agreement shall not exceed Two Hundred Fifty Five Million, Five Hundred Thousand Dollars (\$255,500,000) (“Pass-Through Charge Amount”). The Pass-Through Charge Amount represents the value of City’s CAISO Pass-Through Charges only, and does not alter the amount of compensation due to Contractor under Section 3.3.1 of this Agreement or any other right, obligation, or duty of either Party.

## Article 3 Effective Date

Each of the modifications set forth in Article 2 shall be effective on and after the date of this Amendment.

## Article 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:

**APX Inc.**

DocuSigned by:  
*Dennis J. Herrera*  
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Dennis J. Herrera  
General Manager  
San Francisco Public Utilities Commission

DocuSigned by:  
*Brian Fellon*  
6A1A01BBD874436...  
Brian Fellon  
CCO  
City Supplier Number: 0000026457

Approved as to Form:

David Chiu  
City Attorney

By: DocuSigned by:  
*Margarita Gutierrez*  
3AA5640935284BE...  
Margarita Gutierrez  
Deputy City Attorney