

**AMENDMENT NO. 4  
TO THE AGREEMENT FOR SERVICES  
BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND  
APPLIED POWER TECHNOLOGIES, INC.**

**PREAMBLE**

This agreement ("Amendment No. 4") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Applied Power Technologies, Inc. a California corporation, (Contractor). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

**RECITALS**

- A. The Parties previously entered into an agreement entitled "Agreement for the Performance of Services by and Between the City of Santa Clara, California and Applied Power Technologies, Inc.", dated June 28, 2018, for the purpose of having Contractor provide software support for the Electrical Power Monitoring System (EPMS);
- B. The Agreement was previously amended by (i) Amendment No. 1, to Renew and Extend, dated July 2, 2020, (ii) Amendment No. 2 dated May 5, 2021, to extend the term, increase the maximum compensation, and update the scope of services, and (iii) Amendment No. 3 dated April 20, 2022, to extend the term, increase the maximum compensation, and add additional services.
- C. The Agreement and all previous amendments are collectively referred to herein as the "Agreement as Amended"; and
- D. The Parties entered into the Agreement as Amended for the purpose of having Contractor provide software support for the Electrical Power Monitoring System (EPMS), and the Parties now wish to amend the Agreement as Amended to extend the term, add additional services, and increase the maximum compensation to continue software support.

NOW, THEREFORE, the Parties agree as follows:

## **AMENDMENT TERMS AND CONDITIONS**

1. Section 2 of the Agreement as Amended, entitled "TERM OF AGREEMENT" is amended to read as follows: "Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of the Agreement shall begin on the Effective Date of this Agreement and terminate on October 31, 2024. The Parties agree that this Agreement did not expire on the previous expiration date of October 31, 2022, and it remains valid through the new expiration date set forth in this Amendment No. 4."
2. Exhibit A of the Agreement, Section 3 is amended to read as follows:

"Additional Services: For the period of November 1, 2022, through October 31, 2024. Contractor shall perform the following additional services"
3. Section 4.2 of Exhibit A of the Agreement, entitled "SCOPE OF SERVICES" is amended to deleted in its entirety, which reads as follows:

"4.2. PME annual software assurance for software updates since the power monitoring server is not being upgraded during this service period. If the server is upgraded during the service period, this service will be included."
4. Exhibit A of the Agreement, entitled "SCOPE OF SERVICES" is amended to add Section 5, entitled "PROCESS FOR REQUESTION AND APPROVING AS NEEDED SERVICES", to read as follows:

**"5. PROCESS FOR REQUESTION AND APPROVING AS NEEDED SERVICES**

5.1. When as needed services are needed which are not excluded in Section 4, the City will request a quote from Contractor (Work Request).

5.1.1. Contractor shall submit a fixed-price quote for the services.

5.1.1.1. Contractor shall submit a scope of work with sufficient detail that will permit City to verify requests for changes are associated with changes in scope. The scope will include a level of detail reflective of the scope, timeline, and cost of the specific project.

5.1.1.2. If a Contractor requires changes to a fixed price scope, Contractor shall only be permitted to request changes with justification such as additional scope requested by City or unanticipated field conditions. For such changes,

Contractor shall submit justification demonstrating that changes in cost are associated with changes in scope. Contractor shall not be entitled to additional payment for issues such as errors in calculation of original pricing or other changes that are not directly related to changes requested by City.

- 5.1.2. The terms of this Agreement shall prevail over any and all Contractor terms and conditions including, but not limited to any terms listed on a quote.
- 5.1.3. The City shall review the quote and, if there are no issues or concerns, City will approve the quote in writing (Work Authorization). A Work Authorization may be provided by e-mail but shall only be authorized by Principal Engineer, Assistant Director of Electric Utility, Electric Utility Chief Operating Officer, or Chief Electric Utility Officer.
- 5.1.4. Contractor shall not initiate any work which will extend past the term in Section 2 of the Agreement or exceed the maximum compensation in Section 6 of the Agreement.

## 5.2. Changes

- 5.2.1. Contractor shall notify the City immediately when a situation occurs that may result in a change to the quoted project cost. Contractor shall provide reason for the change specific to each Work Authorization.
- 5.2.2. In the event that unanticipated site conditions or other issues result in costs that exceed the approved quote, Contractor shall submit to the City an updated quote for review and approval from the City in advance of performing the work. Written authorization may only be provided by a Principal Engineer, Division Manager, Senior Division Manager, Assistant Director of the Electric Utility, Electric Utility Chief Operating Officer, or Chief Electric Utility Officer.
- 5.2.3. In the event that issues are identified that can be most efficiently and economically resolved while on site, changes may be approved verbally (in the field), by telephone, or e-mail by the following authorized individuals: Assistant Director of the Electric Utility, Electric Utility Chief Operating Officer, or Chief Electric Utility Officer. Contractor shall provide an updated quote within two (2) business days so

that such changes can be documented in a written authorization within four (4) business days."

5. Exhibit B – COMPENSATION AND FEE SCHEDULE – Amended April 20, 2022 shall be deleted and replaced with the attached Exhibit B – COMPENSATION AND FEE SCHEDULE – Amended November 1, 2022.
6. Except as set forth herein, all other terms and conditions of the Agreement as Amended shall remain in full force and effect. In case of a conflict in the terms of the Agreement as Amended and this Amendment No. 4, the provisions of this Amendment No. 4 shall control.

The Parties acknowledge and accept the terms and conditions of this Amendment No. 4 as evidenced by the following signatures of their duly authorized representatives.

**CITY OF SANTA CLARA, CALIFORNIA**  
a chartered California municipal corporation

Approved as to Form:  
**Daniel Ballin** Digitally signed by Daniel Ballin  
Date: 2022.11.22 14:35:40  
-08'00'

Office of the City Attorney  
City of Santa Clara

Dated: 11/28/2022

*for Rajeev Batra*  
**Rajeev Batra**  
City Manager  
City of Santa Clara  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Telephone: (408) 615-2210  
Fax: (408) 241-6771

"CITY"

**APPLIED POWER TECHNOLOGIES, INC.**  
a California corporation

Dated: November 21, 2022  
By (Signature): Andrew E Taylor  
Name: ANDREW E. TAYLOR, P.E.  
Title: CEO  
Principal Place of Business Address: 5339 Prospect Road #287  
San Jose, California 95129  
Email Address: ataylor@apt4power.com  
Telephone: (408) 342-0790

"CONTRACTOR"

**AMENDMENT NO. 4 TO THE AGREEMENT FOR SERVICES BETWEEN THE  
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EXHIBIT B – COMPENSATION AND FEE SCHEDULE  
AMENDED NOVEMBER 1, 2022**

**1. Maximum Compensation**

- 1.1.** The maximum amount billed to City by Contractor for services under this Agreement as Amended will not exceed two hundred forty thousand dollars (\$240,000).
- 1.2.** The City may request additional services subject to an amendment to this Agreement. Such amendment may require approval by Santa Clara City Council. Contractor shall not perform services which exceed the Maximum Compensation.

**2. Pricing**

- 2.1.** Contractor shall invoice City based on the current rates in Table B-1.

**3. Invoicing and Payments:**

- 3.1.** Contractor will invoice City on a monthly basis for Services provided by Contractor during the preceding month on an invoice and in a format approved by City and subject to verification and approval by City. The Contractor will submit a sample invoice for review and approval of format, and the City shall review and approve the sample invoice for format within 5 business days after receipt.
- 3.2.** All monthly invoices shall be submitted in a format that will permit City to verify rates are the same as those authorized in the Agreement.
- 3.3.** If City disputes an expense in an invoice, City may deduct the disputed expense from the payment of that invoice, provided that City submits to Contractor a written explanation of why the expense is being disputed within 5 business days after receiving the invoice.
- 3.4.** If there are no discrepancies or deficiencies in the submitted invoice, City shall process the invoice for payment within 30 days of receipt of the invoice.

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AMENDED NOVEMBER 1, 2022**

Table B-1 - Rates

	Original Contract and Amendment No. 1						Amendment No. 2		Amendment No. 3		Amendment No. 4	
Description	Effective 4/1/18 - 3/30/19		Effective 4/1/19 - 3/30/20		Effective 4/1/20 - 4/30/21		Effective 5/1/21 - 4/30/22		Effective 5/1/22 - 10/31/22		Effective 11/1/22 - 10/31/24	
Electrical Power Monitoring System (EPMS) – Maintenance Services	\$25,095	Annually (billed \$2,091.25 monthly)	\$27,604	Annually (billed \$2,300.33 monthly)	\$30,364	Annually (billed \$2,530.33 monthly)	\$36,738	Annually (billed \$3,061.50 monthly)	\$18,369	Six Months (billed \$3,061.50 monthly)	\$73,476	Two Years (billed \$3,061.50 monthly)
Duane Substation ION 7600S Harmonics Capture	N/A		N/A		N/A		N/A		\$7,495	Fixed Price	N/A	
Duane Substation Harmonics Manual Reporting Service	N/A		N/A		N/A		N/A		\$4,800	Three months (billed \$1,600.00 monthly)	N/A	
Discount	N/A		N/A		N/A		N/A		(\$600)	Vendor Discount	N/A	
Additional Services	N/A		N/A		N/A		N/A				\$16,659	As Needed