

Department of Water and Power



the City of Los Angeles

ANTONIO R. VILLARAIGOSA
Mayor

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EDITH RAMIREZ, *Vice President*
FORESCEE HOGAN-ROWLES
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BARBARA E. MOSCHOS, *Secretary*

S. DAVID FREEMAN
Interim General Manager
RAMAN RAJ
Chief Operating Officer

February 19, 2010

The Honorable City Council
City of Los Angeles
Room 395, City Hall
Los Angeles, California 90012

Dear Members:

Subject: Amendments Nos. 3 and 4 to Agreement No. 47443 with Open Access Technology International, Inc. (OATI)

Pursuant to Charter Section 373, enclosed for approval by your Honorable Body is Resolution No. 010-235, adopted by the Board of Water and Power Commissioners (Board) on February 16, 2010, approved as to form and legality by the City Attorney, which authorizes execution of Amendments Nos. 3 and 4 to Agreement No. 47443 with OATI. Amendment No. 3 increases the contract total from \$2,264,000 to \$8,116,000 to add subscriptions to real-time power system balancing authority area services hosted by OATI to implement LADWP's Energy Transaction Scheduling and Settlement project. Amendment No. 4 provides for contractual terms related to OATI's webSweep service, which is a deliverable of Amendment No. 3. This agreement provides for subscriptions to real-time power system balancing authority area services hosted by OATI. As directed by the Board, transmitted to you are supporting documents.

If there are any questions regarding this item, please contact Ms. Winifred Yancy, Manager – Government and Neighborhood Relations, at (213) 367-0025, or Mr. John Kokoska at (213) 367-1104.

Sincerely,

Barbara E. Moschos
Board Secretary

BEM: oja

Enclosures: DWP Resolution
Board Letter
CAO Report
Amendments Nos. 3 and 4 to Agreement No. 47443

Water and Power Conservation ... a way of life

111 North Hope Street, Los Angeles, California 90012-2607 Mailing address: Box 51111, Los Angeles 90051-5700
Telephone: (213) 367-4211 Cable address: DEWAPOLA

c/enc: Mayor Antonio Villaraigosa
Ms. Jan C. Perry, Chair, Energy and the Environment Committee
Mr. Gerry F. Miller, Chief Legislative Analyst
Mr. Miguel A. Santana, City Administrative Officer
Mr. Rafael Prieto, Legislative Analyst, CLA
Mr. William R. Koenig, Chief Administrative Analyst
Ms. Winifred Yancy
Mr. John Kokoska

WHEREAS, the Los Angeles Department of Water and Power (LADWP) has subscribed to electronic tagging services hosted by Open Access Technology International, Inc. (OATI) in order to conduct its energy transactions with other utilities according to regulatory standards documented in the North American Electric Reliability Corporation's (NERC) Reliability Standards, North American Energy Standards Board's Business Practice Standards, and the Western Electricity Coordinating Council's (WECC) Regional Reliability Standards; and

WHEREAS, LADWP has subscribed to the aforementioned services and other power system services by entering into the OATI Energy Trading System (ETS) Agreement, LADWP No. 47443 (effective January 1, 2006), as amended (Agreement); and

WHEREAS, LADWP's existing interchange transaction scheduling and energy trading systems do not interoperate with electronic tags, requiring duplication in efforts to keep multiple sets of data up to date; and this duplicated effort is causing work flow, training, and retention problems for the load dispatchers; and

WHEREAS, a NERC audit recommended that LADWP "procure and implement a new scheduling system, as soon as possible"; and

WHEREAS, OATI has widely-used energy trading and energy transaction scheduling services that interoperate with the existing OATI services to which LADWP subscribes; and

WHEREAS, LADWP has special business logic requirements for the Pacific Direct Current Intertie, the Intermountain Power Project, transmission invoicing, and custom report generation, and OATI is able to satisfy these requirements; and

WHEREAS, the terms and conditions under which OATI makes these additional service subscriptions and enhancements available to LADWP are specified in proposed Amendments No. 3 and 4 to the Agreement (Amendments); and

WHEREAS, LADWP is requesting Amendments No. 3 and 4 to Agreement No. 47443 between LADWP and OATI for subscriptions to real-time power system energy trading and transaction scheduling services hosted by OATI, which, if Amendment No. 2 is executed, will increase the expenditure limit from \$2,264,000 to \$8,116,000, without extending the term, and if Amendment No. 2 is not executed, will increase the term by additional five years from December 31, 2010 to December 31, 2015 and will also increase the expenditure limit from \$700,000 to \$8,116,000; and

WHEREAS, after the approval of Amendments No. 3 and 4, the Agreement will have a total term of ten years; and

WHEREAS, the added services must be implemented as quickly as practical to facilitate compliance with NERC Reliability Standards, and to eliminate the duplicated energy scheduling efforts that are causing work flow, training, and retention problems for the load dispatchers; and

WHEREAS, OATI as a Minnesota corporation that is providing hosted subscription services from Minnesota, does not consent to the inclusion of LADWP's Affirmative Action Plan, Child Support, Living Wage, and Recycling policies for the aforementioned services, and does not consent to LADWP's standard right to audit policies; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that in accordance with City Charter Section 1022, the services in these Amendments can be performed more feasibly by OATI rather than by City employees due to the proprietary and expert nature of the services, and because LADWP staff cannot be trained on OATI's proprietary technologies in a timely manner.

BE IT FURTHER RESOLVED that the Board finds, pursuant to City Charter Section 371(e) (10), that utilizing a competitive process for these Amendments would be impractical because LADWP needs to integrate the proposed services as quickly as possible into the proprietary OATI services currently received by LADWP.

BE IT FURTHER RESOLVED that LADWP's business policies, including but not limited to the Affirmative Action Plan, Child Support, Living Wage, and Recycling Policy are waived for the Amendments, and that said Amendments, approved as to form and legality by the City Attorney, and filed with the Secretary of the Board, between LADWP and OATI be and the same are hereby approved.

BE IT FURTHER RESOLVED that the President or Vice President of the Board, or the General Manager, or such person as the General Manager shall designate in writing, and the Secretary, Assistant Secretary, or the Acting Secretary of the Board are hereby authorized, empowered, and directed to execute said Amendments for and on behalf of LADWP, subject to Los Angeles City Council approval pursuant to City Charter Section 373.

BE IT FURTHER RESOLVED that the General Manager, or such person as the General Manager shall designate in writing, is hereby authorized to accept and implement the pricing changes that OATI is authorized to make under the Agreement and these Amendments, provided that notwithstanding any such price adjustments the total expenditures under said Agreement and Amendments may not exceed \$8,116,000.

BE IT FURTHER RESOLVED that the Chief Accounting Employee of LADWP, upon proper certification, is authorized and directed to draw demands on the Power Revenue Fund in payment of the obligations arising under said Amendments not to exceed \$8,116,000.

I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of a resolution adopted by the Board of Water and Power Commissioners of the City of Los Angeles at its meeting held FEB 16 2010


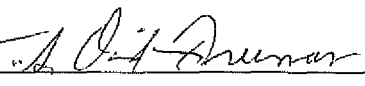

Barbara E. Morales
Secretary

APPROVED AS TO FORM AND LEGALITY
CARMEN A. TRUTANICH, CITY ATTORNEY

FEB 16 2010
BY Lonnie Eldridge
LONNIE ELDRIDGE
DEPUTY CITY ATTORNEY



LADWP BOARD APPROVAL LETTER

TO: BOARD OF WATER AND POWER COMMISSIONERS		DATE: January 29, 2010
<div style="display: flex; justify-content: space-around;"><div style="text-align: center;"> _____ RAMAN RAJ Chief Operating Officer</div><div style="text-align: center;"> _____ S. DAVID FREEMAN Interim General Manager</div></div> <div style="text-align: center;"> _____ ARAM BENYAMIN Senior Assistant General Manager - Power System</div>		SUBJECT: Amendments No. 3 and 4 to Agreement No. 47443 Between the Los Angeles Department of Water and Power and Open Access Technology International, Inc. To Increase Expenditure Limit and Add Subscriptions to Energy Transaction Scheduling and Settlement Services
		FOR COMMISSION OFFICE USE:
CITY COUNCIL APPROVAL REQUIRED: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	IF YES, BY WHICH CITY CHARTER SECTION: 373	

PURPOSE

The following items are transmitted for approval by your Honorable Board:

- A. An original and duplicate original of Amendments No. 3 and 4 (Amendments) to Agreement No. 47443 (Agreement), approved as to form and legality by the City Attorney, between the Los Angeles Department of Water and Power (LADWP) and Open Access Technology International, Inc. (OATI).
- B. A resolution, approved as to form and legality by the City Attorney, authorizing execution of the Amendments subject to City Council approval.

The purpose of these Amendments is to facilitate compliance with the regulatory mandates of the Federal Energy Regulatory Commission (FERC), the North American Electric Reliability Corporation (NERC), the North American Energy Standards Board (NAESB), and the Western Electricity Coordinating Council (WECC).

BACKGROUND

Amendment No. 3 adds subscriptions to real-time power system balancing authority area services hosted by OATI to implement the LADWP's Energy Transaction Scheduling and Settlement (ETSS) project, and raises the contract expense limit from \$2,264,000 to \$8,116,000 to accommodate the added services. Amendment No. 4 includes some contractual terms related to OATI's webSweep service. OATI's webSweep service is a deliverable of Amendment No. 3. OATI has requested that these terms in Amendment No. 4 be included in a separate amendment to assist OATI in compliance with certain auditing standards.

The Amendments provide two added suites of service subscriptions that implement the following functions:

- A. **Energy Transaction Scheduling**, which includes the creation, maintenance, and implementation of schedules for the import, export, or transmission of purchased, sold, or transmitted energy or energy-related services; and includes facilities for managing schedules in aggregate according to the constraints inherent in or imposed on the transmission segments which the scheduled energy or energy-related services utilize. An example of this aggregate schedule management would be the automated distribution of a forced reduction in transmission segment capacity among the schedules that are utilizing that capacity.
- B. **Energy Trading**, which includes the trading, scheduling, checkout, accounting, and credit functions associated with the energy commodities transacted as part of LADWP's wholesale energy business.

Existing Services

Agreement No. 47443 provides for subscriptions to real-time power system balancing authority area services hosted by OATI. The Agreement includes subscriptions to the following services:

- A. **Electronic tagging**, which provides for review, approval, communication, and implementation of energy purchase and sale transactions with utilities or others with whom LADWP is doing business, or who are otherwise involved with generation, ownership, transmission, or consumption of the transacted energy. The functionality is similar to an energy trading floor, except that it does not include pricing information or solicitation of transactions. The use of electronic tags (e-tags) is an industry standard documented in NERC Reliability Standards, NAESB Business Practice Standards, and WECC Regional Reliability Standards.
- B. **Security Analysis System (SAS)**, which provides for mitigation of problems resulting from unscheduled regional energy flows according to the "WECC Unscheduled Flow Mitigation Plan" and "WECC Unscheduled Flow Mitigation Procedures, OATI webSAS and WECC RMS."
- C. **OASIS**, which provides for electronic marketing of transmission capacity. The functionality is similar to a transmission trading floor. The OASIS service is the tool that LADWP uses to make transmission service available to others according to its Open Access Transmission Tariff. FERC policies for use of OASIS are documented in FERC Order Nos. 676, 889, and 890.
- D. **OATInet**, which is a dedicated private direct connection to the services hosted at OATI's data center in Minneapolis. OATI is responsible for managing the connection to maintain reliable access to its hosted services.
- E. **OATI webData**, which provides real-time download of the e-tag data for local access.

These services are hosted by OATI from Minneapolis. LADWP subscribes to the webData data transfer service in order to obtain a real-time local copy of its electronic tag data. With these Amendments, LADWP will also obtain a real-time local copy of its schedule data via webData.

The webData service will provide the scheduling interface with LADWP's energy management system (EMS) that handles real-time power system supervisory control and data acquisition (SCADA) and automatic generation control (AGC).

For the OASIS service, the LADWP has joined the Common Western OASIS (CWO), also called wesTTrans, which currently consists of more than 25 western utilities. The LADWP subscribes to the OASIS service that OATI provides to the members of this organization.

The existing services will interoperate with the added energy transaction scheduling and energy trading services described below. The suite of services to implement energy transaction scheduling is referred to below as the scheduling system (Scheduling System). The suite of services to implement energy trading is referred to below as the trading system (Trading System).

Energy Transaction Scheduling

The existing interchange scheduling system is being replaced because it has reached the end of its useful life. It is limited by 1980s technology with software that is not capable of being expanded to handle new functions or features. The hardware is difficult to support because vendors no longer support it and replacement parts cannot be purchased.

A past NERC audit recommended that LADWP "procure and implement a new scheduling system, as soon as possible." The primary justification for replacement is to facilitate compliance with NERC Reliability Standards.

The existing interchange scheduling system cannot be updated to meet NERC's e-tag requirements. Instead, a separate e-tag system was implemented via subscription to the e-tag service hosted by OATI as described above. This provided the capability to create and receive e-tags, but there is no interface between tagged and scheduled energy transactions. To check for errors between the two sets of data stored in the legacy interchange scheduling system and the e-tag system, internal staff developed software to perform this function. This function is unnecessary and imperfect, and is eliminated in the new ETSS system that will directly integrate schedules with the e-tags.

The current interchange scheduling system implements schedules via "accounts" that consist of pre-established properties of each transaction, such as point of energy receipt, point of delivery, counterparty, schedule limits, and numerous other properties. This requirement for pre-defined information can hinder scheduling and settlement of unusual or new transaction types. An e-tag based Scheduling System can obtain this information in real-time from the e-tags.

The current interchange scheduling system cannot efficiently handle the large amount of energy schedules processed by LADWP. The software has reached its maximum number of schedule accounts. When the number of accounts approaches the system limit, the problem must be resolved by means of a slow and time-consuming process. Accounts are investigated to determine those accounts that can be purged and those that can be removed temporarily.

The current lack of integration between energy transaction tags and energy transaction schedules requires duplication in efforts to keep both sets of values up to date. This duplicated effort is causing work flow, training, and retention problems for the load dispatchers. This problem is particularly acute during forced transmission outages or de-rates, when many e-tags and schedules must be adjusted within NERC and WECC time limits. LADWP does not currently have an automated way of allocating de-rated transmission capacity among the schedules competing for it.

The energy transaction scheduling function includes subscriptions to the following services hosted by OATI:

- A. **webTrans Scheduling**, which provides an e-tag based scheduling transaction management solution that automatically coordinates e-tags and transaction schedules, and provides facilities to manage transaction schedules both individually and in bulk as part of transmission system management. The service can sum aggregations of transaction schedules to provide summary information to the users and to drive EMS functions such as AGC and operating reserve monitoring. This service includes modules that provide the following sub-functions:
 1. **webTrans Energy Accounting**, which provides capabilities to import profiles for resources such as generators, loads, or interchange points, to execute user-defined calculations with these values or similar values resident in webTrans Scheduling, and to display and/or export the results as defined by the user. (The term *energy accounting* traditionally refers to after-the-fact accounting and inadvertent interchange calculations, but those traditional functions are part of the webTrans Scheduling base service described above rather than this module.)
 2. **webTrans Report Builder**, which provides both *ad hoc* and predefined query and presentation of Scheduling System data for user-defined reporting purposes or for export to external applications that require the data. This service meets LADWP's reporting needs that are not covered by the standard reporting capabilities available from the webTrans Scheduling service.
 3. **webTrans Jointly Owned Transmission System (JOTS)**, which provides the tools for a transmission operator to manage the total transmission capacity (TTC) on the transmission system that is shared with other transmission providers. For each provider that shares ownership of the transmission system, the TTC shares are automatically calculated, and email notifications can be issued when changes affecting the TTC are made.
 4. **webTrans Displacement Advisor**, which provides a decision support tool to handle the complex determination of transmission service request (TSR) priorities when there is limited available transmission capacity (ATC) to support all service requests. This service uses a rule set to determine relative priority of competing TSR's and it provides the dispatcher a listing of lower priority requests that may be displaced if the transmission customer has a right of first refusal.

5. **webTrans Curtailment Manager**, which provides for e-tag and schedule curtailments and TSR reductions within a single guided management process. This enables LADWP to enforce limits on scheduling rights over constrained facilities from one solution. Through this guided process, the dispatcher selects the specific constrained facility, start/stop times, and computational method to automate the curtailment of multiple e-tags and schedules and/or the reduction of multiple TSR's, all in one simultaneous procedure.

- B. **webTrans webAccounting**, which is a generic calculation engine that is designed to model various time series interval data, to configure and compute user-specified rules, and to generate display summaries and reports for the end user. OATI will use the webAccounting service for the implementation of Intermountain Power Project (IPP) calculations, Pacific Direct Current Intertie (PDCI) calculations, and transmission billing. This service interoperates with the webTrans Scheduling service and provides more sophisticated capabilities than that service's Energy Accounting module.

- C. **webTrans Electric Industry Data Exchange (EIDE) Service**, which is an interface service that allows webTrans Scheduling to exchange meter and schedule data with other utilities or internal subsystems using the EIDE protocol that WECC established as a means of standardizing the exchange of electric industry data.

- D. **Test Environments** for webTrans, webTag (the e-tag service), and webData, which together provide a stand-alone platform for LADWP to test business logic changes and OATI service upgrades to verify proper functionality before committing such changes to production service. These services will interoperate with each other, with the OASIS test service procured via Amendment No. 1, and with the webTrader Development Environment listed below.

OATI will provide training for LADWP users and administrators and will facilitate acceptance testing of its services.

OATI's scope of work specified in these Amendments includes enhancements to its hosted services to include additional transmission management capabilities required by LADWP, and the implementation of transmission management logic specific to the PDCI, IPP, and transmission invoicing. Only OATI can implement the additional transmission management capabilities to its own services due to their proprietary nature, but with the training provided, LADWP staff could possibly implement the PDCI, IPP, and transmission invoicing logic in the webAccounting service. However, due to the complexity of these algorithms' interoperation with OATI's hosted services, this is better performed by OATI so that OATI will be responsible for ensuring proper functionality. OATI has the proprietary knowledge and access to resolve any issues within its own proprietary services that would hinder implementation. Also, LADWP staff expects to be fully occupied with the work necessary to transition from its legacy scheduling system to the new Scheduling System. Once OATI implements these algorithms successfully, the ongoing maintenance of these algorithms will be the responsibility of LADWP.

Energy Trading

The Wholesale Energy Resource Management (WERM) Section engages in two activities that bring value to LADWP ratepayers. The first is purchasing energy from the market below LADWP's generation costs. The second is selling surplus energy into the market at prices greater than LADWP's generation cost. Both activities require ability to communicate energy transactions using e-tags. Total benefit to LADWP from these activities is approximately \$55 million for the 2007/2008 Fiscal Year and \$26.3 million for the 2008/2009 Fiscal Year.

Without an e-tag based Trading System, LADWP lacks the ability to connect its transactions to the e-tags that contain all the interchange information that supports the deals. This leaves LADWP at an information disadvantage relative to its counterparties and makes it more difficult to properly settle (figure out how much to pay or collect) deals when they are affected by real-time changes in the power grid.

Approximately 5 to 10% of e-tags are changed after the time they are first created. These changes may result in financial consequences to LADWP. This means that about 2.5 to 5 million dollars of annual net benefit to LADWP is at some level of risk based on LADWP's inability to connect the e-tag changes back to the deal that generated the e-tag.

The Trading System interoperates with the Scheduling System via the e-tags. In order to facilitate energy accounting and settlement, the two systems must be implemented concurrently.

The energy trading function includes subscriptions to the following services hosted by OATI:

- A. **webTrader Power**, which provides a fully integrated front-to-back office trading solution for performing business in the North American power markets. This service integrates financial and physical trading with OASIS, e-tagging, scheduling, risk management, and (optionally) regional transmission operator markets such as the California Independent System Operator's (CISO) market. The webTrader service will serve as a tool to assist LADWP to maximize the usage of its generation facilities and optimize procurement and deployment of an electricity portfolio, fuel assets, and transmission rights. OATI webTrader supports financial risk management and accurately monitors the performance of those assets. This service includes modules that provide the following sub-functions:
 1. **webCalc**, which provides capability to calculate derivative values of interest from the underlying data in the webTrader service. This service also provides capability for creation of displays and reports for the data.
 2. **Report Generator**, which provides enhanced data mining, presentation, and distribution capabilities to support query and presentation of Trading System data for user-defined reporting purposes or for export to external applications that require the data. This service meets LADWP's reporting needs that are not covered by the standard reporting capabilities available from the webTrader service.

3. **Development Environment**, which provides a stand-alone platform for LADWP to test business logic changes and OATI service upgrades to verify proper functionality before committing such changes to production service. This service will interoperate with the Scheduling System test environments listed above.
- B. **webTrader Demilitarized Zone (DMZ) Service**, which replicates selected webTrader data onto a database server for exclusive use by the customer. The database is located within a protected network segment (DMZ) at the OATI Data Center. The DMZ configuration will provide the capability to query hosted Trading System data that would otherwise not be accessible locally.
- C. **webTrader Inter-Continental Exchange (ICE) Interface**, which provides seamless import of energy deals consummated in ICE. ICE is the largest energy commodity exchange in the world and all its transactions are conducted via the Internet or via virtual private networks to its own data centers.
- D. **webSweep**, which is an Internet-enabled service to provide a single solution for interfacing with all OASIS nodes within North America. This service automates the process for procuring transmission service via OASIS.

Amendment No. 3 includes an option to subscribe to OATI services that handle trading and settlement with the CISO's market. These services are provided in the California Market Redesign and Technology Upgrade (MRTU) Scheduling and Settlements Module. LADWP does not currently bid any of its resources into the CISO's market, but will require subscriptions to these services if it elects to start doing so. LADWP expects to exercise this option. The cost of these optional services is included in the expense totals listed below.

OATI will provide training for LADWP users and administrators and will facilitate acceptance testing of its services.

OATI's scope of work specified in these Amendments includes enhancements to its webTrader service's handling of indexed prices and implementation of some of WERM's more complex reports. Only OATI can implement the enhancements for indexed price handling in its own service due to the service's proprietary nature, but with the training provided, LADWP staff could possibly implement the reports. However, due to the complexity of these reports, this is delegated to OATI so that OATI will be responsible to ensure proper functionality. Also, LADWP staff expects to be fully occupied with the work necessary to transition from its legacy trading methods to the new Trading System. Once OATI implements these reports successfully, the ongoing maintenance of these reports will be the responsibility of LADWP.

COST AND DURATION

Amendment No. 3 adds monthly subscription fees of \$48,611 and one-time service initiation fees of \$1,500,117. The monthly fees escalate at 3% per year. Amendment No. 3 changes the Agreement's expenditure limit from \$2,264,000 to \$8,116,000. Amendment No. 4 does not include any additional expenses. The new contract expenditure limit is calculated as follows:

Years	Expense	Cost
2009 – 2015	Expenses added by these Amendments	\$5,546,944.39
2009 – 2015	Contingency, 10%	\$554,594.44
2006 – 2015	Expense limit for existing subscriptions	\$2,264,000.00
2009	Amendment No. 2 funds for 2009 not expended *	(\$250,000.00)
2006 – 2015	Total	** \$8,115,638.83

* Amendment No. 2 included funds for implementation in 2009, but will not be implemented until after 2009.

** The total is rounded up to \$8,116,000.

The Agreement permits OATI to adjust its pricing with 60-day advance written notice. The Board has previously authorized the General Manager or the General Manager's designee to accept and implement such pricing changes, provided that the total contract expenditure limit is not exceeded. Because these Amendments increase the total contract expenditure limit, the resolution transmitted with these Amendments re-authorizes the General Manager or the General Manager's designee to accept and implement any new pricing proposed by OATI, which still may not exceed the total contract expenditure limit.

OATI exercised its pricing change option in June 2007. The reason was to recover a portion of its cost to upgrade its OASIS service to comply with Order No. 890 that FERC issued in February 2007. OATI bore some of the cost itself, and spread the rest of the cost over its entire OASIS customer base. OATI offered an option for a lump sum payment in lieu of an increase in the monthly subscription fee. LADWP elected the lump sum payment option.

Assuming proposed Amendment No. 2 has been executed, which is presented separately to the Board for its approval, Amendments No. 3 and 4 do not change the duration of the Agreement, which is from January 1, 2006 through December 31, 2015. If the proposed Amendment No. 2 has not been executed, Amendments No. 3 and 4 will increase the duration of the Agreement by five years from the original termination date of December 31, 2010 to December 31, 2015. Amendment No. 2 was presented separately in order to expedite delivery of the services in Amendment No. 2, which support LADWP's existing scheduling and trading processes. The services in Amendment No. 2 will also support the services to be provided under Amendments No. 3 and 4.

FUNDING SOURCE

The contract expenditures are budgeted and funded out of the Power Revenue Fund. These Amendments do not alter OASIS expenses.

Fiscal Year: 2009/2010 – 2015/2016

Functional Item No.:

28-131 for WERM service subscriptions and related expenses.
 312-3170 for OASIS service subscriptions and related expenses.
 312-3150 for Grid Operations service subscriptions and related expenses.

Location in Budget:

Budget Job I1033 for WERM service subscriptions and related expenses.
 Budget Job O1269 for OASIS service subscriptions and related expenses.
 Budget Job B9512 for Grid Operations service subscriptions and related expenses.

The Financial Services Organization reviewed and validated funds on January 27, 2010.

FISCAL IMPACT STATEMENT

Funding is included in those budgets. The added service subscriptions do not directly produce revenue, but they do support revenue-producing business activities. Revenues from OASIS sales of excess transmission capacity to external customers, including ancillary services and losses, were \$37 million for the 2007/2008 Fiscal Year and were \$40 million for the 2008/2009 Fiscal Year. The net benefit from WERM's wholesale energy business was approximately \$55 for the 2007/2008 Fiscal Year and \$26.3 million for the 2008/2009 Fiscal Year.

TYPE OF INSURANCE COVERAGE(S)

<input checked="" type="checkbox"/>	Workers' Compensation	\$1,000,000	<input type="checkbox"/>	Property Damage	
<input checked="" type="checkbox"/>	Automobile Liability	\$1,000,000	<input type="checkbox"/>	Water Craft	
<input checked="" type="checkbox"/>	General Liability	\$1,000,000	<input type="checkbox"/>	Pollution	
<input type="checkbox"/>	Professional Liability		<input type="checkbox"/>	Crime	
<input type="checkbox"/>	Aircraft Liability		<input type="checkbox"/>	Asbestos	

OATI will be on site for testing, training, and project management activities during project implementation. Once project implementation is complete, OATI will not be on site and the insurance requirement ends. The duration of the insurance requirement is tied to milestones specified in Amendment No. 3.

PRE-AWARD CHECKLIST

- Yes No N/A Contract Compliance
- Yes No N/A Subcontracting Opportunities
- Yes No N/A Service Contractor Worker Retention Ordinance
- Yes No N/A Child Support Policy
- Yes No N/A Living Wage Ordinance
- Yes No N/A Labor Relations Notification
- Yes No N/A Charter Section 1022 Findings

LADWP requests that the Agreement be exempted from LADWP's policies, including but not limited to Affirmative Action Plan, Child Support, Living Wage, and Recycling policies. This is because OATI is a Minnesota corporation that is providing hosted subscription services, similar in concept to a magazine subscription, from Minnesota, and is unwilling to add these provisions because it considers them inapplicable and inappropriate under these circumstances. The Agreement currently has this exemption.

CONTRACT ADMINISTRATION

As part of the project planning process, OATI provided implementation schedules showing five months for implementation of the Trading System and ten months for implementation of the Scheduling System. LADWP requested an option for an accelerated implementation schedule. OATI said that it could compress the Trading System implementation to three months. It could compress the Scheduling System implementation to 3½ months for the base version of the Scheduling System and six months for the enhancements and customizations that LADWP has specified. The cost of this option is 30 percent of initiation fees for affected services. This cost is included in the expense totals listed above. Authorization to accelerate services will be given by LADWP to OATI through the change order process.

The payments for project implementation are associated with milestones defined in Amendment No. 3. The milestones represent project deliverables received or represent confirmed OATI resolution of problems discovered during testing and implementation.

The services added under these Amendments are subject to acceptance testing by LADWP.

Amendment No. 3 obligates OATI to provide monthly status reports during project implementation. It also provides for monthly project status meetings by telephone or webcast. Optionally, LADWP can request OATI to meet on site provided that LADWP pays OATI's travel expenses, or LADWP representatives may travel to OATI's site for such purposes.

The implemented services are delivered in real time and the service users have access to OATI technical support to handle any problems that arise.

The existing Agreement does not provide for auditing of OATI's activities under the Agreement. Although LADWP requested that the right to audit be added to the Agreement by including the Right to Audit provision approved by the Board, OATI rejected all such provisions. OATI stated that because this is a fixed-price contract without specific charges for time and materials, OATI does not keep separate auditable records for this contract.

Time and Material: Yes No

Markup: None.

CHARTER SECTION 1022 FINDINGS AND BASIS THEREOF

The work in the Amendments involves OATI's proprietary services and expert knowledge. For the implementation of the Department's PDCI, IPP, and transmission invoicing business logic, and implementation of selected reports, there is insufficient existing Department staff to perform the work proposed to be contracted and additional staff cannot be employed and trained in OATI's proprietary technologies in a timely manner to meet the Department's needs.

Therefore, the services provided can be performed more feasibly by the contractor rather than City employees due to the proprietary and expert nature of these services.

MEMORANDUM OF UNDERSTANDING PROPOSED CONTRACT REVIEW PROCESS

Labor Relations issued a Notice of Compliance with Contracting Out Policies for these services on May 14, 2009.

METHOD OF SELECTION

Competitive Cooperative Purchase Sole Source

These are noncompetitive Amendments because the added services must be implemented as quickly as practical to implement the recommendations of NERC's audit, to facilitate compliance with the NERC Reliability Standards, and to eliminate the duplicated energy scheduling efforts that are causing work flow, training, and retention problems for the load dispatchers. Furthermore, the services involve OATI's proprietary technology. Because it would be impractical to use another vendor given the above, City Charter Section 371(e)(10) allows for an exemption to the competitive bid process.

MINORITY/WOMEN BUSINESS ENTERPRISE (MBE/WBE) SUBCONTRACTING PARTICIPATION

For these Amendments, there are no subcontracting opportunities because OATI is providing subscriptions to existing electronic services that it hosts. The subscriptions include some customization for LADWP requirements and limited technical support, which require extensive training and specialization on OATI's proprietary systems; and are, therefore, not subcontracted.

VENDOR HISTORY

LADWP first contracted with OATI in September 2000. OATI offered free services through the end of year 2000, so Purchase Order No. 45064-1 was effective January 1, 2001.

Contract No.	Contract Description	Term of Contract	Original Contract Amount	Change Order No. (CO)/Amendment No. (A)				Ending Date
				CO/A No.	Increase/ Decrease	Term of Extension	Other	
47443	Add OATInet, redundant webData	10 years	\$700,000	2	\$1,564,000	5 years		12/31/15
47443	Add users, WERM e-tag approval, CWO test system, CWO procedures	5 years	\$700,000	1	None	None		12/31/10
47443	E-tag, SAS, CWO, webData	5 years	\$700,000					12/31/10
40386-7	E-tag, SAS, CWO, webData	1 year	\$82,600					12/31/05
45143-5	webData	1 year	\$18,000					9/30/05
45147-4	Add e-tag users, CWO expenses	1 year	\$70,000	1	\$30,000	None		12/31/04
45147-4	E-tag, SAS, CWO	1 year	\$70,000					12/31/04
41738-4	webData	1 year	\$69,800					9/30/04
45121-3	Add CWO	1 year	\$30,000	2	\$70,000	None		12/31/03
45121-3	Add SAS	1 year	\$30,000	1	None	None		12/31/03
45121-3	E-tag	1 year	\$30,000					12/31/03
45064-1	E-tag, data download	2 years	\$50,000					12/31/02

VENDOR PERFORMANCE

OATI has performed according to its contractual obligations since LADWP first contracted it in September 2000.

ENVIRONMENTAL DETERMINATION

In accordance with the California Environmental Quality Act (CEQA), it has been determined that the Agreement as amended is exempt from further requirements under the Los Angeles City CEQA Guidelines, Article II, Section 1, because it can be seen with certainty that there is no possibility that this activity will have a significant effect on the environment.

LOS ANGELES CITY COUNCIL

In accordance with City Charter Section 373, City Council approval is required. The Amendments are subject to Executive Directive No. 4. The City Administrative Office was received on February 3, 2010 and is attached.

CONFLICT OF INTEREST STATEMENT

All conflict of interest procedures were followed. No conflict of interest issues were identified.

Board of Water and Power Commissioners
Page 13
January 29, 2010

RECOMMENDATION

It is recommended that your Honorable Board adopt the resolution, approved as to form and legality by the City Attorney, and that Amendments No. 3 and 4 to Agreement No. 47443 be executed as authorized by the resolution.

BJC:ls/ef

Attachments

e-c/att: S. David Freeman

Raman Raj

Richard M. Brown

Aram Benyamin

James B. McDaniel

Cecilia K.T. Weldon

Jeffery L. Peltola

Lorraine A. Paskett

John R. Dennis

Albert A. Stephens

Maria Sison-Roces

Michael A. Coia

John Charles Kokoska

Brian J. Cast

0150-08065-0003

TRANSMITTAL

TO
S. David Freeman, General Manager
Department of Water and Power

DATE
FEB 02 2010

COUNCIL FILE NO.

FROM
The Mayor

COUNCIL DISTRICT

**Amendments No. 3 And 4 to Agreement No. 47443 with
Open Access Technology International, Inc.**

Transmitted for further processing. See the
City Administrative Officer report attached.

MAYOR

MAS:QAV:10100098T

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: January 12, 2010

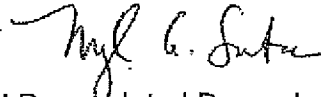
CAO File No. 0150-08095-0003

Council File No. 07-0308

Council District: Citywide

To: The Mayor

From: Miguel A. Santana, City Administrative Officer



Reference: Transmittal from the Department of Water and Power dated December 17, 2009; referred by the Mayor for report on January 6, 2010

Subject: **AMENDMENTS NO. 3 AND 4 TO AGREEMENT NO. 47443 BETWEEN THE DEPARTMENT OF WATER AND POWER AND OPEN ACCESS TECHNOLOGY INTERNATIONAL, INC.**

SUMMARY

The Department of Water and Power (DWP) requests authority to execute Amendments No. 3 and 4 to Agreement No. 47443 between the DWP and Open Access Technology International, Inc. (OATI), a Minnesota-based firm specializing in systems and software development that control energy transactions, for the management of DWP's electric transmission services.

The proposed third Amendment increases the expenditure limit from \$2,264,000 to \$8,092,000 and adds two subscriptions to implement DWP's Energy Transaction Scheduling and Settlement (ETSS) project that provides real-time power balancing services hosted by OATI for:

- Energy Transaction Scheduling and
- Energy Trading

The fourth Amendment contains the terms of the Energy Trading sub-function webSweep, which is an internet service that interfaces the OASIS (an electronic marketing service of transmission capacity) that exists within North America allowing DWP to trade energy outside of California. Although this service is included in Amendment 3, OATI's internal standardized auditing known as SAS (Statement Auditing Standards) requires a separate amendment for accounting and process auditing. Therefore, DWP has complied with their request to include a separate amendment to allow OATI to meet the companies auditing standards. There are no additional financial implications attached to the fourth Amendment.

Background

The Federal Energy Regulatory Commission and power system industry policies establish procedures for the purchase, sale and management of energy transactions. DWP subscribes to Open Access Technology International, Inc., headquartered in Minneapolis, Minnesota, which

provides state-of-the-art computerization of energy transaction and risk management, transmission, scheduling, congestion management, and settlement and compliance systems for the electric and gas industry. One of the computerized services, the OATI Open Access Same-Time Information System (OASIS) service is used to control and document the transmission of electric energy by more than 25 western utilities, including DWP, all of whom are members of an organization called Common Western OASIS.

Agreement No. 47443 provides subscriptions to software services hosted by OATI that enable DWP to:

- o Participate in the Common Western OASIS to make electric transmission service available to others according to its Open Access Transmission Tariff; revenue from the transmission sales using OASIS was \$37 million for 2007-08
- o Implement wholesale energy purchases and sales with other energy providers by way of electronic "tagging" of transactions according to business practices established by the North American Electric Reliability Corporation (NERC), the North American Energy Standards Board (NAESB), and the Western Electricity Coordination Council (WECC)
- o Help mitigate problems resulting from unscheduled regional energy flows according to procedures established by WECC

DWP's energy interchange system is monitored by e-tags in the OATI system. An e-tag is similar to packing slip which identifies the route of a package, its origin and its destination as well as processing information. This information is stored in the data information center at the OATI facility. DWP's data from the Energy Control Center must be tagged for use by the dispatchers to manage transactions in compliance with Federal regulations. Since the OATI energy transaction management software is both proprietary and the program is required by the regulatory standards of the utilities in the WECC, the regional authority wherein DWP operates, and is the basis for DWP's management of wholesale energy sales and purchases, the Agreement is essential to coordinate the power system and participate as a member of the Common Western OASIS transmission providers.

Contractor Selection

In accordance with Charter Section 1022, the Department determined that the services provided under the proposed Amendments No. 3 and 4 can be performed more feasibly by the contractor rather than City employees due to the proprietary and expert nature of the software services.

The services are considered sole source in that they are proprietary and must interoperate with the existing proprietary services that OATI provides under the original Agreement. The DWP has been under contract with OATI since January 2000 and reports that OATI has consistently performed according to its contractual obligations. From January 2000 to December 31, 2000, OATI provided its services gratuitously to DWP. Since then there have been several Agreements with OATI for a total of five years prior to the current Agreement of ten years, which will total fifteen years.

The City Attorney has advised that the proposed Amendments No. 3 and 4 are exempt from the competitive bid process in accordance with Charter Section 371(e)(10) which specifies that "...contracts...where the contracting authority finds that the use of competitive bidding would be

undesirable, impractical or impossible or where the common law otherwise excuses the compliance with competitive bidding requirements" are exempt. The basis for that conclusion is that the services and software provided by OATI are proprietary and offered only by this firm.

The Department also recommends that Amendments No. 3 and 4 be exempted from its Affirmative Action Plan as well as the Child Support, Living Wage, Subcontractor Opportunities, and Recycling Policies since the services are remotely hosted electronic subscription services (with minor technical support) requiring extensive and proprietary training, and subject to all of Minnesota's laws, rules, and regulations.

Proposed Third and Fourth Amendments

The computerization of DWP's Electronic Control Center by OATI is such a large project that it was necessary to divide the installation into four distinct phases. In order to meet the essential reporting requirements of energy transactions, the first phase (original contract) involved the installation of an off-the-shelf system that could be implemented immediately to comply with the initial requirements of the standards. The second phase which was accomplished through the first Amendment was approved by the Council on July 29, 2009. The third phase (Amendment 2), which was approved by Council on December 23, 2009, provided for additional services that manage wholesale energy sales, real-time power control, electronic tagging, web-based direct connection, and emergency redundancy. Amendments 3 and 4 will constitute the fourth phase. These amendments include the following two main services which facilitate energy transactions on a daily and hourly basis.

Energy Transaction Scheduling

The current lack of integration between energy transaction tags and energy transaction schedules necessitates duplicate sets of data. This duplicate effort is causing work flow, training, and retention problems for the load dispatchers. This problem is particularly acute during forced transmission outages or de-rates, when many e-tags and schedules must be adjusted within NERC and WECC time limits. LADWP does not currently have an automated method of allocating de-rated transmission capacity among the different utility schedules competing for the electrical energy.

The energy transaction scheduling function hosted by OATI (webTrans Scheduling) provides an e-tag based scheduling transaction management solution that automatically coordinates e-tags and transaction schedules, and provides facilities to manage transaction schedules both individually and in bulk as part of transmission system management. The system provides accounting modules, electric industry exchange modules, and testing environments. OATI will provide the necessary training for DWP users and administrators to manage transaction scheduling.

Energy Trading

The Wholesale Energy Resource Management (WERM) Section engages in two activities:

- Purchasing energy from the market below LADWP's generation costs; and
- Selling surplus energy into the market at prices greater than LADWP's generation cost.

Both activities require the ability to communicate energy transactions using e-tags. Total benefit to DWP from these activities is estimated at approximately \$55 million per year. Without an e-tag based Trading System, DWP lacks the ability to connect its deals to the e-tags that contain all the interchange information that supports the deals. An information disadvantage occurs relative to DWP ability to interact on a timely basis with other utility traders; therefore, it will lack the ability to properly settle (determine the value to pay or collect) deals when DWP is affected by real-time changes in the power grid.

The energy trading function includes subscriptions to the OATI-hosted service webTrader Power, which provides a fully integrated front-to-back office trading solution for performing business in the North American power markets. This service integrates financial and physical trading with OASIS (the system used by utilities in the western states), e-tagging, scheduling, risk management, and (optionally) regional transmission operator markets such as the California Independent System Operator's (CISO) market. The webTrader service will serve as a tool to assist DWP to maximize the usage of its generation facilities and optimize procurement and deployment of the electricity portfolio, fuel assets, and transmission rights. OATI webTrader supports financial risk management and accurately monitors the performance of those assets.

The City Attorney has approved the proposed Amendments No. 3 and 4 to Agreement No. 47443, and a resolution by the Board authorizing the execution of the Amendments.

Council Approval of Long-Term Contracts

City Council approval of proposed Amendments No. 3 and 4 is required in accordance with Charter Section 373 in that the original Agreement, which exceeded three years, was approved by the Council; therefore, subsequent Amendments to the Agreement are subject to Council approval.

RECOMMENDATION

That the Mayor authorize the Department of Water and Power to execute Amendments No. 3 and 4 to Agreement No. 47443 with Open Access Technology International, Inc. increasing the expenditure limit from \$2,264,000 to \$8,092,000; and for the addition of two subscriptions to the real-time power balancing system control services to provide energy transaction scheduling and trading; and return the proposed Amendments No. 3 and 4 to the Department for further processing, including Council consideration.

FISCAL IMPACT STATEMENT

Approval of the proposed Amendment No. 3 to Agreement No. 47443 will have no impact on the General Fund. The third Amendment will increase DWP's monthly subscriptions costs by \$46,611 during the five-year term of the Agreement and includes a one-time service initiation cost of the two new services of \$1,477,890. The monthly fees will escalate at 3% per year. Funds for this increase from \$2,264,000 to \$8,092,000 are available from the Power Revenue Fund. Since the Department of Water and Power is bound only by the City Debt Management Policies, the City Financial Policies are not applicable.

Time Limit for Council Action

Pursuant to Charter Section 373, "Long Term Contracts Approved by Council," and the Los Angeles Administrative Code Section 10.5, "Limitation and Power to Make Contracts," unless the Council takes action disapproving a contract that is longer than three years within 60 days after submission to Council, the contract shall be deemed approved.

MAS:OAV:10100098



Open
Access
Technology
International, Inc.

INNOVATIVE SOLUTIONS FOR THE DEREGULATED ENERGY INDUSTRY

**AMENDMENT NO. 3
AGREEMENT NO. 47443
BETWEEN
LOS ANGELES DEPARTMENT OF WATER AND POWER
AND
OPEN ACCESS TECHNOLOGY INTERNATIONAL, INC.**

AMENDMENT NO. 3 TO THE OATI ETS AGREEMENT (AMENDMENT NO. 3)

FOR GOOD AND VALUABLE CONSIDERATION, including the mutual exchange of promises, Open Access Technology International, Inc., (OATI) and the City of Los Angeles acting by and through its Department of Water and Power (Customer or LADWP), collectively the "Parties" agree as follows:

1. New Services. Customer is adding the following OATI services under the OATI ETS Agreement (Agreement No. 47443 or Agreement) or applicable amendments thereto. Descriptions are contained in Attachment 1 hereto.
 - a. webTrader Power Solution: The OATI trading solution to capture deals, provide position summaries, and integrate to OASIS nodes, webTag, and optional purchase of RTO markets (including the California ISO). Also provides interfacing to ICE and back-office settlements. Back-office settlements are included. Includes a development environment, calculation module, and report generator.
 - b. webTag user IDs: Additional user IDs for webTag. For NERC code LAWM01, increase user IDs to forty (40) during term of webTrader service. For NERC code LDWP, increase user IDs to fifty five (55) during term of webTrans service.
 - c. webSweep: Provides interface between the OATI webTrader and OASIS nodes.
 - d. webTrans Scheduling Solution: An e-Tag driven scheduling solution for balancing authority scheduling, checkout, and inadvertent calculations. Provides a reporting engine for reports on scheduling data, a displacement advisor for alerting users to potential displacement events, a curtailment solution for curtailment of e-Tags and/or OASIS requests, an EIDE interface for data transmission, and an accounting solution.
 - e. webTag Test Environment: Dedicated testing environment for OATI webTag and an interface solution for receiving e-Tag data.
 - f. webData Modifications: Configuration of one environment with redundant servers and add one additional feed for the webTag test environment. Include schedule data in all production environment and test environment feeds.
 - g. OATI shall implement the algorithms and functionalities specified in Attachment 6, Attachment 7, Attachment 8, and Attachment 11 hereto. All services identified above shall be provided in accordance with the ETSS Technical Document dated January 2010. Additional supplemental development as may be required will be authorized in writing by Customer and shall be invoiced as such services occur.
2. Training. webTrader: three (3) days Data Model Training at OATI, four (4) days end user training at Customer site (available in two (2) separate two-day sessions), one half (½) day ICE training at OATI. webTrans: Includes three (3) days Data Model Training at OATI Data Center, and four (4) days of end user training at customer site, which will be divided into two (2) separate two-day sessions. OATI labor is included. Descriptions are contained in Attachment 2 hereto.

3. Travel. LADWP will reimburse OATI travel expenses as specified in Attachment 10 hereto subject to approval by the Controller of the City of Los Angeles.
4. Project Management. OATI SAS 70 compliant software development processes will be followed in this project. Project management includes regular periodic status meetings (telephonic and/or web cast). In-person project meetings are available at the request of Customer pursuant to written request from Customer with authorization of travel expenses, but do not require execution of a Change Order. Upon contract execution and continuing into Production Operation (as defined in Milestone 8 and 9 below as applicable), Customer will receive monthly status reports that will include a review of each of webTrader and webTrans solutions. Descriptions are contained in Attachment 3 hereto.
5. Documentation. OATI will provide the documentation as specified in Attachment 4 hereto.
6. Testing. Testing will be provided as specified in Attachment 5 hereto.
7. Payment milestones are presented below.

Milestone	Description	Payment USD
1	Upon execution of this Amendment No. 3 and subsequent to acceptance by Customer's Risk Manager of OATI's proof of all specified insurance and related requirements as specified in Item 9 of Amendment No. 3.	Continuation of all monthly recurring fees for existing services
2	Delivery of base webTrader Service Specification.	\$78,203 (IA Option: \$96,890)
3	Delivery of base webTrans Service Specification.	\$183,006 (IA Option: \$237,907)
4	Delivery of a dedicated webTag Agent, Authority, and Approval Service test environment.	\$23,340 (IA Option: No Additional Fee) Plus initiation of monthly recurring fee of \$1,273/mo
5	Upon completion of configuration of two (2) servers for use in a single dedicated webData e-Tag test environment. Servers provided by LADWP.	\$16,480 (IA Option: No Additional Fee) Plus initiation of monthly recurring fee of \$541 (provided webTag test environment has been made available or upon availability of webTag test environment)
6	Upon the earlier of: a) Beginning of webTrader acceptance testing, or b) Two (2) months after OATI provides full webTrader functionality (as defined by initial contract functional requirements as identified in the Pricing Schedule) in the development environment for customer testing.	\$78,203 (IA Option: \$96,890)

Milestone	Description	Payment USD
7	Upon the earlier of: a) Beginning of webTrans acceptance testing, or b) Two (2) months after OATI provides full webTrans functionality (as defined by initial contract functional requirements as identified in the Pricing Schedule) in the development environment for customer testing.	\$183,005 (IA Option: \$237,907)
8	Upon the earlier of: a) 30 days following resolution of critical variances identified during webTrader acceptance testing, or b) Production Operation, which is the date on which webTrader Service is available for Customer's NERC code LAWM01 access in the OATI production environment following Customer's written authorization for such access.	\$78,203 (IA Option: \$96,890) Plus increase in monthly recurring fees by \$15,368/mo
9	Earlier of: a) 30 days following resolution of critical variances identified during webTrans acceptance testing, or b) Production Operation, which is the date on which webTrans Service is available for LADWP access in the OATI production environment following Customer's written authorization for such access.	\$183,005 (IA Option: \$237,907) Plus increase in monthly recurring fees by \$27,583/mo
10	Resolution of medium and high priority variances identified during webTrader acceptance testing (excluding variances associated with enhancements and customizations defined subsequent to execution of this Amendment No. 3).	\$78,203 (IA Option: \$96,889)
11	Resolution of medium and high priority variances identified during webTrans acceptance testing (excluding variances associated with enhancements and customizations defined subsequent to execution of this Amendment No. 3).	\$183,005 (IA Option: \$237,907)

Implementation Acceleration Option (IA Option):

Customer has the option to accelerate scheduled product implementation from the original estimates in accordance with the following:

OPTION 1: webTrader Power Solution and Customizations (including Option 1 for California MRTU Scheduling and Settlement Solution if elected) implementation may be accelerated from 5 months to 3 months (Milestones 2, 6, 8, and 10 increased by \$74,747 in aggregate).

OPTION 2: webTrans Scheduling Solution (Base including Customizations), webTrans Accounting (Base), webTrans EIDE Service and webTrans Customizations implementation may be accelerated from 9 months to 6 months (Milestones 1, 3, 4, 5, 7, 9, and 11 increased by \$219,607 in aggregate).

Implementation schedules of all other products and services identified in this Amendment can be accelerated with no additional fee. Acceleration pricing is shown in the Payment Milestone table above. Acceleration option must be designated and authorized in a Change Order. Customer may exercise any or all IA options, or may also choose to accelerate individual milestones provided however that if the IA option(s) or that if the accelerated milestone(s) have prior dependencies, all prior dependencies must also be accelerated.

8. Whether or not Amendment No. 2 has been or will be executed, Agreement Section 5.01 (p. A-3) shall be amended in its entirety with the following:

Term; Termination. The term of the services shall be from the date of execution of this Amendment and continue through December 31, 2015. Pricing provided hereunder shall escalate by 3% per year effective each January 1, beginning January 1, 2010, during the term of this Agreement. Notwithstanding the annual escalator, OATI may modify pricing of any service provided hereunder by providing customer no less than sixty (60) days prior written notice. Late payments are subject to late payment charge of 1.5% per month, or as otherwise allowed under law. Additional terms may be agreed upon in writing by the Parties. Expenditures under this Agreement shall not exceed \$8,116,000 (eight million one hundred sixteen thousand dollars) for the period January 1, 2006 through December 31, 2015. Unless otherwise agreed to in writing between the Parties, either Party may terminate this Agreement, or any service provided hereunder, by not less than 30 days advance written notice to the other Party. On termination of this Agreement, Customer shall promptly return to OATI applicable OATI ETS proprietary data and software, and shall erase from all computer storage and computer storage devices any image of copies of the applicable service.

9. OATI agrees to provide acceptable evidence of required insurance, from insurers acceptable to the Customer. This evidence of insurance, is required to be submitted by OATI and must be maintained current by OATI throughout the term of this Agreement, but only for the specific time period of the contract during which task assignments requiring insurance are performed. That time period extends from the time that Milestone 1 is achieved to the time that Milestone 10 or Milestone 11 is achieved, whichever is achieved latest. No insurance will be required during any other time period or periods. Said evidence of insurance must be on file with the Customer's Risk Management Section in order to receive payment for any milestones under this Amendment, and in order to commence new work under this Amendment. Existing services provided under the Agreement do not require insurance, and payments for those services and continued delivery of those services shall not be affected by any lack of insurance or by any lack of evidence of insurance.
- a. Additional Insured Status Required. OATI shall procure at its own expense, and keep in effect at all times during the time period when insurance is required, the types and amounts of insurance specified on the attached Contract Insurance Requirements page. The specified insurance shall also, either by provisions in the policies, by City's own endorsement form or by other endorsement attached to such policies, include and insure City, the Department, the Board, and all of their respective officers, employees and agents, their successors and assigns, as additional insured (except for Professional Liability and Workers' Compensation), against the area of risk described herein as respects OATI's acts or omissions in its performance of this Agreement, hereunder or other related functions performed by or on behalf of OATI. Such insurance shall not limit or qualify the liabilities and obligations of the OATI assumed under this Agreement.
 - b. Severability of Interests and Cross Liability Required. Each specified insurance policy (other than Workers' Compensation and Employers' Liability and Property coverage) shall contain a Severability of Interest and Cross Liability clause which states, "It is agreed that the insurance afforded by this policy shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability," and a Contractual Liability Endorsement which shall state, "Such insurance as is afforded by this policy shall also apply to liability assumed by the insured under this Agreement with the LADWP."
 - c. Primary and Non-Contributory Insurance Required. All such insurance shall be Primary and Noncontributing with any other insurance held by the LADWP where liability arises out of or results from the acts or omissions of OATI, its agents, employees, officers, assigns, or any person or entity acting for or on behalf of OATI. Any insurance carried by the LADWP which may be applicable shall be deemed to be excess insurance and the OATI's insurance is primary for all purposes despite any conflicting provision in the OATI's policies to the contrary.
 - d. Deductibles subject to LADWP Discretion. Deductibles and/or self-insured retentions shall be at the sole discretion of the Risk Manager of the LADWP (hereinafter referred to as "Risk Manager"). LADWP shall have no liability for any premiums charged for such coverage(s). The inclusion of the LADWP, its board, and all of its officers, employees and

- agents, and their agents and assigns, as additional insureds, is not intended to, and shall not, make them, or any of them a partner or joint venturer with OATI in its operations.
- e. Proof of Insurance for Renewal or Extension Required. At least 10 days prior to the expiration date of any of the policies required on the attached Contract Requirement page, documentation showing that the insurance coverage has been renewed or extended shall be filed with the LADWP. If such coverage is canceled or reduced in coverage, OATI shall, within fifteen (15) days of such cancellation or reduction of coverage, file with the LADWP evidence that the required insurance has been reinstated or provided through another insurance company or companies.
 - f. Submission of Acceptable Proof of Insurance and Notice of Cancellation. OATI shall provide proof to the Risk Manager of all specified insurance and related requirements either by production of the actual insurance policy(ies), by use of LADWP's own endorsement form(s), by other written evidence of insurance acceptable to the Risk Manager, but always in a form acceptable to the Risk Manager and the Office of the City Attorney. The documents evidencing all specified coverage shall be filed with the LADWP prior to OATI beginning new operations hereunder, but shall not interfere with the OATI's delivery of existing services. Said proof shall contain at a minimum, the applicable policy number, the inclusive dates of policy coverage, the date the protection begins for the LADWP, and the insurance carrier's name. It shall bear an original signature of an authorized representative of said carrier, and shall provide that such insurance shall not be subject to cancellation, material reduction in coverage or non-renewal except after written notice by certified mail, return receipt requested, to the City Attorney of the City of Los Angeles at least thirty (30) calendar days prior to the effective date thereof. The notification shall be sent by registered mail to: The Office of the City Attorney, Water and Power Division, Post Office Box 51111, JFB Room 340, Los Angeles, California 90051-0100.
 - g. Claims-Made Insurance Conditions. Should any portion of the required insurance be on a "Claims Made" policy, the OATI shall, at the policy expiration date following completion of work, provide evidence that the "Claims Made" policy has been renewed or replaced with the same limits, terms and conditions of the expiring policy, or that an extended three (3) years discovery period has been purchased on the expiring policy at least for the agreement under which the work was performed.
 - h. Failure to Maintain and Provide as Cause for Termination. Failure to maintain and provide acceptable evidence of the required insurance for the required period of coverage shall constitute a breach of contract, upon which the LADWP may immediately terminate or suspend services being added under this Amendment.
 - i. Periodic Right to Review/Update Insurance Requirements. LADWP and OATI agree that the insurance policy limits specified on the attached Contract Insurance Requirements page may be reviewed for adequacy annually throughout the term of this Agreement by the Risk Manager/City Attorney, who may thereafter require OATI to adjust the amounts and types of insurance coverage however the Risk Manager/City Attorney deems to be adequate and necessary. LADWP reserves the right to have submitted to it, upon request, all pertinent information about the agent and carrier providing such insurance, including applicable license and ratings.
 - j. Specific Insurance Requirements. See Attachment 9, "Contract Insurance Amount Requirements."
10. By signing this Agreement, OATI hereby certifies that it is aware of the provisions of Section 3700 et. seq., of the Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all such times as they may apply during performance of the work pursuant to this Agreement.

11. All other terms and conditions contained in the OATI ETS Agreement (as amended) shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, each Party has caused this Amendment No. 3 to be executed by its authorized representative as of the date written below.

For: DEPARTMENT OF WATER AND
POWER OF THE CITY OF LOS
ANGELES BY BOARD OF WATER
AND POWER COMMISSIONERS OF
THE CITY OF LOS ANGELES

OPEN ACCESS TECHNOLOGY
INTERNATIONAL, INC.

By: _____
S. DAVID FREEMAN
Interim General Manager

By: Sasan Mokhtari

Name: Sasan Mokhtari, Ph.D.

Title: President & CEO

Date: _____

Date: 1/26/10

And: _____
Secretary

LEGAL
sub
01/26/10

APPROVED AS TO FORM AND LEGALITY
CARMEN A. TRUTANICH, CITY ATTORNEY

JAN 29 2010
BY Lonnie Eldridge
LONNIE ELDRIDGE
DEPUTY CITY ATTORNEY



Open
Access
Technology
International, Inc.

INNOVATIVE SOLUTIONS FOR THE DEREGULATED ENERGY INDUSTRY

**AMENDMENT NO. 4
AGREEMENT NO. 47443
BETWEEN
LOS ANGELES DEPARTMENT OF WATER AND POWER
AND
OPEN ACCESS TECHNOLOGY INTERNATIONAL, INC.**

AMENDMENT NO. 4 TO THE OATI ETS AGREEMENT (AMENDMENT NO. 4)

FOR GOOD AND VALUABLE CONSIDERATION, including the mutual exchange of promises, Open Access Technology International, Inc., (OATI) and the City of Los Angeles acting by and through its Department of Water and Power (Customer or LADWP), collectively the "Parties" agree as follows:

1. Customer desires to add the OATI webSweep Service to the OATI ETS Service to which Customer currently subscribes; and
2. A user shall be limited to a human being using a workstation and a browser to connect to and interact with OATI services for their designed and intended purposes. Programmatic access or retrieval of information or data is strictly prohibited unless specifically authorized in writing by OATI.
3. All other terms and conditions of the OATI ETS Customer Agreement (LADWP No. 47443) remain unchanged, in full force and effect.
4. Pricing is included in the Amendment No. 3 to the OATI ETS Customer Agreement.

IN WITNESS WHEREOF, each Party has caused this Amendment No. 4 to be executed by its authorized representative as of the date written below.

**For: DEPARTMENT OF WATER AND
POWER OF THE CITY OF LOS
ANGELES BY BOARD OF WATER
AND POWER COMMISSIONERS OF
THE CITY OF LOS ANGELES**

**OPEN ACCESS TECHNOLOGY
INTERNATIONAL, INC.**

By: _____
**S. DAVID FREEMAN
Interim General Manager**

By: Sasan Mokhtari
Name: **Sasan Mokhtari, Ph.D.**

Title: **President & CEO**

LEGAL
pub
12/11/09

Date: _____

Date: 12/11/09

And: _____
Secretary

**APPROVED AS TO FORM AND LEGALITY
CARMEN A. TRUTANICH, CITY ATTORNEY**

DEC 14 2009
BY Lonnie Eldridge
**LONNIE ELDRIDGE
DEPUTY CITY ATTORNEY**