AMENDMENT NO. 1
TO THE AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
SMART ENERGY SYSTEMS, INC.

PREAMBLE

This agreement ("Amendment No. 1") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City), and Smart Energy Systems, Inc., a Delaware 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 Services between the City of Santa Clara, California and Smart Energy Systems, LLC, dated December 22, 2018 (Agreement); and

B. The Parties entered into the Agreement for the purpose of having Contractor provide a cloud-hosted Customer Self-Service Portal, and the Parties now wish to amend the Agreement to (a) assign the agreement to Smart Energy Systems, Inc., (b) extend the term of the Agreement through December 31, 2024 for a revised not-to-exceed amount of $1,653,343, and (c) add one-year options to extend the agreement as may be required, subject to the appropriation of funds.

NOW, THEREFORE, the Parties agree as follows:

AMENDMENT TERMS AND CONDITIONS

1. All references to "Smart Energy Systems, LLC dba Smart Energy Water" in this Agreement shall be replaced with "Smart Energy Systems, Inc." All rights and obligations of the City and of the Contractor under this Agreement are unaffected by this assignment.

2. Section 2 of the Agreement, entitled "Term of Agreement", is amended to read as follows:

    A. **Term.** Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall commence on December 11, 2018 and terminate on December 31, 2024 (Initial Term), inclusive, subject to the provisions of Section 7 (Termination).

B. **Options to Extend.** After the Initial Term, the City reserves the right, at its sole discretion, to extend the term of this Agreement for additional one-year terms ("Option Periods") based on the same terms and conditions, subject to compensation adjustments as set forth in First Revised Exhibit B and appropriation of funds.

3. Section 6 of the Agreement, entitled "Compensation and Payment", is amended to read as follows:

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and Services rendered by Contractor in accordance with First Revised Exhibit B, entitled "SCHEDULE OF FEES." The maximum compensation of this Agreement is set forth in First Revised Exhibit B, which is subject to budget appropriations and includes all payments that may be authorized for Services and for expenses, supplies, materials and equipment required to perform the Services. All work performed or materials provided in excess of the maximum compensation shall be at Contractor's expense. Contractor shall not be entitled to any payment above the maximum compensation under any circumstance without a valid amendment.

4. Section I (Project Duration and Timeline) of Exhibit A, entitled "Scope of Subscribed Services", is hereby amended by deleting the column "Payment Due" in the table.

5. Exhibit B of the Agreement, entitled "Schedule of Fees", is hereby amended to read as shown in First Revised Exhibit B, attached and incorporated into this Amendment No. 1.

6. Exhibit B-1 of the Agreement, entitled "Detailed Fee Schedule", is hereby amended to read as shown in First Revised Exhibit B-1, attached and incorporated into this Amendment No. 1.

7. Exhibit D of the Agreement, entitled "Software as a Service Subscription Agreement", is amended as follows:

   a. Section 1.5 is amended to read as follows: "Initial Term" shall have the same meaning as set forth in Section 2 of the Agreement.

   b. Section 1.9 is amended to read as follows: "Software" means Provider's SCM software and shall include only the modules specified in Exhibit A or Change Order thereto.

   c. Section 10 (Renewals) is hereby deleted in its entirety.

8. Except as set forth herein, all other terms and conditions of the Agreement shall remain in full force and effect. In case of a conflict in the terms of the Agreement and this Amendment No. 1, the provisions of this Amendment No. 1 shall control.

The Parties acknowledge and accept the terms and conditions of this Amendment No. 1 as evidenced by the following signatures of their duly authorized representatives.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation
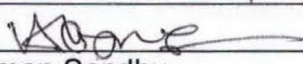
Approved as to Form: Dated: _____

_____   _____

Office of the City Attorney   DEANNA J. SANTANA
City of Santa Clara   City Manager
                                 1500 Warburton Avenue
                                 Santa Clara, CA 95050
                                 Telephone: (408) 615-2210
                                 Fax: (408) 241-6771

"CITY"

SMART ENERGY SYSTEMS, INC.
a Delaware corporation

Dated: _October 07, 2021_

By (Signature): _[signature]_

Name: _Harman Sandhu_

Title: _President_

Principal Place of _15495 Sand Canyon Ave., Suite 100_
Business Address: _Irvine, CA 92618_

Email Address: _harman.sandhu@sew.ai_

Telephone: _(909) 217-3344_

Fax: _(909) 614-7125_

"CONTRACTOR"

FIRST REVISED EXHIBIT B
SCHEDULE OF FEES

1. TOTAL MAXIMUM COMPENSATION

The maximum amount payable for all products and services provided under this Agreement shall not exceed **One Million Six Hundred Fifty-Three Thousand Three Hundred Forty-Three Dollars ($1,653,343)** during the Initial Term, subject to the appropriation of funds. Any additional products or services requested by the City that would exceed the preceding maximum amount will be addressed in an Amendment to the Agreement.

2. SYSTEM INSTALLATION AND DATA INTEGRATION SERVICES

Contractor shall provide system installation and data integration services as outlined in Sections G – M of Exhibit A (Scope of Subscribed Services) for a fixed fee of $124,350. Progress payments shall be made to Contractor by City based on net thirty (30) days payment terms as detailed in Table B1, following acceptance of designated milestones. All payments are based upon City's acceptance of Contractor's performance as evidenced by successful completion of all of the deliverables as set forth for each milestone. City shall have no obligation to pay unless Contractor has successfully completed and City has approved the milestone for which payment is due.

Table B1: System Installation and Data Integration Fee Breakdown/Payment Schedule

System Installation and Data Integration Services	Amount
Fee Breakdown	
SCM® - Customer Web Portal and Mobile Platform V7.0	$49,500
Outage Module with Outage Notifications	$8,500
SCM® - Enterprise Web Portal and Platform V2.4	$17,500
SCM® Utility Customer Service Portal (utility-facing admin/customer service portal)	$0
Hosting	$0
Maintenance & Support	$0
Smart iQ Analytics – Meter Data Analytics Version 1.9	$9,700
SMS Text Notifications	$9,500
IVR Notifications	$7,800
Smart Mobile Workforce – Service Module V5.1 (optional)	$8,650
SCM® - Smart Home Module (optional)	$13,200
Total	**$124,350**
Payment Schedule	**Amount**
Milestone No. 1 (25%)	$31,087.50
Milestone No. 2 (25%)	$31,087.50
Milestone No. 3 (15%)	$18,652.50
Milestone No. 4 (15%)	$18,652.50
Milestone No. 5 (10%)	$12,435.00
Milestone No. 6 (10%)	$12,435.00
Total Payments	**$124,350.00**
The additional amount of $17,000 for travel expenses will be billed as expenses are incurred.	

3. ANNUAL SOFTWARE SUBSCRIPTION SERVICES

3.1. The amounts in Table B2 are based upon fees as outlined in First Revised Exhibit B-1, Detailed Fee Schedule. Any changes in volume over and above the amounts listed under the Notes column may result in additional fees and require revisions to the Total Maximum Compensation.

Table B2: Annual Software Subscription Fee	
Description	**Amount**
Year 1 Software Subscription	$132,830
Year 1 Credit (Applied in Year 2)	-$57,117
Year 2 Software Subscription (End of UAT +12 months)	$228,760
Year 3 Software Subscription (Anniversary of end of UAT date)	$228,760
Year 4 Software Subscription (second Anniversary of end of UAT date)	$228,760
Total	**$761,993**

3.2. City shall be invoiced for the first-year software subscription fees upon signing of the Agreement and annually thereafter upon the anniversary date of Production Deployment.

3.3. City and Contractor shall assess the number of meter accounts prior to each annual invoice. Contractor shall base the upcoming invoice on the number of meter accounts assessed. If the number of meter accounts exceeds 20% of the previous year, Contractor may prorate any amounts due. Contractor must provide a detailed reconciliation report to the City for any prorations.

3.4. City shall prepay a year in advance for the Software Subscription Services provided under this Agreement. In the event of early termination of the Agreement, Contractor shall refund the City on a pro-rated basis any fees paid in advance that have not been expended as of the date of termination.

4. TRANSACTION-BASED FEES

4.1. Any changes in volume over and above the assumptions may result in additional fees and require revisions to the Total Maximum Compensation.

Table B3: Transaction-Based Fees	
Description	Amount
Year 1	///////
Year 2 (End of UAT +12 months)	$250,000
Year 3 (Anniversary of end of UAT date)	$250,000
Year 4 (second Anniversary of end of UAT date)	$250,000
Total	**$750,000**

4.2. Contractor will invoice the City on a monthly basis in arrears or annually, as set forth in First Revised Exhibit B-1.

5. RENEWAL PERIOD COMPENSATION

5.1. Pursuant to Section 2.B of the Agreement, the City reserves the right to extend the term of this Agreement after the Initial Term for additional one-year terms ("Option Periods").

5.2. After the Initial Term, increases in the rates shall be capped at the lesser amount of 3% or the Consumer Price Index, unless otherwise approved by the City. The unit prices listed in First Revised Exhibit B-1 serve as the baseline for the recurring fees to be charged during any Option Periods.

6. ADDITIONAL SERVICES AND SOFTWARE PRODUCTS

6.1. The City may, from time to time, request in writing that Contractor perform a service or provide additional software products to ensure the system continues to meet the City's requirements. Upon Contractor's receipt of City's request, Contractor shall promptly provide City with a written quote. Upon City's written approval of the quote, Contractor shall perform such services or provide the additional software product.

6.2. Notwithstanding the foregoing, Contractor shall not perform any additional services and/or provide additional products requested by the City that would exceed the Total Maximum Compensation.

FIRST REVISED EXHIBIT B-1
DETAILED FEE SCHEDULE

This Exhibit provides the fee rates that Contractor may charge the City for services and products with regard to the use of the software. The City may modify this Exhibit to add/delete services and products as may be required. Such changes shall require no modification of the Agreement if the Total Maximum Compensation is not exceeded.

The unit prices set forth in the tables below shall be fixed for the Initial Term of the Agreement.

In the event the rates charge by Contractor's third-party provider for any pass-through fees exceed the increase in the CPI after the Initial Term, Contractor may pass through such increase to the City. All price increases that exceed the increase in the CPI must be supported by documentation from the third-party provider or a formal cost justification letter from Contractor.

Table B1-A – Annual Software Subscription Fee		
Description of Software / Service	**Price**	**Notes**
SCM® - Customer Web Portal and Mobile Platform **V10.0**	$115,716	For 86,000 Meter Accounts, Includes Following Modules: My Account, Usage, Billing, Notifications, Connect Me, Compare, Efficiency, Service
Outage Module with Outage Notifications	$20,404	For 86,000 Meter Accounts, Includes Following Modules: My Account, Usage, Billing, Notifications, Connect Me, Compare, Efficiency, Service
SCM® - Enterprise Web Portal and Platform V2.4	$31,533	For 125 Names Users, Includes Following Modules: My Portfolio, Usage, Billing, Notifications, Connect Me, Compare, Efficiency, Service
SCM® Utility Customer Service Portal (utility-facing admin/customer service portal)	$0	For 70 Utility Employee Users - Includes Following Modules: Dashboard, Customer Engagement Analytics, Administration, CSR Workbench
Hosting	$0	Hosting for two years' worth of data
Maintenance & Support	$0	Includes Support and Software Updates
Smart iQ Analytics – Meter Data Analytics Version 1.9	$38,488	For 86,000 Meter Accounts, Includes Following Modules: Customers & Segments, Leakage Analytics, High Usage Analytics, Program Management, Violation Management

Table B1-A – Annual Software Subscription Fee		
Description of Software / Service	**Price**	**Notes**
SMS Text Notifications	$420	Annual fee for Text Notification
IVR Dialer System	$5,900	Annual Fee for IVR Notifications
Random Short Code	$16,000	Provides Random Short Code to Send Out SMS Text Messages (Required by Carriers). Optional Vanity Short Code Available at $22,800 Annual
IVR Toll Free Number	$299	Annual Fee to provides Toll Free Number for Outbound / Inbound Calls
Options:		
Smart Mobile Workforce – Service Module V5.1	$10,000	For 10 Utility Field Workers, Includes Following Modules: Service
SCM® - Smart Home Module	$12,000	For 86,000Meter Accounts, Allows Utility Customers to Monitor/Maintain Smart Home Devices on Web Portal and Mobile
Web Portal CSR Co browsing / Live Chat (assumes 20 agents)	$10,000	$500 is Annual Amount Per Agent (Equals $25 Per Month Per Agent)
SCM Language Pack	$19,000	Provides Additional Language Support on Web Portal and Mobile for One Additional Language (In Addition to English)
We Smart Basic Chatbot	$39,000	AI, natural language processing, machine learning-based responses. Pre-programmable responses.
We Smart Advanced Chatbot	$59,000	WeSmart Basic + Customer Account specific automated interactions with SCM Billing, Usage, Outage, and Service modules.

Meter Tiers	**Blended Fee Per Meter**
0-100,000	$2.66
100,001-150,000 (10% discount from prior bucket)	$2.39
150,001-200,000 (10% discount from prior bucket)	$2.15

Table B1-B Monthly/Usage/Transaction-Based Fee Schedule		
Service	**Type**	**Unit Fee**
SMS Text Notifications (Inbound)	per message	$0.003
SMS Text Notifications (Outbound)	per message	$0.008
IVR Toll Free (Inbound)	per minute	$0.030
IVR Toll Free (Outbound)	per minute	$0.020
Up to 1,000,000 Emails Per Month	base fee	$875.000
Debit/Credit Card Processing Fees for Portal, Mobile, Text to Pay, IVR and Agent Assisted	per transaction	Interchange + 9 Basis Points + $0.10 per transaction (Visa Mastercard, Discover) Interchange +$0.05 per Transaction (AmEx)
Debit/Credit Card Processing Fees for <u>In-Office Payments</u>	per transaction	Interchange + 9 Basis Points + $0.10 per transaction (Visa Mastercard, Discover) Interchange +$0.05 per Transaction (AmEx)
Echecks Processing Fees for Portal, Mobile, Text to Pay, IVR and Agent Assisted	per transaction	$0.50 Per Transaction up to $25,000 $0.50 + 0.15% Per Transaction over $25,000 Includes One-Time Payment and Recurring
24 Hour IVR - English and Spanish	/////	Setup Fee Waived Per Minute Fee Waived Convenience Fee Listed Above
Return Check Fee	per check	$1.00
Chargeback Fees	per chargeback	$4.95
Text-and-Pay	/////	Setup Fee Waived Per Minute Fee Waived Convenience Fee Listed Above
Agent Assisted Payments and Technology Support for Citizens (9:00 AM to 5:00 PM PST)	Per Agent Per Month	$95