

AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES

THIS AGREEMENT FOR CONSULTING SERVICES (this "AGREEMENT") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the CITY OF LANCASTER, a municipal corporation and charter city (the "OWNER"), and PACIFIC ENERGY ADVISORS, INC. (the "CONSULTANT").

RECITALS

WHEREAS, OWNER desires to engage CONSULTANT to perform certain technical and professional services, as provided herein, identified as:

LANCASTER CHOICE ENERGY:  
RATESETTING, PRO FORMA AND BUDGET ASSISTANCE, ENERGY PROCUREMENT  
ASSISTANCE, AND REGULATORY COMPLIANCE SUPPORT

WHEREAS, the principal members of CONSULTANT are qualified and duly registered/licensed under the laws of the State of California, and CONSULTANT desires to accept such engagement.

NOW, THEREFORE, the parties agree as follows:

1. **Parties.**

The parties to this AGREEMENT are:

- A. OWNER: City of Lancaster.
- B. CONSULTANT: Pacific Energy Advisors, Inc.

2. **Notices.** All written notices required by or related to this AGREEMENT shall be sent by Certified Mail, Return Receipt Requested, postage prepaid and addressed as listed below. Neither party to this AGREEMENT shall refuse to accept such mail; parties to this AGREEMENT shall promptly inform the other party of any changes of address. All notices required by this AGREEMENT are effective on the day of receipt, unless otherwise indicated herein.

- OWNER                      Director of Finance  
                                    City of Lancaster  
                                    44933 North Fern Avenue  
                                    Lancaster, California 93534
- CONSULTANT              John P. Dalessi, President  
                                    Pacific Energy Advisors, Inc.  
                                    1839 Iron Point Road, Suite 120  
                                    Folsom, CA 95630

3. **Successors and Assigns.** The terms hereof shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided, however, that no party hereto shall assign any of the benefits and burdens hereunder, whether voluntarily or by operation of law, without prior written consent of the other party, and any such assignments without said consent shall be void.

4. **Description of Work.** OWNER hereby engages CONSULTANT, and CONSULTANT accepts such engagement, to perform the technical and professional services set forth in the "Scope of Services" attached hereto as Exhibit "A". CONSULTANT shall perform and complete, in a manner satisfactory to OWNER, all work and services set forth in the Scope of Services. The Director of Finance or his or her designee shall have the right to review and inspect the work during the course of its performance at such times as may be specified by the Director of Finance, or his or her designee.

5. **Obligations of the OWNER.**

A. The total compensation to be paid by OWNER to CONSULTANT for all work and services described in the Scope of Services is not to exceed \$ 150,000. CONSULTANT'S fees and charges for the work and services performed shall in no event exceed those set forth in Exhibit "B" attached hereto and made a part hereof.

B. No payment made hereunder by OWNER to CONSULTANT, other than the final payment, shall be construed as an acceptance by OWNER of any work or materials, nor as evidence of satisfactory performance by CONSULTANT of its obligations under this AGREEMENT.

6. **Obligations of the CONSULTANT.**

A. CONSULTANT shall perform as required by this AGREEMENT. CONSULTANT also warrants on behalf of itself and all subcontractors engaged for the performance of this AGREEMENT.

B. CONSULTANT shall be responsible for payment of all employees' and subcontractor's wages and benefits, and shall comply with all requirements pertaining to employer's liability, workers' compensation, unemployment insurance, and Social Security.

7. **Audit.** OWNER shall have the option of inspecting and/or auditing all records and other written materials used by CONSULTANT in preparing its statements to OWNER as a condition precedent to any payment to CONSULTANT.

8. **Hold Harmless and Indemnification.** CONSULTANT agrees to indemnify and hold harmless the OWNER, its officers and employees, from and against any and all claims, losses, obligations, or liabilities whatsoever, including reasonable Attorney's fees, incurred in or in any manner arising out of or related to CONSULTANT'S negligent or willful wrongful acts, errors or omissions, or those of its employees or agents arising out of CONSULTANT'S performance of the work related to this Agreement. CONSULTANT agrees to defend OWNER, its officers and employees, from and against any and all claims arising from any alleged negligent or wrongful acts, errors or omissions on the part of CONSULTANT or on the part of its employees.

The OWNER agrees to indemnify and hold harmless the CONSULTANT, its employees and agents, from and against any and all claims, losses, obligations, or liabilities whatsoever, including reasonable Attorney's fees, incurred in or in any manner arising out of or related to OWNER'S negligent or willful wrongful acts, errors or omissions, or those of its officers or employees in relation to this Agreement. OWNER agrees to defend CONSULTANT, its employees and agents, from and against any and all claims arising from any alleged negligent or wrongful acts, errors or omissions on the part of OWNER, its officers or employees in relation to this Agreement; provided, however, that this indemnification and hold harmless shall not include any claims to the extent they arise from the negligence or willful misconduct of the CONSULTANT, its employees or agents.

9. **Amendments.** Any amendment, modification, or variation from the terms of this AGREEMENT shall be in writing and shall be effective only upon mutual written approval by the Director of Finance and CONSULTANT.

10. **Non-Discrimination and Equal Employment Opportunity.**

A. In the performance of this AGREEMENT, CONSULTANT shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, religion, ancestry, sex, national origin, physical or mental disability or age. CONSULTANT will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment without regard to their race, color, religion, ancestry, sex, national origin, physical or mental disability or age. Affirmative action relating to employment shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.

B. The provisions of subsection A above shall be included in all solicitations or advertisements placed by or on behalf of CONSULTANT for personnel to perform any services under this AGREEMENT. OWNER shall have access to all documents, data and records of CONSULTANT and its subcontractors for purposes of determining compliance with the equal employment opportunity and non-discrimination provisions of this Section.

11. **Termination for Convenience.** The governing board of the OWNER may terminate this AGREEMENT at any time without cause by giving thirty (30) days written notice to CONSULTANT of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials developed under the Scope of Services shall, at the option of OWNER, become the OWNER's property. If this AGREEMENT is terminated by OWNER as provided herein, CONSULTANT will be paid a total amount equal to its costs as of the termination date, plus ten percent (10%) of that amount for profit. In no event shall the amount payable upon termination exceed the total maximum compensation provided for in this AGREEMENT.

12. **Termination for Cause.**

A. The governing board of the OWNER may, by written notice to CONSULTANT, terminate the whole or any part of this AGREEMENT in any of the following circumstances:

(1) If CONSULTANT fails to perform the services required by this AGREEMENT within the time specified herein or any authorized extension thereof; or

(2) If CONSULTANT fails to perform the services called for by this AGREEMENT or so fails to make progress as to endanger performance of this AGREEMENT in accordance with its terms, and in either of these circumstances does not correct such failure within a period of ten (10) days (or such longer period that OWNER may authorize in writing) after receipt of notice from OWNER specifying such failure.

B. In the event OWNER terminates this AGREEMENT in whole or in part as provided above in paragraph A of this Section, OWNER may procure, upon such terms and in such manner as it may deem appropriate, services similar to those terminated.

C. If this AGREEMENT is terminated as provided above in paragraph A, OWNER may require CONSULTANT to provide all finished or unfinished documents, data, studies, drawings, maps, photographs, reports, etc., prepared by CONSULTANT. Upon such termination, CONSULTANT shall be paid an amount equal to any unpaid balances associated with work completed by CONSULTANT prior to the termination date.

D. If, after notice of termination of the AGREEMENT under the provisions of this Section, it is determined, for any reason, that CONSULTANT was not in default, or that the default was excusable, then the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 12.

13. **Independent Contractor.** CONSULTANT is an independent contractor and shall have no power or authority to incur any debt, obligation or liability on behalf of the OWNER. It is expressly understood between the parties to this AGREEMENT that no employee/employer relationship is intended; CONSULTANT is an independent contractor.

14. **Insurance.**

A. (1) The CONSULTANT, at its expense, shall maintain in effect at all times during the performance of work under this AGREEMENT not less than the following coverage and limits of insurance, which shall be maintained with insurers listed "A-, VIII" or better in the Best's Key Rating Guide and that are admitted insurers in the State of California:

**Commercial General Liability**

Each Occurrence	\$1,000,000
Per Project General Aggregate Including Products/Completed Operations Including Contractual Liability/Independent Contractors Including Broad Form Property Damage	\$2,000,000

**Commercial Automobile Liability**

Combined Single Limit per Accident for Bodily Injury and Property Damage	\$1,000,000
---	-------------

**Workers Compensation**

As Required by the State of California	Statutory Limits
--	------------------

**Employer's Liability**

Each Accident	\$1,000,000
Bodily Injury by Disease	\$1,000,000
Each Employee	\$1,000,000

**Professional Liability**

Each Occurrence	\$1,000,000
General Aggregate	\$1,000,000

B. Insurance shall be at least as broad as ISO form CG 20 10 11 85 or CG 20 10 10 01 and CG 20 37 10 01 covering Commercial General Liability. Commercial Automobile coverage shall be at least as broad as ISO form CA 00 01.

C. The CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insured's liability.

D. A Waiver of Subrogation must be provided on behalf of the Certificate Holder for the Workers Compensation/Employers Liability policies and a copy of the endorsement must accompany the certificate.

E. Any deductibles or self-insurance retentions must be declared and approved by the OWNER. At the option of the OWNER, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the OWNER insured entities or the insurer shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

F. All insurance shall be primary and non-contributory as respects the OWNER insured entities. Any insurance or self-insurance maintained by the OWNER insured entities shall be in excess of the CONSULTANT'S insurance and shall not contribute with it.

G. The coverage provided under this contract shall not contain any special limitations on the scope of protection afforded to the OWNER insured entities.

H. Insurance provided and maintained by CONSULTANT must be placed with insurers with a rating of A-, VIII or better by Best's Key Rating Guide, latest edition, and that are admitted insurers in the State of California.

I. Insurance written on a "claims made" basis must be renewed for a period of five (5) years after this contract expires or is terminated. Such insurance must have the same coverage and limits as the policy that was in effect during the term of this contract and will cover CONSULTANT for all claims made by the OWNER insured entities arising out of any acts or omissions of CONSULTANT or its officers, employees, or agents during the time this AGREEMENT was in effect.

J. CONSULTANT shall furnish the OWNER with Certificates of Insurance and with original endorsements effecting coverage required by this contract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the

OWNER before work commences. The OWNER reserves the right to require complete, certified copies of all required insurance policies at any time.

K. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the OWNER insured entities.

L. Certificates of Insurance must be deposited with the OWNER for all coverage required by this contract. Certificates shall meet the following requirements:

(1) Show that the insurance policy has been endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after 30 days prior written notice (10 days written notice for non-payment) by Certified Mail, return receipt requested to the OWNER.

(2) List in the "Descriptions of Operations/Locations/Vehicles/Special Items" section:

RATESETTING, PRO FORMA AND BUDGET ASSISTANCE,  
ENERGY PROCUREMENT ASSISTANCE,  
AND REGULATORY COMPLIANCE SUPPORT

The Certificate Holders, as well as their officers, agents, servants, and employees are included as additional insured as respect to liability arising out of activities performed by or on behalf of the CONSULTANT; products and completed operations of the CONSULTANT; premises owned, occupied, or used by CONSULTANT; or automobiles owned, leased, hired, or borrowed by the CONSULTANT. (This does not apply to Professional Liability policies.)

(3) List in the "Certificate Holder" section:

The City of Lancaster, the Lancaster Successor Agency, the Lancaster Financing Authority, the Lancaster Housing Authority, the Lancaster Boulevard Corporation, the Lancaster Community Services Foundation, and the Lancaster Museum and Public Art Foundation, as well as each of their officers, agents, servants, and employees, 44933 Fern Avenue, Lancaster, California 93534.

(4) List in the "Cancellation" section:

Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will mail 30 written notice (10 days written notice for non-payment) to the Certificate Holders named to the left.

M. CONSULTANT shall include all subcontractors as an insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. Subcontractors are subject to the same insurance requirements as the CONSULTANT.

N. The coverage shall contain no special limitations on the scope of protection afforded to the insured entities. The CONSULTANT'S insurance coverage shall be primary insurance as respects the OWNER's insured entities.

15. **Commencement and Completion of Work.** The execution of this AGREEMENT by the parties does not constitute an authorization to proceed. The services of CONSULTANT shall commence when the OWNER, acting by and through its Director of Finance or his or her designee, has issued the notice to proceed.

CONSULTANT shall have no claim for compensation for any services or work which has not been authorized by the OWNER'S notice to proceed.

16. **Extension of Time for Completion of Work.**

A. If, at any time, the work is delayed due to suspension order by OWNER, or due to any other cause which, in the reasonable opinion of the OWNER, is unforeseeable and beyond the control and not attributable to the fault or negligence of CONSULTANT, then CONSULTANT shall be entitled to an extension of time equal to said delay, subject to the OWNER'S right to terminate this AGREEMENT pursuant to Section 12.

B. CONSULTANT shall submit to OWNER a written request for an extension of time within ten (10) days after commencement of such delay, and failure to do so shall constitute a waiver thereof. OWNER shall, in its sole discretion, determine whether and to what extent any extensions of time shall be permitted.

C. No extension of time requested or granted hereunder shall entitle CONSULTANT to additional compensation unless, as a consequence of such extension, additional work must be performed. In such event, OWNER shall in good faith consider any request for additional compensation submitted by CONSULTANT.

17. **Ownership of Documents.** All plans, specifications, reports, studies, tracings, maps and other documents prepared or obtained by CONSULTANT in the course of performing the work required by this AGREEMENT shall be the property of the OWNER. Basic survey notes, sketches, charts, computations and similar data prepared or obtained by CONSULTANT under this AGREEMENT shall, upon request, be made available to OWNER without restriction or limitation on their use. Notwithstanding the foregoing, the OWNER shall not obtain or retain any rights in or ownership to any of CONSULTANT'S systems, documents, and/or intellectual property developed, produced, discovered, or created by CONSULTANT before the execution of the Agreement or in connection with service performed outside of this Agreement.

18. **Data Provided to CONSULTANT.** OWNER shall provide to CONSULTANT, without charge, all data, including reports, records, maps and other information, now in the OWNER'S possession which may facilitate the timely performance of the work described in the Scope of Services.

19. **CONSULTANT's Warranties and Representations.**

CONSULTANT warrants and represents to OWNER as follows:

A. CONSULTANT has not employed or retained any person or entity, other than a bona fide employee working exclusively for CONSULTANT, to solicit or obtain this AGREEMENT.

B. CONSULTANT has not paid or agreed to pay any person or entity, other than a bona fide employee working exclusively for CONSULTANT, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the execution of this AGREEMENT. Upon any breach or violation of this warranty, OWNER shall have the right, in its sole discretion, to terminate this AGREEMENT without further liability, or, in the alternative, to deduct from any sums payable hereunder the full amount or value of any such fee, commission, percentage or gift.

C. CONSULTANT has no knowledge that any officer or employee of the OWNER has any interest, whether contractual, noncontractual, financial, proprietary, or otherwise, in this transaction or in the business of the CONSULTANT, and that if any such interest comes to the knowledge of CONSULTANT at any time, a complete written disclosure of such interest will be made to OWNER, even if such interest would not be deemed a prohibited "conflict of interest" under applicable laws.

D. Upon the execution of this AGREEMENT, CONSULTANT has no interest, direct or indirect, in any transaction or business entity which would conflict with or in any manner hinder the performance of services and work required by this AGREEMENT, nor shall any such interest be acquired during the term of this AGREEMENT.

20. **Resolution of Disputes.**

A. Disputes regarding the interpretation or application of any provisions of this AGREEMENT shall, to the extent reasonably feasible, be resolved through good faith negotiations between the parties.

B. If the parties cannot resolve the dispute through good faith negotiations, either party may give Notice of Dispute to the other party. The Notice of Dispute shall state the nature of the dispute and the corrective action necessary to remedy the dispute.

After Notice of Dispute, the parties shall first attempt to resolve any disputes by mediation. The parties shall agree on a single mediator. Mediation shall be conducted in Lancaster, California. Each party shall pay its own attorneys' fees and the costs of mediation shall be split equally between the parties.

If the dispute has not been resolved by mediation within 45 days after Notice of Dispute, or the parties are unable to agree to a mediator, within 15 days after Notice of Dispute, then, the dispute may, upon agreement of the parties be resolved by binding arbitration.

C. If any action at law or in equity is brought to enforce or interpret any provisions of this AGREEMENT, the prevailing party in such action shall be entitled to reasonable attorney's fees, cost and necessary disbursements, in addition to such other relief as may be sought and awarded.

21. **Exhibits.**



## EXHIBIT 'A' SCOPE OF SERVICES

Consultant will provided as-needed support to the Lancaster Choice Energy Program in the following specific areas and in other, yet to be determined areas, subject to mutual agreement of the parties:

(a) Maintain Annual and Long Term Sales Forecast:

- Prepare and maintain LCE long term sales forecasts.
- Forecasts shall include: 1) monthly enrolled accounts, megawatt hours (“MWh”) and megawatts (“MW”) by load profile group; and 2) monthly coincident peak MW and hourly MW for the LCE system.
- Update forecasts biannually and more frequently as necessary; monitor accuracy of load forecast on monthly basis; discuss potential adjustment(s) with LCE management if variance exceeds threshold of 5%.

(b) Support Maintenance of Financial Model (pro forma):

- Provide analytical support to maintain pro forma financial model of monthly income/expense projections, cash flow and cash balances.
- Assist with monitoring the accuracy of financial projections on a monthly basis; assist in reconciling budget variances.
- Prepare forecast of power supply and other expenses for annual budget.
- Support preparation of annual budget for LCE program in cooperation with LCE management and accountants.
- Coordinate with LCE and its financial advisors with regard to matters that may impact LCE’s financial standing, debt levels, electric rates, annual budget, resource planning and other key concerns.

(c) Ratesetting:

- Annually, develop proposed LCE rate schedules; perform cost of service modeling and SCE benchmarking; prepare billing determinant (e.g., TOU energy) forecast; present a proposed rate revenue forecast.
- Collaborate with LCE staff and City Council in regards to rate changes; identify potential need(s) for new rate designs or options.
- Monitor realized rate revenue vs. projections to identify potential needs for rate changes.

(d) Electric Supply Management:

- Serve as liaison for matters involving LCE’s scheduling coordinator, power suppliers and the CAISO.
- Annually, prepare/update resource plans, including ten-year load and resource projections.
- Monitor supply/demand balance; Identify incremental electric procurement needs.
- Support solicitation of required energy products – assist in preparing and reviewing requisite solicitation documents, participate in supplier/developer communications, provide analytical support during proposal/bid evaluation, and provide other as-needed support during such processes. Support will include activities associated with LCE’s as-needed solicitation processes that may be required to address specific resource needs.
- Support energy contract negotiations.
- Assist in preparing reports related to electric supply (e.g., data management and

reporting activities required under California's Power Source Disclosure Program, including Power Content Label development and review); such support may also entail regulatory liaison activities required to successfully complete applicable reports.

- Assist in validating periodic invoices received by LCE's scheduling coordinator/primary electric service provider, including charges and credits assessed by the CAISO.
- Monitor energy market activities, including pricing trends related to market energy, renewable energy and capacity; periodically discuss ongoing market developments with LCE management.
- Maintain/manage relationships with qualified suppliers of requisite energy products: participate in periodic calls, email exchanges and other communications on behalf of or in cooperation with LCE.
- Support LCE congestion revenue rights management program.

(e) Manage Renewables Portfolio Standard (RPS) Compliance Program:

- Manage renewable energy portfolio per state/program standards; prepare annual RPS compliance filing and serve as LCE's liaison with pertinent regulatory agencies for matters related to RPS program compliance; maintain working knowledge of currently applicable RPS guidelines, including pertinent reporting requirements.
- Manage LCE's WREGIS account and various subaccounts, including report preparation, certificate transfer review and retirement (to facilitate mandatory and regulatory compliance), generator registration (for any Feed-In Tariff projects under contract with LCE), Qualified Reporting Entity service arrangements, and other account management activities.

(f) Manage Resource Adequacy (RA) Compliance Program:

- Manage RA portfolio per state/program standards; prepare year ahead/month-ahead peak demand forecast and RA compliance demonstration filings.
- Coordinate activities required to "balance" LCE's RA portfolio, including the identification of capacity deficiencies and coordination of excess capacity sales with qualified buyers.

(g) Regulatory and Legislative Support:

- Provide as-needed technical expertise, analysis and advice in relation to pertinent regulatory proceedings. Such services shall entail periodic reviews and editorial support during comment/brief drafting as well as coordination with LCE staff/advisors on such matters.
- Provide support for Emissions Performance Standard compliance filings.
- Prepare or support LCE staff in preparing compliance filings related to the California Energy Commission's Quarterly Fuels and Energy Report; the Integrated Energy Policy Report, and the United States Energy Information Agency's 826 and 861 reports.
- Provide as-needed support to complement any legislative lobbying efforts undertaken by LCE.

(h) Customer Service Support:

- Assist LCE in developing tools to provide customer rate comparisons.
- Assist in development and administration of supplemental programs such as Feed-In-Tariff, Green Pricing, and Net Energy Metering.

(i) Program/Project Development Support:

- Assist LCE in developing terms, conditions, tariff provisions and related contracts for complementary energy programs, including feed-in tariff options, demand response,

local renewable supply options and other, yet to be determined energy programs.

- As appropriate, assist LCE in evaluating local project development opportunities.
- Provide as-needed support to promote development and administration of current and future LCE projects and programs.

(j) Staff Development

- Provide as-needed assistance to develop technical capabilities of designated LCE staff members.

## EXHIBIT "B"

### TERM, PAYMENT AND TIME FOR COMMENCEMENT AND COMPLETION CLAUSE

Term. This Agreement shall become effective and shall be in full force and effect upon the execution of the Agreement by the OWNER and the CONSULTANT. This Agreement shall continue in full force and effect for a period of twelve (12) months from the effective date of the Agreement (the "Term), unless the Agreement is sooner terminated in accordance with the Terms and Conditions in the Agreement; provided, however, that the OWNER and the CONSULTANT may mutually agree in writing to extend the Term of this Agreement.

Payment. In performance of this work, The OWNER shall reimburse the CONSULTANT for actual time spent in completion of the Scope of Services in consideration of the CONSULTANT'S following professional services rate schedule:

John Dalessi - \$280/hour  
Kirby Dusel - \$230/hour  
Brian Goldstein - \$195/hour

All time shall be billed to OWNER by CONSULTANT in one-quarter hour increments in an amount not to exceed \$300,000. Source documentation supporting billed costs must be submitted with invoice. CONSULTANT shall provide a cost breakdown with hourly rates for each office and field function in the event that additional work is required beyond the not to exceed fee specified above. Any additional work will require a separate Authorization for Consultant Services signed by both parties.

Consultant shall be reimbursed for actual travel expenses incurred in the performance of the work for all travel explicitly requested by OWNER.

#### Time for Commencement and Completion

CONSULTANT shall commence performance of the work following the receipt of a notice to proceed from the OWNER'S Director of Finance or his or her designee. It is anticipated that performance of the work will be completed within **twelve (12) months** from commencement. If Consultant fails to complete the work in this time period, City may avail itself of any and all remedies provided for in this Agreement.

---

John P. Dalessi, President  
Pacific Energy Advisors