

**FIRST AMENDMENT TO AGREEMENT CS-344 POWER SCHEDULING
COORDINATION AND RELATED SUPPORT SERVICES
BETWEEN
THE CITY AND COUNTY OF SAN FRANCISCO AND APX, INC.**

The City and County of San Francisco (“City”), acting by and through its Public Utilities Commission, and APX, Inc. (“Contractor”) enter into this First Amendment (“Amendment”) to Agreement CS-344 Power Scheduling Coordination and Related Support Services dated June 16, 2015 (“Agreement”).

WHEREAS, under the Agreement, Contractor is the Scheduling Coordinator (“SC”) for the San Francisco Public Utilities Commission’s (“SFPUC”) electricity generating facilities and loads, and is responsible for processing settlements and payments for California Independent System Operator (“CAISO”) Pass-Through Charges, as defined in Appendix A of the Agreement, pursuant to the CAISO Tariff; and,

WHEREAS, pursuant to the Agreement and the CAISO Tariff, CAISO payments owed from and due to the SFPUC must be processed through the SC’s settlements clearing account (“Clearing Account”); and,

WHEREAS, pursuant to Appendix A, § 6.7.1 of the Agreement, the SFPUC is required to deposit funds for all payments due to the CAISO including Pass-Through Charges into the designated SC Clearing Account; and,

WHEREAS, in accordance with Appendix A § 6.7.2 of the Agreement, Contractor is required to make payments to the CAISO on behalf of City from the SC Clearing Account and any other payments from the Clearing Account will be made only at the direction of SFPUC; and,

WHEREAS, section 5 of the Agreement provides for compensation to Contractor for SC Services set forth in Appendix A of the Agreement in an amount not to exceed \$2,100,000, with a total not to exceed amount of \$5,000,000; and,

WHEREAS, the amounts set forth in section 5 of the Agreement do not include the CAISO Pass-Through Charges to be paid by the SFPUC to the CAISO and passed-through the Clearing Account to the CAISO by Contractor; and,

WHEREAS, the Parties agreed to amend the Agreement to reflect the pass-through of SFPUC’s payments for the CAISO Pass-Through Charges through the Clearing Account.

NOW THEREFORE, for good and valuable consideration, the Parties agree as follows:

1. Section 5 of the Agreement currently reads as follows:

Compensation. Compensation to Contractor shall be made in monthly payments for work, as set forth in Section 4 and Appendix A and C of this Agreement that the General

Manager of the SFPUC, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the compensation for Services set forth in Appendix A exceed Two Million, One Hundred Thousand Dollars (\$2,100,000) and the amount of this Agreement shall not exceed **Five Million Dollars (\$5,000,000.)** No charges shall be incurred under this Agreement for the Services set forth in Appendix A and C nor shall any payments become due to Contractor for such Services until reports, Services, or both, required under this Agreement are received from Contractor and approved by the SFPUC as being in accordance with this Agreement. City may withhold payment for such Services until reports, Services, or both, required under this Agreement are received from Contractor and approved by the SFPUC 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.

2. Section 5 of the Agreement is hereby replaced in its entirety by the following Section:

5. Compensation for Services and CAISO Payments.

a. Compensation to Contractor shall be made in monthly payments for work, as set forth in Section 4 and Appendix A and C of this Agreement, that the General Manager of the SFPUC, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the compensation for Services set forth in Appendix A exceed Two Million, One Hundred Thousand Dollars (\$2,100,000) and the total amount of compensation for Appendix A Services and any Task Orders executed by the Parties pursuant to Appendix C of this Agreement shall not exceed **Five Million Dollars (\$5,000,000.)** No charges shall be incurred under this Agreement for the Services set forth in Appendix A and C nor shall any payments become due to Contractor for such Services until reports, Services, or both, required under this Agreement are received from Contractor and approved by the SFPUC as being in accordance with this Agreement. City may withhold payment for such Services until reports, Services, or both, required under this Agreement are received from Contractor and approved by the SFPUC 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.

b. Payment of CAISO Pass-Through Charges. As part of the SC Services set forth in Appendix A, §6, 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 Million Dollars (**\$100,000,000**) ("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 5(a) of this Agreement or any other right, obligation, or duty of either Party.

3. All other terms and conditions of the Agreement shall remain in full force and effect.
4. The Parties agree that this Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this First Amendment to Agreement CS-344, Power Scheduling Coordination and Related Support Services, to be executed this _____ day of _____, 20____.

PUBLIC UTILITIES COMMISSION OF
THE CITY AND COUNTY OF SAN
FRANCISCO

APX, INC.

By: _____
Harlan Kelly
General Manager
City

By: _____

APPROVED AS TO FORM:

DENNIS HERRERA
City Attorney

By: _____
Deputy City Attorney