



**CITY COUNCIL/SUCCESSOR AGENCY/
FINANCING/POWER/
CALIFORNIA CHOICE ENERGY AUTHORITY
REGULAR MEETING
AGENDA**

Tuesday

May 9, 2017

Regular Meeting – **5:00 p.m.**

Council Chambers – Lancaster City Hall

The City Clerk/Agency/Authority Secretary hereby declares the agenda was posted
by 5:00 p.m. on Friday, May 5, 2017

at the entrance to the Lancaster City Hall Council Chambers.

44933 Fern Avenue, Lancaster, CA 93534

LEGISLATIVE BODY

City Council/Successor Agency/Financing/Power/California Choice Energy Authority

Mayor/Chair R. Rex Parris

Vice Mayor/Vice Chair Marvin Crist

Council Member/Agency Director/Authority Member Raj Malhi

Council Member/Agency Director/Authority Member Ken Mann

Council Member/Agency Director/Authority Member Angela Underwood-Jacobs

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AGENDA ITEMS TO BE REMOVED

Sometimes it is necessary to remove items from the agenda. We apologize for any inconvenience this may cause you.

PUBLIC BUSINESS FROM THE FLOOR - AGENDIZED ITEMS

Any person who would like to address the Legislative Bodies on any agendized item is requested to complete a speaker card for the City Clerk/Agency/Authority Secretary and identify the agenda item you would like to discuss. Each person will be given an opportunity to address the Legislative Body at the time such item is discussed. Speaker cards are available at the rear of the Council Chambers and your speaker card must be filled out *prior* to the agenda item being called. We respectfully request that you fill the cards out completely and print as clearly as possible. Following this procedure will allow for a smooth and timely process for the meeting and we appreciate your cooperation. *Individual speakers are limited to three (3) minutes each.*

Consent Calendar items under the Legislative Body may be acted upon with one motion, a second and the vote. If you desire to speak on an item or items on the Consent Calendar, you may fill out one speaker card for the Consent Calendar. You will be given three minutes to address your concerns before the Legislative Body takes action on the Consent Calendar.

CALL TO ORDER

City Council/Successor Agency/Financing/Power/California Choice Energy Authority

ROLL CALL

City Council Members /Agency Directors /Authority Members: Malhi, Mann, Underwood-Jacobs; Vice Mayor/Vice Chair Crist, Mayor/Chair Parris

INVOCATION

Pastor Gabriel Ruhl, Lancaster Baptist Church

PLEDGE OF ALLEGIANCE

PRESENTATIONS

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CALIFORNIA CHOICE ENERGY AUTHORITY ACTIONS

NEW BUSINESS

CCEA NB 1. Approve Professional Services Agreement for Implementation Support Services and Administrative Services Agreement with City of Pico Rivera

Recommendations:

- a. Approve Professional Services Agreement for Implementation Support Services with the City of Pico Rivera (“Pico Rivera”); and authorize the Executive Director, or his designee, to sign all documents.
- b. Approve Administrative Services Agreement with Pico Rivera; and authorize the Executive Director, or his designee, to sign all documents.
- c. Recognize revenue of \$79,998 into Account No. 491-3100-002 and appropriate a total of \$79,998 into Account No. 491-4370-002 for professional services to be provided to Pico Rivera in accordance with the above agreements.
- d. Approve amendment to Master Professional Services Agreement with Calpine Energy Solutions, LLC (“Calpine”) to support work performed for Pico Rivera under the terms of the Professional Services Agreement for Implementation Support Services and Administrative Services Agreement; and authorize the Executive Director, or his designee, to sign all documents.
- e. Approve amendment to Professional Service Agreement with Pacific Energy Advisors (“PEA”) to support work performed for Pico Rivera under the terms of the Professional Services Agreement for Implementation Support Services and Administrative Services Agreement for Pico Rivera; and authorize the Executive Director, or his designee, to sign all documents.

On April 11, 2017, the City of Pico Rivera, a newly formed Community Choice Aggregator (“CCA”), approved a Resolution to join CCEA, a Professional Services Agreement for Implementation Support Services with CCEA, and an Administrative Services Agreement with CCEA for the purpose of receiving operational and administrative support services, including the purchase and sale of electricity, technical support, and data management services, on behalf of their CCA. Pico Rivera’s CCA program will launch in September 2017. CCEA will provide Implementation Support Services in preparation for the launch, and operational support services under the terms of the Administrative Services Agreement.

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CCEA NB 2. Approve Professional Services Agreement for Implementation Support Services and Administrative Services Agreement with City of San Jacinto

Recommendations:

- a. Approve Professional Services Agreement for Implementation Support Services with the City of San Jacinto (“San Jacinto”); and authorize the Executive Director, or his designee, to sign all documents.
- b. Approve Administrative Services Agreement with San Jacinto; and authorize the Executive Director, or his designee, to sign all documents.
- c. Recognize revenue of \$64,000 into Account No. 491-3100-001 and appropriate a total of \$64,000 into Account No. 491-4370-001 for professional services to be provided to San Jacinto in accordance with the above agreements.
- d. Approve amendment to Master Professional Services Agreement with Calpine Energy Solutions. LLC (“Calpine”) to support work performed for San Jacinto under the terms of the Professional Services Agreement for Implementation Support Services and Administrative Services Agreement; and authorize the Executive Director, or his designee, to sign all documents.
- e. Approve amendment to Professional Services Agreement with Pacific Energy Advisors (“PEA”) to support work performed for San Jacinto under the terms of the Professional Services Agreement for Implementation Support Services and Administrative Services Agreement; and authorize the Executive Director, or his designee, to sign all documents.

On April 18, 2017, the City a San Jacinto, a newly formed Community Choice Aggregator (“CCA”), approved a Professional Services Agreement for Implementation Support Services with CCEA and an Administrative Services Agreement with CCEA for the purpose of receiving operational and administrative support services, including the purchase and sale of electricity, technical support, and data management services, on behalf of their CCA. San Jacinto’s CCA program will launch in September 2017. CCEA will provide Implementation Support Services in preparation for launch, and operational support services under the terms of the Administrative Services Agreement.

COUNCIL ACTIONS

MINUTES

M 1. Approve the City Council/Successor Agency/Financing/ Power/ California Choice Energy Authority Regular Meeting Minutes of April 25, 2017.

CONSENT CALENDAR

CC 1. Waive further reading of any proposed ordinances. (This permits reading the title only in lieu of reciting the entire text.)

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CC 2. Approve the Check and Wire Registers for April 02, 2017 – April 15, 2017 in the amount of \$4,362,624.91.

At each regular City Council Meeting, the City Council is presented with the financial claims (invoices) against the City for purchase of materials, supplies, services, and capital projects for checks and Automated Clearing House (ACH) payments issued the prior two to three weeks. This process provides the City Council the opportunity to review the expenses of the City. The justifying backup information for each expenditure is available in the Finance Department.

CC 3. Approve and accept an amendment to the Development Improvements Undertaking Agreement submitted by Copper Square Apartments, LP (the “Developer”) for Site Plan Review No. 05-23a, located on the southwest corner of 30th Street West and future Avenue H-10, extending the date of completion to April 3, 2019.

On April 4, 2016, the City and Developer entered into a Development Improvements Undertaking Agreement to complete the required improvements for Site Plan Review No. 05-23a. The agreement expired April 3, 2017. On March 22, 2017, the City Engineer received a letter from the Developer requesting an extension. Staff recommends that Council approve an amendment to the existing Development Improvements Undertaking Agreement submitted by Copper Square Apartments, LP for Site Plan Review No. 05-23a, extending the completion date to April 3, 2019.

CC 4. Adopt the Tax Sharing Resolution for proposed Annexation No. 14-426, located on the southeast corner of 70th Street West and Avenue K, into Los Angeles County Sanitation District No. 14.

The property owners within Annexation No. 14-426 are requesting sewer service for their property. Before sewer service can be provided, the property must first be annexed into Los Angeles County Sanitation District No. 14. Additionally, before the annexation may be approved, the agencies already providing services to the site must negotiate reallocation of the ad valorem taxes for the property being annexed. Los Angeles County Sanitation District No. 14 submitted a written request that the City of Lancaster consider a joint resolution which will reallocate the ad valorem tax revenues generated by the property within the proposed annexation. This tax sharing resolution will provide Los Angeles County Sanitation District No. 14 with property tax revenues from the property proposed for annexation into the District.

CC 5. Award **Bid No. 661-17, Reclaimed Asphalt Pavement Screening Materials**, to Reclaimed Aggregates Inc., for the REVIVE 25 Pavement Management Program.

On April 11, 2017, at 11:00 AM, the City held a bid opening for Bid No. 661-17. One sealed bid envelope was received, opened and read aloud. The City plans to purchase approximately 6,770 tons of Recycled Asphalt Pavement (RAP) in order to complete this year’s pavement preservation efforts. RAP is considered to be a high-quality, cost effective and environmentally friendly alternative to virgin aggregate. As part of the REVIVE 25 Pavement Management Program, City staff plans to treat over 26 lane miles of roads utilizing Chip Seals. Chip Seals are one of the most versatile and widely used pavement preservation processes, which are used to maintain, protect and prolong the life of roads in good condition.

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CC 6. Approve Task Order No. 1 in accordance with the 2016-2018 Multi-Year Professional Services Agreement with Michael Baker International, of Irvine, California, in the amount of \$213,040.00 for Design Base Mapping, Final Pavement Recommendations, Traffic Engineering Services, and Preparation of Plans, Specifications and Estimates (PS&E) for Public Works Construction Project No. 17-003 - 2017 REVIVE 25 Pavement Management Program and authorize the City Manager, or his designee, to sign all documents. The consultant selection process was made in accordance with Government Codes 4526 and 53060.

Under the 2017 REVIVE 25 Pavement Management Program, the City will treat 105 lane miles of City streets. Some of the streets to be treated as part of the 2017 Pavement Management Program include: Avenue L, from 15th Street West to 30th Street West; Sierra Highway, from Avenue K to Avenue L; and 10th Street West, from Avenue K to Avenue L. To assist with the mapping and design of these road projects, the City intends to award a contract to Michael Baker International to handle design responsibilities, including mapping, preparing traffic striping and traffic control plans, and preparation of plans, specifications and estimates (PS&E) for construction. The design of the 105 lane miles of streets project is expected to be completed by November 2017, with road construction beginning in spring 2018.

CC 7. Approve Task Order No. 2 in accordance with the 2016-2018 Multi-Year Professional Services Agreement with Michael Baker International, of Irvine, California, in the amount of \$196,106.00 for Design Base Mapping, Final Pavement Recommendations, Traffic Engineering Services, and Preparation of Plans, Specifications and Estimates (PS&E) for Public Works Construction Project No. 18-001 - 2018 REVIVE 25 Pavement Management Program and authorize the City Manager, or his designee, to sign all documents. The consultant selection process was made in accordance with Government Codes 4526 and 53060.

Under the 2018 REVIVE 25 Pavement Management Program, the City will treat 90 lane miles of City streets. Some of the streets to be treated as part of the 2018 Pavement Management Program include: Division Street, from Avenue J to Avenue K; 30th Street East, from Avenue K to Avenue L; and 20th Street West, from Avenue I to Lancaster Blvd. To assist with the mapping and design of these road projects, the City intends to award a contract to Michael Baker International to handle design responsibilities, including mapping, preparing traffic striping and traffic control plans, and preparation of plans, specifications and estimates (PS&E) for construction. The design of the 90 lane miles of streets project is expected to be completed by November 2017, with road construction beginning in spring 2018. Design responsibilities completed under this task order are being conducted using the 2016-2018 Multi-Year Professional Services Agreement. Michael Baker International was selected from the pre-qualified list of consultants under Service Group Category 1, Roadway and Structures Engineering.

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CC 8. Approve Task Order No. 1 in accordance with the 2016-2018 Multi-Year Professional Services Agreement with Antelope Valley Engineering, of Lancaster, California, in the amount of \$239,850.00 for Design Base Mapping, Final Pavement Recommendations, Traffic Engineering Services, and Preparation of Plans, Specifications and Estimates (PS&E) for Public Works Construction Project No. 19-001 - 2019 REVIVE 25 Pavement Management Program and authorize the City Manager, or his designee, to sign all documents. The consultant selection process was made in accordance with Government Codes 4526 and 53060.

Under the 2019 REVIVE 25 Pavement Management Program, the City will treat 54 lane miles of City streets. Some of the streets to be treated as part of the 2019 Pavement Management Program include: Avenue L, 10th Street West to Sierra Highway; Sierra Highway, from Avenue J to Avenue K; and Avenue J, from 10th Street West to 20th Street West. To assist with the mapping and design of these road projects, the City intends to award a contract to Antelope Valley Engineering to handle design responsibilities, including mapping, preparing traffic striping and traffic control plans, and preparation of plans, specifications and estimates (PS&E) for construction. The design of the 54 lane miles of streets project is expected to be completed by November 2017, with road construction beginning in summer 2018. Design responsibilities completed under this task order are being conducted using the 2016-2018 Multi-Year Professional Services Agreement. Antelope Valley Engineering was selected from the pre-qualified list of consultants under Service Group Category 1, Roadway and Structures Engineering.

CC 9. Award **Public Works Construction Project No. 16-009, 2016 Pavement Management Program** to Granite Construction Company of Lancaster, California, in the amount of \$4,032,923.92 Base Bid, plus Additive Alternates A1 and A2 in the amount of \$732,643.08, for a Total Bid of \$4,765,567.00, plus a 10% contingency, to repair and resurface approximately 35 lane-miles of City streets; construct curb and gutter improvements; install ADA improvements and traffic striping, with the construction of new bike lanes and authorize the City Manager, or his designee, to sign all documents. This contract is awarded to the lowest responsible bidder per California Public Code Section 22038 (b).

As part of the Pavement Management Program, this project is designed to repair and resurface approximately 35 lane-miles of City streets. The streets to be resurfaced include 20th Street East (Avenue K-8 to Avenue L), 20th Street East (Avenue J to Avenue K), East Avenue J-8 (Rodin Avenue to Challenger Way), East Avenue J-8 (Challenger Way to 20th Street East), East Avenue J-8 (20th Street East to 22nd Street East), East Avenue K (Division Street to Challenger Way), neighborhood streets bounded by West Avenue K-4 to West Avenue K-8, 25th Street West to 30th Street West, and neighborhood streets bounded by Norberry to West Avenue J, 12th Street West to 15th Street West. New traffic striping will be installed that will allow for the construction of new bike lanes, conforming to the Master Plan of Trails and Bikeways.

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CC 10. Approve the Sub-Recipient Agreement between the City of Lancaster and the Housing Rights Center to provide fair housing services to the residents of Lancaster for the 2017 Community Development Block Grant (CDBG) Program Year.

The City has engaged the Housing Rights Center to provide the fair housing services in the 2016-2017 CDBG Program Year and in prior years. A letter was received from the Executive Director of the Housing Rights Center, dated April 17, 2017, stating their desire to continue to provide fair housing services to the City of Lancaster. In compliance with Federal Regulations Title 24, Part 570, Section 570.503, HUD requires that the City of Lancaster (the “Recipient”) enter into a written agreement with the Housing Rights Center (the “Sub-Recipient”) in order for the City to grant its entitlement funds to the sub-recipient for providing fair housing services.

CC 11. Acceptance of Reimbursement from Antelope Valley Air Quality Management District and Appropriation of Funds-Green Commuter EV Vanpool Project

- a. Approve an Agreement with Antelope Valley Air Quality Management District (AVAQMD) for a Plug-in Infrastructure Incentive Program Grant. The project total is \$218,280, of which 28% (\$61,925) will be reimbursed by AVAQMD, 23% (\$50,000) will be matched by Lancaster Choice Energy, and the remaining 49% (\$106,355) will be secured by Green Commuter.
- b. Appropriate \$111,925 to Lancaster Choice Energy expenditure Account No. 490-4370-755 for the purchase of equipment, installation, and networking costs.
- c. Recognize revenue in the amount of \$61,925 to Account No. 204-3750-100; appropriate a transfer of these funds from Account No. 204-4999-490 to Account No. 490-3990-204 for the purpose of reimbursing Lancaster Choice Energy for 28% of the purchase and installation costs of the equipment.

In October 2016, Antelope Valley Transit Authority (AVTA), in partnership with AVAQMD was selected to receive grant funding from the California State Transportation Agency (CalSTA). The funding includes an allowance for AVTA to work with Green Commuter to procure and operate an all-electric vanpool and car sharing program. AVTA, working with Green Commuter, plans to activate ten vanpool vehicles that will be made available to residents of AVTA’s service area who commute to jobs throughout the Antelope Valley and LA Basin. In addition to the procurement of the all-electric fleet, AVTA desires to partner with the City of Lancaster to provide electrical vehicle charging stations infrastructure in support of this pilot program. Approval of this grant will enable the City of Lancaster to join Antelope Valley Transit Authority and Green Commuter in introducing this innovative all-electric vanpool and car sharing/fleet replacement program to the Antelope Valley. Through this partnership, the City will allow the installation of new electric vehicle charging stations (EV Stations) on city-owned property for the all-electric fleet and for public use at certain locations in Lancaster.

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CC 12. Approve an increase in the contract for Lancaster Choice Energy Legal Representation, with Braun, Blaising, McLaughlin & Smith (BBMS), by \$130,000; and authorize the City Manager, or his designee, to sign all documents.

BBMS provides legal and regulatory support services to Lancaster Choice Energy (“LCE”) and CCEA. The additional costs are associated with Southern California’s 2018 General Rate Case, and additional support required for cities joining CCEA. These costs will be offset by revenues collected from Administrative Service Agreements with member cities.

CC 13. Approve Assignments of Professional Service Agreements with Calpine Energy Solutions and Pacific Energy Advisors to California Choice Energy Authority

- a. Approve the assignment of Master Professional Services Agreement with Calpine Energy Solutions, LLC (“Calpine”) to California Choice Energy Authority (“CCEA”).
- b. Approve the assignment of Professional Services Agreement with Pacific Energy Advisors (“PEA”) to CCEA; and authorize the City Manager, or his designee, to sign all documents.

The assignment of the Professional Services Agreements will allow CCEA through existing contracts to manage and support member cities. As cities join the CCEA and enter into Administrative Services Agreements, Lancaster Choice Energy staff will provide operational support and work with data management services and technical support services consultants on behalf of the CCEA.

JOINT NEW BUSINESS

JNB 1. Approve Professional Services Agreement between City of Lancaster and California Choice Energy Authority

City Council Recommendations:

Approve a professional services agreement with California Choice Energy Authority (“CCEA”) for support provided by city staff and regulatory services for all CCEA administrative service agreements.

California Choice Energy Authority Recommendation:

Approve a professional services agreement with the City of Lancaster (“the City”) for support provided by city staff and regulatory services for all CCEA administrative support agreements.

CCEA will execute Professional Services Agreements for Implementation Support Services and Administrative Service Agreements for member cities as they join CCEA. Through these agreements, CCEA will facilitate the purchase and sale of electricity and other related services on behalf of member cities. The Professional Services Agreement between the City of Lancaster and CCEA will provide a means of utilizing City staff and regulatory services in support of the agreements.

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JNB 2. Approve Administrative Services Agreement between City of Lancaster and California Choice Energy Authority

City Council Recommendation:

Approve Administrative Services Agreement with California Choice Energy Authority (“CCEA”); and authorize the City Manager, or his designee, to sign all documents.

California Choice Energy Authority Recommendations:

Approve Administrative Services Agreement with the City of Lancaster (“Lancaster”) and authorize the Executive Director, or his designee, to sign all documents.

Under the terms of this Agreement, the CCEA will provide operational support and work with various consultants in support of Lancaster’s CCA operations.

NEW BUSINESS

NB 1. Acceptance of Reimbursement from Antelope Valley Air Quality Management District and Appropriation of Funds – ebee Smart Technologies Pilot Project

Recommendations:

- a. Acceptance of reimbursement from Antelope Valley Air Quality Management District’s (AVAQMD) Plug-in Infrastructure Incentive Program Grant Agreement between the City of Lancaster and AVAQMD for the procurement of electrical vehicle charging stations. The total cost of equipment and installation is \$25,000 which will be reimbursed through this grant.
- b. Appropriate funds in the amount of \$25,000 to Revenue Account No. 204-3751-100; approve the transfer of these funds from 204-4999-490 to 490-3990-204 for the purpose of reimbursing Lancaster Choice Energy for the purchase of equipment and installation costs.
- c. Appropriate \$25,000 to expenditure Account No. 490-4370-755 for the purchase of equipment and installation costs.

The City of Lancaster has partnered with ebee Smart Technologies, a European market leader based in Berlin, Germany, to introduce its technology to North America with a streetlight electric vehicle charging project in Lancaster. This pilot project will demonstrate innovative technology that makes installing public and semi-public electric vehicle charging cheaper, faster, and more flexible by seamlessly integrating charging units into existing infrastructure such as street lights. This project is a collaboration of local and regional government and private enterprise. The City is partnering with AVAQMD, which is providing the total installation cost, and ebee Smart Technologies, which will provide the remaining project funding to cover operations, maintenance, and data collection.

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PUBLIC HEARINGS

PH 1. Appeal of the Planning Commission's Denial of Conditional Use Permit No. 16-08 (Request for Construction of a Mini-Mart with a Type 20 Off-Sale Alcohol License for Beer and Wine at the Southeast Corner of Avenue K and Division Street)

Recommendation:

Adopt **Resolution No. 17-17**, upholding the appeal and approving Conditional Use Permit No. 16-08.

The applicant's appeal is based on several issues identified on the appeal form, including 1) The Commission's denial was based on a general concern about alcohol sales, but no compelling reason for denying this specific request; 2) If alcohol sales are not permitted at this location, the mini-mart would be at a competitive disadvantage relative to other mini-marts in the City; 3) The applicant is in agreement with all conditions recommended by City staff, and the use has the support of the neighboring Penny Lane facility; 4) A mini-mart at this location will provide convenience, because existing and proposed medians will allow for this site to more easily serve both northbound and eastbound motorists. Staff's reasons for originally recommending approval of the requested use, and the associated waivers, are outlined in the Planning Commission staff report. In summary, staff feels that the use, which will provide fuel, food, beverages, and sundry items along with vehicle washing services, provides a convenience for the area, including motorists on Avenue K and the estimated 3,300 employees within the Lancaster Business Park immediately south of the proposed site. The ability to sell alcohol is a part of the overall business plan of this type of mini-mart use; sales of such alcohol would meet the current requirements of the City with respect to restrictions on sales of single containers. The Planning Commission, in its evaluation of the request, noted that seven similar outlets exist within the Avenue K corridor, even though only the two businesses located at the intersection of Avenue K and Division Street are closer than the separation distance established by Chapter 17.42 of the Lancaster Municipal Code. The Commission felt that, with this number of alcohol sales locations, they could not make a finding of public necessity as required both for the waiver and the approval of the use in general. In addition, the Commission expressed concern about approval of another alcohol sales location given the general proximity of the State of California parole office (approximately 700 feet northwest of the site), as well as iLead Charter School (approximately ¼ mile southeast of the site) and Learn 4 Life (approximately ½ mile south of the site).

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PH 2. Approval of the Community Development Block Grant (CDBG) 2017 Program Year Action Plan

Recommendation:

Approve the proposed projects described herein for the City of Lancaster's 2017 One-Year Action Plan application to be submitted to the United States Department of Housing and Urban Development.

The City of Lancaster has been a CDBG entitlement community since 1986 and receives an annual grant for developing viable urban communities that encompasses decent housing and a suitable living environment, and expanded economic opportunities, primarily for low- and moderate-income persons. The proposed One-Year Action Plan is intended to provide a summary of proposed program activities, eligibility criteria, and funding levels for the 2017 CDBG program year. All programs and/or projects submitted in the Plan are in compliance with the U.S. Department of Housing and Urban Development (HUD) guidelines for eligible activities. The list of proposed projects for the 2017 CDBG One-Year Action Plan is in compliance with the City's Five-Year Consolidated Plan and Strategy along with U.S. Department of Housing and Urban Development (HUD) project eligibility criteria and program guidelines. Approval of the proposed list of projects will enable CDBG funding availability as of July 1, 2017, the start of the 2017 program year.

COUNCIL REPORTS

CR 1. Council Reports

LANCASTER HOUSING AUTHORITY

No action required at this time.

LANCASTER FINANCING AUTHORITY

No action required at this time.

LANCASTER POWER AUTHORITY

No action required at this time.

LANCASTER SUCCESSOR AGENCY

No action required at this time.

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CITY MANAGER / EXECUTIVE DIRECTOR ANNOUNCEMENTS

CITY CLERK / AGENCY / AUTHORITY SECRETARY ANNOUNCEMENT

PUBLIC BUSINESS FROM THE FLOOR - NON-AGENDIZED ITEMS

This portion of the agenda allows an individual the opportunity to address the Legislative Bodies on any item ***NOT ON THE AGENDA*** regarding City/Agency/Authority business and speaker cards must be submitted ***prior*** to the beginning of this portion of the Agenda. Please complete a speaker card for the City Clerk/Agency/Authority Secretary and identify the subject you would like to address. We respectfully request that you fill the cards out completely and print as clearly as possible. Following this procedure will allow for a smooth and timely process for the meeting and we appreciate your cooperation. State law prohibits the Legislative Body from taking action on items not on the agenda and your matter may be referred to the City Manager/Executive Director. ***Individual speakers are limited to three (3) minutes each.***

COUNCIL / AGENCY / AUTHORITY COMMENTS

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CLOSED SESSION

1. Conference with Legal Counsel – Anticipated Litigation: significant exposure to litigation pursuant to Government Code Section 54956.9(d) (2) – two potential cases.
2. Conference with Legal Counsel – Anticipated Litigation: consideration of initiation of litigation pursuant to Government Code Section 54956.9(d) (4) - two potential cases.
3. Conference with Legal Counsel--Existing Litigation - Government Code Section 54956.9(d) (1)
4. Patton v. City of Lancaster, LASC Case No. MC 025064
5. Estarella v. City of Lancaster, LASC Case No. BC527749
6. Dunnagan v. City of Lancaster, LASC Case No. BC 615917
7. Simmons v. City of Lancaster, LASC Case No. BC 615471
8. Celebron v. City of Lancaster, LASC Case No. BC 615587
9. Kay v. City of Lancaster, LASC Case No. MC 026015
10. Arredondo v. City of Lancaster, LASC Case No. BC 573151
11. Antelope Valley Groundwater Cases
Included Actions:
Los Angeles County Waterworks District No. 40 v. Diamond Farming Co.
Superior Court of California, County of Los Angeles, Case No. BC325201;
Los Angeles County Waterworks District No. 40 v. Diamond Farming Co.
Superior Court of California, County of Kern, Case No. S-1500-CV-254-348
Wm. Bolthouse Farms, Inc. v. City of Lancaster, Diamond Farming Co. v. City of Lancaster,
Diamond Farming Co. v. Palmdale Water District
Superior Court of California County of Riverside, consolidated actions;
Case Nos. RIC 353 840, RIC 344 436, RIC 344 668
Santa Clara Case No. 1-05-CV 049053

ADJOURNMENT

Next Regular Meeting:

Tuesday, May 23, 2017 - 5:00 p.m.

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MEETING ASSISTANCE INFORMATION

In compliance with the Americans with Disabilities Act, this meeting will be held at a location accessible to persons with disabilities; if you need special assistance to participate in this meeting, please contact the City Clerk at (661)723-6020. Services such as American Sign Language interpreters, a reader during the meeting, and/or large print copies of the agenda are available. To ensure availability, you are advised to make your request at least 72 hours prior to the meeting/event you wish to attend. Due to difficulties in securing sign language interpreters, five or more business days notice is strongly recommended. For additional information, please contact the City Clerk at (661)723-6020.

AGENDA ADDENDUM INFORMATION

On occasion items may be added after the agenda has been mailed to subscribers. Copies of the agenda addendum item will be available at the City Clerk Department and are posted with the agenda on the windows of the City Council Chambers. For more information, please call the City Clerk Department at (661) 723-6020.

All documents available for public review are on file with the City Clerk Department.

STAFF REPORT
California Choice Energy Authority

CCEA NB 1
05/09/17
MVB

Date: May 9, 2017

To: Chairman Parris and Agency Directors

From: Jason Caudle, Deputy City Manager
Cathy DeFalco, Lancaster Choice Energy Manager

Subject: Approve Professional Services Agreement for Implementation Support Services and Administrative Services Agreement with City of Pico Rivera

Recommendations:

- a. Approve Professional Services Agreement for Implementation Support Services with the City of Pico Rivera (“Pico Rivera”); and authorize the Executive Director, or his designee, to sign all documents.
- b. Approve Administrative Services Agreement with Pico Rivera; and authorize the Executive Director, or his designee, to sign all documents.
- c. Recognize revenue of \$79,998 into Account No. 491-3100-002 and appropriate a total of \$79,998 into Account No. 491-4370-002 for professional services to be provided to Pico Rivera in accordance with the above agreements.
- d. Approve amendment to Master Professional Services Agreement with Calpine Energy Solutions, LLC (“Calpine”) to support work performed for Pico Rivera under the terms of the Professional Services Agreement for Implementation Support Services and Administrative Services Agreement; and authorize the Executive Director, or his designee, to sign all documents.
- e. Approve amendment to Professional Service Agreement with Pacific Energy Advisors (“PEA”) to support work performed for Pico Rivera under the terms of the Professional Services Agreement for Implementation Support Services and Administrative Services Agreement for Pico Rivera; and authorize the Executive Director, or his designee, to sign all documents.

Fiscal Impact:

There is no fiscal impact for FY 16/17. The appropriate expenses and revenues associated with the performance of these agreements for FY 17/18 will be included in the FY 17/18 budget. Sufficient funds will be available through revenues collected from the Professional Services Agreements for Implementation Support Services and the Administrative Services Agreement.

Background:

In 2012, Lancaster City Council adopted Resolution 12-59 forming the California Clean Energy Authority, a Joint Powers Agreement (“JPA”) with the City of San Jacinto with the purpose of expanding solar partnerships.

On March 28, 2017, Lancaster City Council adopted Resolution No. 02-17, adopting the first amendment to the California Clean Energy Authority Joint Exercise of Powers Agreement. The amendment changed the name of the JPA to California Choice Energy Authority (“CCEA”) to better reflect the authority’s purpose and administrative support to be provided to member cities for their CCA operational services.

On April 11, 2017, the City of Pico Rivera, a newly formed Community Choice Aggregator (“CCA”), approved a Resolution to join CCEA, a Professional Services Agreement for Implementation Support Services with CCEA, and an Administrative Services Agreement with CCEA for the purpose of receiving operational and administrative support services, including the purchase and sale of electricity, technical support, and data management services, on behalf of their CCA.

Pico Rivera’s CCA program will launch in September 2017. CCEA will provide Implementation Support Services in preparation for the launch, and operational support services under the terms of the Administrative Services Agreement.

JC:cd

Attachments:

Professional Services Agreement for Implementation Support Services
Administrative Services Agreement

AGREEMENT FOR CONSULTING SERVICES

THIS AGREEMENT FOR CONSULTING SERVICES (this “Agreement”) is made and entered into this ____ day of _____, 20___, by and between the CITY OF PICO RIVERA a municipal corporation (the “City”), and the California Choice Energy Authority, created pursuant to the Joint Exercise of Powers Act (Cal. Gov’t. Code Sections 6500 et seq.) (“CCEA”) (collectively, the “Parties”).

RECITALS

WHEREAS, Pico Rivera desires to form a Community Choice Aggregation (“CCA”) to provide energy to its residents and businesses.

WHEREAS, Pico Rivera desires for CCEA to undertake certain services, as provided herein, identified as:

IMPLEMENTATION SUPPORT OF A COMMUNITY CHOICE AGGREGATION

WHEREAS, CCEA desires to facilitate access to the professional, technical and other knowledge and expertise of certain CCEA Members, their employees, contractors and/or consultants in connection with the formation of the City of Pico Rivera’s Community Choice Aggregation.

NOW, THEREFORE, the parties agree as follows:

1. **Parties.** The parties to this Agreement are the City of Pico Rivera and the California Choice Energy Authority.
2. **Description of Work.** CCEA shall perform or facilitate the performance of the services set forth in the “Scope of Services and Payment Schedule,” attached hereto as Exhibit “A” and incorporated herein by reference (collectively, the “Services”).
3. **Obligations of the City of Pico Rivera.** Pico Rivera shall pay the CCEA an amount not to exceed \$160,000 for the Services. Pico Rivera will be invoiced five equal payments of \$26,666 beginning in the month of April of 2017 and ending the month of August of 2017 with one final invoice payment of \$26,670 the month of September of 2017. Payments shall be due thirty (30) days after the CCEA invoice is submitted to Pico Rivera.
4. **Obligations of the CCEA.** The CCEA’s Board of Directors or its designee shall determine which CCEA Members, their employees, contractors and/or consultants shall perform the Services as required by this Agreement.
5. **Term; Termination.** The term of this Agreement shall commence on ____ and terminate upon the completion of Services and final payment therefor, or upon the termination of the Agreement as set forth herein. Either party may terminate this Agreement at any time without cause by giving thirty (30) days written notice to the other party of such termination and specifying the effective

date thereof. In the event of termination of this Agreement, CCEA will be paid on a prorated basis for work completed and/or in progress at the time of issuance of such termination notice.

6. **Indemnification.** Pico Rivera agrees to indemnify, defend and hold harmless the CCEA, its board of directors, officers, members, contractors, consultants and members' employees, contractors and/or consultants (collectively, for purposes of this provision, "Indemnified Parties") 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 this Agreement and/or the work to be performed in the formation of the City's CCA pursuant to this Agreement, except where caused by the sole active negligence or willful misconduct of the Indemnified Parties.

7. **Ownership of Documents.** All reports, studies and other documents that are prepared by CCEA, its employees, contractors and/or consultants in the course of performing the work required by this Agreement, that are specific to Pico Rivera's CCA, shall be the property of Pico Rivera.

8. **Data Provided to CCEA.** Pico Rivera shall provide to CCEA all data, including reports, records and other information, in Pico Rivera's possession, or cause to be provided data not in Pico Rivera's possession, which may facilitate the timely performance of the work described in the Scope of Services.

9. **Notices.** Any notice or communication required or permitted under this Agreement shall be sufficiently given if delivered in person or by certified mail, return receipt requested, and addressed as listed below. All notices required by this Agreement are effective on the day of receipt, unless otherwise indicated herein.

CCEA	Mark Bozigian, Executive Director California Choice Energy Authority c/o City of Lancaster 44933 North Fern Avenue Lancaster, California 93534
CITY	René Bobadilla, City Manager City of Pico Rivera 6615 Passons Boulevard Pico Rivera, CA 90660

10. **Resolution of Disputes.** Disputes regarding the interpretation or application of any provision of this Agreement shall, to the extent reasonably feasible, be resolved through good faith negotiations between the parties.

11. **Severability.** If any provisions of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

12. **Amendment.** 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 CCEA and the City.

13. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of California.

14. **Exhibits.** The following exhibit to which reference is made in this Agreement is deemed incorporated herein in its entirety:

Exhibit "A" Scope of Services and Payment Schedule

15. **Effective Date; Counterparts.** This Agreement may be executed in counterparts by all parties and shall become effective and binding upon the parties at such time as all of the signatories hereto have signed the original or a counterpart original of this Agreement. Each such counterpart shall constitute an original and all such counterparts so executed shall constitute one Agreement, binding upon all of the parties thereto, notwithstanding that all of the parties are not a signatory to the original or the same counterpart. Each counterpart shall have the same force and effect as if all such signatures were contained in one instrument. A facsimile copy shall be considered an original for the purposes of this Agreement. Facsimile or e-mail transmissions shall be deemed effective as originals.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their respective officers thereunto duly authorized.

[Signatures begin on following page]

CITY OF PICO RIVERA
PICO RIVERA, CALIFORNIA

By: _____

(Name, Title)

Dated: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

CALIFORNIA CHOICE ENERGY AUTHORITY

By: _____
Mark Bozigian, Executive Director

Dated: _____

ATTEST:

Lancaster City Clerk / CCEA Secretary

APPROVED AS TO FORM:

Lancaster City Attorney /
Counsel for CCEA Board of Directors

EXHIBIT "A"

SCOPE OF SERVICES AND PAYMENT SCHEDULE

1) General CCA Implementation Support

- a. Represent CCA in implementation efforts
 - i. Coordination with SCE and data manager through testing and launch
 - ii. Coordination with data manager and call center operator in development of scripts, terms & conditions
 - iii. Coordinate with Pico Rivera staff on development of marketing and notification materials
- b. Preparation of all Southern California Edison Forms and Agreements in support of CCA implementation
- c. Prepare for and participate in City Council meetings, providing technical support during key discussions and decision making
- d. Coordination with pertinent jurisdictional regulatory agencies: to the extent that jurisdictional regulatory agencies have questions regarding applicable reports/submittals and/or general questions regarding CCA operations.
- e. Participate in discussions/meetings with key customer accounts, providing technical expertise related to rates, resource planning, power supply and anticipated environmental impacts; and
- f. General as-needed advisory services

2) Power Supply and Services Contracting - Supplier Selection and Contracting

- a. Develop a detailed load forecast utilizing recent SCE customer information for all eligible customers
- b. Determine desired energy and capacity quantities, which would supply aggregate customer requirements, including anticipated participation in default and voluntary retail service options
- c. Prepare draft solicitation materials, including a Request for Proposals/Offer document and related bid workbooks (which will provide an organized, uniform framework for bidder responses), to support the procurement of necessary energy and capacity products as well as scheduling coordinator services
- d. Prepare draft solicitation materials, including a Request for Proposals/Offer document and related bid workbooks to support the procurement of necessary data management services
- e. Assist the City in developing and finalizing form transaction documents for desired products and services
- f. Evaluate offers received in response to the aforementioned solicitation processes and assist the City in selecting the preferred supplier(s) of such products and services
- g. In conjunction with the City's selected legal counsel, support contract negotiation for desired products and services;
- h. Support "go/no-go" decision to launch the CCA program based on final power supply prices and then-current SCE retail electric rates
- i. Perform necessary coordinative activities with the City's selected supplier(s) during startup.

3) CCA Program Development

- a. Prepare a draft NEM tariff, including applicable tariff language and sample customer impact analyses
- b. Prepare a draft FIT, including applicable project eligibility criteria, pricing schedules and an appropriate power purchase agreement (which will be developed in conjunction with the City’s designated power contracting counsel)
- c. Coordinate with the City’s selected data management services provider to ensure the effective implementation of NEM rates and related bill calculations
- d. Coordinate with the City’s selected Qualified Reporting Entity to ensure that energy production from FIT projects is appropriately communicated to and tracked within the Western Renewable Energy Generation Information System (“WREGIS”)

4) Regulatory Registrations and Compliance Systems

- a. Prepare a regulatory compliance calendar and reporting matrix to ensure that management has a thorough understanding of currently applicable technical reporting requirements and related submittal deadlines
- b. Prepare load forecast and related filings to ensure compliance with California’s resource adequacy program
- c. Assist in completing requisite registration materials to become a WREGIS account holder – a WREGIS account will be necessary to track and report on renewable energy purchases for purposes of complying with California’s Renewables Portfolio Standard program and substantiating procurement of renewable energy, generally speaking
- d. Assist in becoming a candidate Congestion Revenue Rights (“CRR”) holder with the California Independent System Operator (“CAISO”) – CRRs may help mitigate certain financial risks and reduce costs associated with energy delivery within the CAISO market
- e. Assist in preparing requisite customer cost comparisons, which indicate the cost comparative cost impact of taking service with the CCA program relative to SCE, and prospective power source disclosures

5) Rate Setting

- a. Develop preliminary and final revenue requirements for the first year of program operation
- b. Prepare preliminary and final rate schedules for the first year of program operation
- c. Prepare CCA/SCE cost comparisons to ensure an understanding of anticipated customer cost impacts

Total Costs for Implementation Support Work..... \$160,000.00

Five equal payments of \$26,666 (April 2017-August 2017) and one final payment of \$26,670 (September 2017) will be invoiced at the end of each month beginning with the month of April. Payment will be due within 30 days.

**ADMINISTRATIVE SERVICES AGREEMENT
(CITY OF PICO RIVERA),**

dated as of [_____], 2017,

between

**CALIFORNIA CHOICE ENERGY AUTHORITY,
as Provider,**

and

**CITY OF PICO RIVERA,
as Customer**

**ADMINISTRATIVE SERVICES AGREEMENT
(CITY OF PICO RIVERA)**

This ADMINISTRATIVE SERVICES AGREEMENT (CITY OF PICO RIVERA) (this “**Agreement**”), dated as of [DATE], 2017 (the “**Effective Date**”), is between California Choice Energy Authority, a California joint powers authority (“**Provider**”), and City of Pico Rivera, a municipal corporation organized and operating under the laws of the State of California (“**Customer**”). Provider and Customer are sometimes referred to in this Agreement individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

WHEREAS, pursuant to California Public Utilities Code (the “**Code**”) Sections 366.1, *et seq.*, Customer has been registered as a “community choice aggregator” (as defined in the Code), which has been established for the purpose of delivering community choice aggregation services to certain customers located within its boundaries;

WHEREAS, pursuant to Code Section 366.2, Customer submitted its implementation plan detailing the process and consequences of community choice aggregation, and its statement of intent to establish electrical load aggregation, to the California Public Utilities Commission (the “**CPUC**”);

WHEREAS, pursuant to Code Section 366.2, a community choice aggregator may enter into agreements for services to facilitate the sale and purchase of electricity and other related services;

WHEREAS, Provider has also been registered as a CCA and has expertise and knowledge in the management and administration of community choice aggregation programs and maintains business relationships with multiple energy suppliers;

WHEREAS, due to Provider’s expertise and knowledge, Customer wishes to engage Provider as an independent contractor, during the Term of this Agreement, for the purpose of facilitating the purchase and sale of electricity and other related services on behalf of Customer and for performing certain other duties and services on the terms and conditions set forth herein; and

WHEREAS, Provider is willing to perform such duties and services for Customer on the terms and conditions set forth herein for a fee.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**ARTICLE 1
DEFINITIONS**

1.1 Definitions.

As used in this Agreement, all capitalized terms shall have the respective meanings given to them in this Agreement and in Exhibit A (Schedule of Definitions).

1.2 Construction.

All references herein to an agreement shall be to such agreement as amended, supplemented or modified from time to time. All references to a particular entity shall include a reference to such entity's successors and permitted assigns. The words "herein", "hereof" and "hereunder" and other words of similar import shall refer to this Agreement as a whole, including all appendices, annexes, exhibits and schedules, and not to any particular section or subsection of this Agreement. Wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and neuter genders. The words "includes" or "including" shall be deemed to be followed by the words "without limitation". All references to statutes and related regulations shall include any amendments of the same and any successor statutes and regulations. All exhibits and schedules to this Agreement are hereby incorporated herein by reference, including the following:

- (i) Exhibit A – Schedule of Definitions
- (ii) Exhibit B – Scope of Work
- (iii) Exhibit C – Fixed Fee Rate, Reimbursable Expenses and Notice Address
- (iv) Exhibit D – Authorization Documents
- (v) Exhibit E – Customer Approval Procedures
- (vi) Exhibit F – Form of Authorized Officer Approval
- (vii) Exhibit G – Joint Exercise of Powers Agreement Relating to the California Choice Energy Authority and amendments thereto

ARTICLE 2 ENGAGEMENT OF CONTRACTOR

2.1 Engagement of Provider.

Customer hereby engages Provider as an independent contractor to perform certain administration, energy procurement and resource planning services (as such Services are described herein) on behalf of Customer in connection and to perform certain other duties, all as set forth in this Agreement. In consideration of the fees and cost reimbursements payable to Provider hereunder, Provider accepts such engagement and agrees to perform the Services in accordance with the terms and conditions hereof.

2.2 Relationship.

(a) Provider shall act as an independent contractor of Customer with respect to the performance of its obligations hereunder. Neither Provider nor its Affiliates, employees or Subcontractors (including Provider's legal counsel) or the employees of any such parties engaged in connection with the Services shall be deemed to be an agent, representative, employee, or servant of Customer. This Agreement is not intended to create, and shall not be construed to create, a relationship

of partnership or an association of profit between Customer and Provider. Provider is not admitted to practice law in any jurisdiction, and will not provide legal advice to Customer in connection with the performance of the Services. Provider is not licensed as a provider of accounting services, does not hold any certifications required to be held by those providing accounting services, and will not provide any services that require such licensing and certification. Provider is not licensed as a financial advisor, financial manager, insurance advisor, or insurance broker.

(b) In the unanticipated event that Provider or any employee, agent, or subcontractor of Provider providing Services hereunder claims, or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (“PERS”), to be eligible for enrollment in PERS as an employee of the Customer, Provider shall indemnify, defend, and hold harmless Customer for the payment of any employee and/or employer contributions for PERS benefits on behalf of Provider or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Customer.

(c) Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Provider and any of its employees, agents, and subcontractors providing Services hereunder shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by Customer, including but not limited to eligibility to enroll in PERS as an employee of Customer and entitlement to any contribution to be paid by Customer for employer contribution and/or employee contributions for PERS benefits.

2.3 Engagement of Third Parties.

Provider may, subject to the other provisions of this Agreement, engage such Persons as it deems reasonably necessary and appropriate for the purpose of performing or carrying out any of the Services or its obligations under this Agreement; provided, however, that no such engagement shall relieve Provider of any of its obligations or liabilities under this Agreement, including those set forth in Article 7; and provided further, that, except as provided herein, Provider’s use of such Persons shall not modify or increase the compensation payable to Provider pursuant to Article 5. Except as expressly set forth herein, nothing in this Agreement shall be construed to create any contractual relationship between any such Person (including Provider’s legal counsel) and Customer.

ARTICLE 3 TERM AND RENEWAL

3.1 Term.

(a) Unless earlier terminated in accordance with Article 8, the term of this Agreement shall commence on the Effective Date and shall continue for a period equal to the longer of (a) three (3) years from the Effective Date, or (b) the longest term of any Energy Contract to which the Authority is a party on behalf of Customer (the “**Base Term**”; as such period may be extended pursuant to clause (b), the “**Term**”).

(b) Unless sooner terminated as set forth in Article 8, at the expiration of the Base Term, the term of this Agreement shall be automatically extended until such time as a Party provides written notice to the other Party that it elects to terminate this Agreement pursuant to Article 8 (such

written notice, a “**Termination Notice**”). Following receipt by such other Party of a Termination Notice, this Agreement shall terminate as set forth in Section 8.4.

(c) For purposes of greater clarity, the definition of “Term” shall include the Base Term and the renewal term of this Agreement as set forth in clause (b).

ARTICLE 4 DUTIES OF PROVIDER

4.1 Services.

During the Term, Provider shall perform the administration, energy procurement, contract negotiation, contract administration, resource planning services and other services identified in the Scope of Work set forth in Exhibit B hereto or as otherwise agreed to by the Parties pursuant to the terms hereof (the “**Services**”). The Services shall be comprised of those services identified in the Scope of Work Exhibit as “Fixed Fee Services” (collectively, the “**Fixed Fee Services**”) and those services to be performed on behalf of Customer and identified in the Scope of Work Exhibit as “Reimbursable Services” (collectively, the “**Reimbursable Services**”).

4.2 General Operating Standards.

Provider shall perform the Services in a good, workmanlike, and commercially reasonable manner in accordance with the requirements of this Agreement and Applicable Laws. Provider shall use commercially reasonable efforts to cause the Services to be planned and performed in a timely and cost-effective manner. Provider shall reasonably cooperate with Customer with respect to the requirements relating to applicable provisions of the Authorization Documents that relate to the tasks to be completed by Customer on or before the date requested by Customer.

4.3 Personnel.

Provider’s administration personnel as a group, including any Persons engaged by Provider pursuant to Section 2.3, shall be qualified in administering services related to community choice aggregation programs, possess any certification(s) or license(s) necessary or required by law to perform the service, and experienced in the duties to which they are assigned.

ARTICLE 5 FEES AND COST REIMBURSEMENT

5.1 Fixed Fees.

(a) As compensation for performing the Fixed Fee Services, Customer shall pay Provider a monthly fee equal to the “Fixed Fee Rate” identified on Exhibit C hereto (as such fee is adjusted pursuant to Section 5.1(b), the “**Fixed Fee**”) during the Term. The Fixed Fee shall be based on the pro-rata share of Customer’s Bundled Load compared to the aggregate Bundled Load for all Provider’s members, determined each fiscal year by Provider, and payable in accordance with Section 5.3. The Fixed Fee does not include amounts payable under Energy Contracts or the Security Documents.

(b) The Fixed Fee shall be adjusted as follows:

(i) No later than July 1, 2019, Provider shall have a one-time right to adjust (by increasing or decreasing) the Fixed Fee amount set forth in Exhibit “C” to reflect actual costs incurred or expected to be incurred in providing the Fixed Fee Services. Provider’s one-time adjustment of the Fixed Fee as described in this subparagraph shall be preceded by written notice to Customer, and said notice shall provide an explanation and support for the adjustment;

(ii) Commencing on July 1, 2019, and every July 1 thereafter during the Term of this Agreement, to reflect reasonable cost increases actually incurred by Provider in performing this Agreement, the Fixed Fee shall be increased in an amount equal to the change in the Consumer Price Index (CPI-U) for the Los Angeles – Riverside – Orange County region as published by the Federal Bureau of Labor Statistics as measured from May to May of each year, provided that no such increase shall be more than three percent (3%) of the Fixed Fee applicable for the immediately preceding fiscal year; and

(iii) Within ninety (90) days after the commencement or termination of deliveries of electricity under an Energy Contract associated with a change in membership of Provider, Provider shall recalculate the Fixed Fee in accordance with Section 5.1(a), and the recalculated Fixed Fee shall be applied and payable on a prospective basis.

5.2 Reimbursable Expenses.

(a) During the Term, Customer shall reimburse Provider for the expenses actually incurred by Provider in connection with the performance of the Reimbursable Services (the “**Reimbursable Expenses**”).

(b) The Reimbursable Expenses shall be allocated to Customer as follows:

(i) Data management fees will be allocated to Customer on the basis of the Customer’s total number of electric service accounts multiplied by the per account maintenance fee invoiced by the Data Management service provider.

(ii) Professional services fees and costs, and any other Reimbursable Expenses not allocated pursuant to Section 5.2(b)(i), will be allocated among all Provider members on an equal basis.

(c) The Reimbursable Expenses incurred by Provider shall be invoiced and payable as set forth in Section 5.3.

5.3 Invoicing and Payment Procedures.

(a) The Fixed Fee and the Reimbursable Expenses shall be payable for each month on the twenty-fifth (25th) each calendar month during the Term (each such date, a “**Payment Date**”) and shall be prorated for any partial monthly period at the beginning and end of the Term, with such prorations based on a thirty (30) day calendar month. Invoiced amounts will be paid by wire transfer of immediately available funds to Provider at an account designated in writing by Provider.

(b) Provider shall submit invoices to Customer at least ten (10) days prior to the relevant Payment Date for the Fixed Fee and Reimbursable Expenses that are due and payable on such Payment Date. Invoices by Provider shall be sent to Customer at the address(es) set out in Exhibit C.

(c) Once Customer has maintained a positive cash flow for three (3) consecutive months, Provider may submit invoices to Customer and to the collateral agent for payment from the lockbox account established pursuant to the Security Documents not less than ten (10) days prior to the relevant Payment Date for the Fixed Fee and Reimbursable Expenses that are due and payable on such Payment Date.

(d) Customer may, in good faith, dispute the correctness of any invoice, bill, charge, or any adjustment to an invoice, rendered under this Agreement, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, bill, charge, or adjustment to an invoice, was rendered. If a Payment Invoice or portion thereof, or any other claim or adjustment arising thereunder, is disputed, payment of the undisputed portion of the Payment Invoice shall be required to be made when due, with written notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount (the “**Disputed Payment**”) shall not be required until the dispute is resolved. The Parties shall use commercially reasonable efforts to resolve the Disputed Payment within ten (10) Business Days of receipt by Provider of the notice of the Disputed Payment. Within five (5) days of the Parties agreeing on a resolved payment amount, Customer shall pay, or cause to be paid, such resolved payment to Provider in accordance with this Section 5.2(c). In the event the Parties are unable to resolve a payment dispute within ten (10) Business Days, the lesser amount shall be deemed due payable unless and until a different amount is identified following conclusion of the dispute resolution provisions in Article 12, or a court of competent jurisdiction orders otherwise.

5.4 Records and Audits.

(a) Except as otherwise required by Applicable Laws, Provider shall keep books and records in accordance with generally accepted accounting principles with respect to Services performed for a period of three (3) years after the applicable creation date of such book or record; or any such longer period as may be required by law.

(b) Upon no less than seventy-two (72) hours’ notice to Provider, Provider shall make such books and records related to the Services available for inspection and audit by Customer or its designated agents at Customer’s expense during Regular Work Hours and at the office where such books and records are kept; provided that Provider’s company software, books and records not directly related to this Agreement shall not be subject to inspection or audit.

(c) If any such inspection or audit discloses that any error has occurred and that, as a result thereof, any overpayment or any underpayment has occurred, the amount thereof shall promptly be paid with interest at the rate set forth in Section 5.4 to the Party to whom it is owed by the other Party; provided that Provider or Customer, as applicable, shall only be liable for any amounts hereunder that relate to a period within twelve (12) months of the date of the inspection or audit conducted by Customer.

5.5 Past Due Amounts.

Any amounts due under this Agreement, if not timely paid by the Party from whom they are due, shall bear interest at the per annum rate equal to the Prime Rate (as published in The Wall Street Journal) plus one and one-half percent (1.5%), prorated on the basis of a 365-day year (or such lower rate as is the maximum rate permitted by Applicable Law) from the date that such amount was due and payable (taking into account any grace period herein provided) until the time that such amount is paid.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES; COVENANTS

6.1 General Representations and Warranties.

Each Party, for itself only, hereby represents and warrants to the other Party hereto, as of the date hereof, that:

(a) It is an entity duly organized, validly existing and in good standing under the applicable laws of the jurisdiction in which it was formed.

(b) It has the requisite power and authority to enter into this Agreement and to perform its obligations hereunder (including with respect to any indemnity obligations hereunder), and the execution, delivery and performance hereof do not and will not contravene any Applicable Law, or any order of any court or Governmental Authority or agency applicable to or binding on it or any of its properties, or contravene the provisions of, or constitute a default under, its organizational documents or any indenture, mortgage, contract or other agreement or instrument to which it is a party or by which it or any of its property is bound or affected.

(c) This Agreement has been duly authorized by all necessary actions on the part of such Party and the execution, delivery and performance by such Party of this Agreement do not require any approval not already obtained by it or any approval or consent not already obtained of any trustee or holders of indebtedness or obligations of such Party.

(d) No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority or regulatory body is required for the due execution, delivery or performance by such Party of this Agreement.

(e) The execution, delivery and performance of this Agreement have been duly authorized by all requisite entity actions.

(f) The person signing this Agreement is authorized to execute this Agreement on behalf of, and to bind, the applicable Party.

(g) Assuming the due authorization, execution and delivery of this Agreement by the other Parties hereto, this Agreement constitutes its valid and binding obligation, enforceable against it in accordance with its terms, except to the extent such enforceability is limited by bankruptcy, insolvency, moratorium or similar laws affecting or relating to the enforcement of creditors' rights generally and by general equitable principles (regardless of whether such enforcement is considered in a proceeding in equity or at law).

(h) There are no pending or, to such Party's knowledge, threatened actions or proceedings against such Party before any court or administrative agency which would materially adversely affect such Party's ability to perform its obligations hereunder.

6.2 Additional Customer Representations and Warranties.

(a) Delegation of Authority and Authorization Documents. Customer has taken and performed all acts necessary, and has received all necessary authorizations, approvals or other actions required by, and has made all necessary filings with, any Governmental Authority that is required for the (i) delegation of authority to Provider as contemplated hereby (ii) filing with Provider an executed counterpart of the JPA and (iii) adoption of a resolution of its governing body approving the JPA and the execution and delivery thereof. The Authorization Documents represent a true, complete and accurate list of all such necessary authorizations, approvals, actions and filings and Customer has provided true, complete and accurate copies of the Authorization Documents to Provider as of the Effective Date. Other than the Authorization Documents, there are no other authorizations, approvals, filings or other actions required for Customer to enter into this Agreement, perform its obligations hereunder and delegate authority to Provider to perform the Services.

(b) Security Documents and Ancillary Documents. Subject to Provider's compliance with the Customer Approval Procedures and, in connection with any Energy Contract entered into on behalf of Customer, Provider is authorized to (i) enter into Energy Contracts on behalf of Customer, (ii) grant to the counterparties to any such Energy Contracts a first priority security interest in any amounts received from the Utility, Customer or the end-users in Customer's territory pursuant to such Energy Contracts (as contemplated in the Security Documents), (iii) arrange for any funds received from the Utility, Customer or such end-users in connection with such Energy Contracts to be deposited into a lockbox account pledged to the counterparties to any such Energy Contract and be paid to any such counterparties in accordance with the terms and conditions of such Energy Contracts and the Security Documents, and (iv) enter into any needed ancillary documentation required in connection with the execution, performance or administration of the Energy Contracts, the Security Documents or in connection with the provision of the Services.

(c) Authorized Officer. Customer has designated the Authorized Officer to approve Provider's execution of Energy Contracts as set forth in and subject to the Customer Approval Procedures, on behalf of Customer, for the purchase of energy and renewable energy and Customer has authorized the Authorized Officer to provide any such approval in the form attached hereto as Exhibit E. Upon receipt of the Authorized Officer's approval of any Energy Contract or other action, Provider is authorized to enter into such Energy Contract or perform such action on behalf of Customer.

6.3 Customer Covenants. Customer covenants and agrees as follows:

(a) Authorizing Documents. Customer shall maintain the Authorization Documents in full force and effect throughout the Term and shall immediately inform Provider of any change to the identity of the Authorized Officer hereunder or to the Authorization Documents that may affect the ability of Provider to perform its obligations hereunder.

(b) Collateral Agent's Determinations. In performing the Services hereunder, Provider may rely upon the authorizations and instructions received from the Authorized Officer (if such authorization is required pursuant to the Customer Authorization Procedures) and may rely on the accuracy of the Customer Approval Procedures. Provider shall have no liability to Customer for

actions taken in reliance on authorizations or instructions received by the Authorized Officer or in compliance with the Customer Approval Procedures. Until such time as Customer instructs Provider in writing that an individual is no longer an “Authorized Officer” hereunder, Provider shall have no duty to inquire as to the authority of such Authorized Officer to provide the authorizations or instructions in connection with the Services. In the event that Provider is at any time unsure as to the identity of the Authorized Officer hereunder, Provider may request written instructions from Customer as to the course of action to be adopted by Provider and Provider shall be entitled to conclusively rely upon such written instructions without liability to Customer or any other Person.

(c) Data Access. If requested by Provider, Customer shall assist Provider in obtaining information regarding Customer’s end-users from the Utility, including the number of end-user customers that form part of Customer’s community choice aggregation program, the energy consumption, load shapes and usage data of such end-users and the proportional share of such end-users in Customer’s territory.

(d) Customer Rates. Customer shall establish and maintain end-user customer rates designed to generate revenues sufficient to satisfy the overall revenue requirement for Customer, including timely payment of all Customer’s obligations under this Agreement, all Energy Contracts and the Security Documents.

6.4 **Response Time.**

(a) Customer Response Time.

(i) In all circumstances where Provider requests the approval, consent or cooperation of Customer to any action (or inaction) hereunder, Customer shall consider and respond to such request as promptly as feasible under the circumstances.

(ii) Provider will exercise commercially reasonable efforts to provide as much advance notice of such request as is reasonable given the prevailing circumstances and the nature of the matters for which a response is requested.

(iii) If Provider is prevented from performing its obligations under this Agreement as the result of an unreasonable delay on the part of Customer to provide a required response required pursuant hereto, then Provider’s obligations hereunder shall be excused until such time as Customer provides its required response.

(b) Provider Response Time.

(i) With respect to the provision of the Services, Provider shall promptly respond to any request or direction from or on behalf of Customer and to any event that requires action by Provider pursuant to this Agreement within the time frame by which such response is required hereunder.

ARTICLE 7 INDEMNIFICATION

7.1 **Indemnification by Provider.**

(a) Subject to Section 7.1(b), Provider shall defend, indemnify and hold harmless each Customer Indemnified Party from and against any and all Claims incurred or asserted against such Customer Indemnified Party arising out of or otherwise in connection with Provider's gross negligence, bad faith, recklessness or willful misconduct in connection with the performance of the Services hereunder, including any Claims relating to any liability resulting from any violation of or noncompliance with any Applicable Law to be complied with by Provider hereunder. Provider's obligations under this paragraph shall include all costs (including but not limited to attorneys fees) incurred in performing the same. Customer may employ counsel at its own expense with respect to any claims or demands asserted or sought to be collected against it; provided, if counsel is employed because Provider does not assume control of the defense, Provider will bear the reasonable expenses of Customer's counsel.

(b) Notwithstanding anything to the contrary in the foregoing, Provider shall not be required to defend, indemnify or hold harmless any Customer Indemnified Party from and against, and no Customer Indemnified Party shall be exculpated from, any Claims to the extent such Claims (i) are caused by or arise from the breach of this Agreement by Customer or the gross negligence, bad faith, recklessness or willful misconduct of such Customer Indemnified Party; (ii) relate to changes to the market rate for electricity, including the fact that, from time to time, negotiated rates under Energy Contracts entered into by Provider on behalf of Customer may be higher than rates charged by the Utility, (iii) relate to defaults under the Energy Contracts that are not caused by Provider's gross negligence, bad faith, recklessness or willful misconduct, or (iv) are the result of a change in governmental regulation or a change in Applicable Law.

7.2 Indemnification by Customer.

(a) Subject to Section 7.2(b), Customer shall defend, indemnify and hold harmless each Provider Indemnified Party from and against any and all Claims incurred or asserted against such Provider Indemnified Party arising out of or otherwise in connection with this Agreement and/or Provider's entry into any Energy Contract on behalf of Customer or the end-users in Customer's territory, including any Claims resulting from (i) the failure of Customer (or the end-users in its territory) to make payments with respect to an Energy Contract, or (ii) a default by Provider under any Energy Contract entered into pursuant hereto. Customer's obligations under this paragraph shall include all costs (including but not limited to attorneys fees) incurred in performing the same. Provider may employ counsel at its own expense with respect to any claims or demands asserted or sought to be collected against it; provided, if counsel is employed because Customer does not assume control of the defense, Customer will bear the reasonable expenses of Provider's counsel.

(b) Notwithstanding anything to the contrary in the foregoing, Customer shall not be required to defend, indemnify or hold harmless any Provider Indemnified Party from and against, and no Provider Indemnified Party shall be exculpated from, any Claims to the extent caused by or arising from the breach of this Agreement by Provider or the gross negligence, bad faith, recklessness or willful misconduct of such Provider Indemnified Party.

7.3 Indemnification Procedure.

(a) After receipt by an Indemnified Party of notice of the commencement of any Claim that is indemnifiable by Provider under Section 7.1 or Customer under Section 7.2 (as applicable, in such capacity, the "**Indemnifying Party**"), such Indemnified Party shall give prompt written notice to the relevant Indemnifying Party of the commencement thereof. The failure to

promptly notify such Indemnifying Party shall not relieve the Indemnifying Party of any liability that it may have to any Indemnified Party with respect to such action; provided that, to the extent that any such failure to provide prompt notice is responsible for an increase in the indemnity obligations of the Indemnifying Party, the Indemnifying Party shall not be responsible for any such increase.

(b) When required to indemnify an Indemnified Party in accordance with this Article 7, the relevant Indemnifying Party shall assume on behalf of such Indemnified Party and conduct with due diligence and in good faith the defense of any Claim against such Indemnified Party, whether or not the Indemnifying Party shall be joined therein, and the Indemnified Party shall cooperate with the Indemnifying Party in such defense.

(c) The Indemnifying Party shall have charge and direction of the defense and settlement of such Claim; provided, however, that without relieving the Indemnifying Party of its obligations hereunder or impairing the Indemnifying Party's right to control the defense or settlement thereof, the Indemnified Party may elect to participate through separate counsel in the defense of any such Claim, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless (i) the employment of counsel by such Indemnified Party has been authorized in writing by the Indemnifying Party, (ii) the Indemnified Party shall have reasonably concluded that there exists a material conflict of interest between the Indemnifying Party and such Indemnified Party in the conduct of the defense of such Claim (in which case the Indemnifying Party shall not have the right to control the defense or settlement of such Claim on behalf of such Indemnified Party) or (iii) the Indemnifying Party shall not have employed counsel to assume the defense of such Claim within a reasonable time after notice of the commencement thereof. In each of such cases the reasonable fees and expenses of counsel shall be at the expense of the Indemnifying Party.

(d) The Indemnifying Party shall obtain the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed) before entering into a settlement of or ceasing to defend such claim or action if, pursuant to or as a result of such settlement or cessation, injunctive or equitable relief or other non-monetary relief, remedy or arrangement will be imposed against the Indemnified Party or if the Indemnifying Party will not fully pay or satisfy all amounts payable with respect to such proceeding or settlement. In no event shall the Indemnifying Party be required to indemnify an Indemnified Party with respect to amounts paid in settlement of a claim unless such claim was settled with the consent of the Indemnifying Party.

7.4 **Limitations of Liability.**

(a) Total Limitation of Liability. Except for amounts payable as provided in Section 7.1 (Indemnification) and Section 2.2(b), Provider's total liability under this Agreement to Customer Indemnified Parties on all Claims of any kind, whether based on contract, indemnity, warranty, tort (including negligence), strict liability or otherwise, for all losses or damages arising out of, connected with, or resulting from this Agreement or from the performance or breach thereof, or from any services covered by or furnished during the Term of this Agreement shall with respect to any fiscal year in no case exceed one hundred percent (100%) of the value of the Fixed Fee payable in such fiscal year. Similarly, except for amounts payable as provided in Section 7.2 (Indemnification), Customer's total liability under this Agreement to Provider Indemnified Parties on all Claims of any kind, whether based on contract, indemnity, warranty, tort (including negligence), strict liability or otherwise, for all losses or damages arising out of, connected with, or resulting from this Agreement or from the performance or breach thereof, or from any services covered by or furnished during the Term

of this Agreement shall with respect to any fiscal year in no case exceed one hundred percent (100%) of the value of the Fixed Fee payable in such fiscal year.

(b) No Liability for Energy Contracts. Customer acknowledges that Provider will be entering into Energy Contracts on behalf of Customer and the end-users in Customer's territory. Customer acknowledges and agrees that neither Provider nor any member of Provider shall be liable for the amount of any shortfall between the payments due to the counterparty under such Energy Contracts and the amount received from such end-users unless such shortfall is the result of the gross negligence, willful misconduct, conversion, misappropriation or theft on the part of Provider.

(c) Waiver of Consequential Damages. Except in connection with indemnification for third-party Claims or Claims resulting from gross negligence or willful misconduct, in no event, whether based on contract, indemnity, warranty, tort (including negligence), strict liability or otherwise, shall a Party or its respective Affiliates be liable for special, incidental, exemplary, indirect or consequential damages.

7.5 **Survival.**

Notwithstanding any other provision of this Agreement, the provisions of this Article 7 are intended to and shall survive termination of this Agreement

ARTICLE 8 TERMINATION

8.1 **Termination by Customer.**

(a) Termination for Cause.

(i) Without limiting any other rights or remedies it may have, Customer shall be entitled to terminate this Agreement for cause by delivery of a Termination Notice to Provider in connection with the occurrence of any of the following events:

(1) Provider fails to make any payment required to be made by Provider to Customer hereunder when such payment is due and owing under this Agreement, and such failure shall continue for ten (10) days after written notice thereof has been given to Provider.

(2) Provider has filed against it petitions under any insolvency or bankruptcy Law of any jurisdiction which are not dismissed within ninety (90) days of the date filed, proposes any dissolution, liquidation, composition, financial reorganization or recapitalization with creditors, makes a general assignment for the benefit of creditors, files a voluntary petition in bankruptcy under any provision of Applicable Law or consents to the filing of any bankruptcy or reorganization petition against it under any similar law, or if receivers, trustees, custodians or similar agents are appointed or take possession with respect to any property or business of Provider.

(3) Provider fails to comply (other than for Force Majeure reasons) in any material respect with any term, provision or covenant of this Agreement,

other than the payment of sums to be paid hereunder, and such failure shall continue for sixty (60) days after written notice thereof has been given to Provider; provided, however, that if such failure cannot reasonably be cured within said sixty (60) day period and Provider has diligently commenced the cure of such failure within said period, then Provider shall have a commercially reasonable additional period of time to cure such default not to exceed an additional one hundred eighty (180) days.

(4) Provider assigns this Agreement in violation of the provisions of Section 13.6.

(ii) Notwithstanding the foregoing, Customer shall not have the right to terminate this Agreement pursuant to this Section 8.1(a) if the occurrence of any of the events or conditions described in this Section 8.1(a) is the result of Customer's bad faith, willful misconduct or gross negligence.

(b) Termination for Convenience. Notwithstanding anything to the contrary in this Agreement, Customer shall be entitled to terminate this Agreement or any part of the Services for convenience, at Customer's sole discretion with or without cause, by delivery of a Termination Notice to Provider at any time after the expiration of the Base Term.

(c) Timing of Termination. If Customer delivers a Termination Notice to Provider pursuant to Section 8.1(a) or 8.1(b), this Agreement shall terminate as set forth in Section 8.4.

8.2 Termination by Provider.

(a) Termination for Cause.

(i) Without limiting any other rights or remedies it may have, Provider shall be entitled to terminate this Agreement for cause by delivery of a Termination Notice to Customer in connection with the occurrence of any of the following events:

(1) Customer has failed to make any undisputed payment required to be made to Provider under this Agreement and such failure is not remedied within ten (10) days after the date on which Customer has received notice of such failure to make such payment.

(2) Customer has filed against it petitions under any insolvency or bankruptcy Law of any jurisdiction which are not dismissed within ninety (90) days of the date filed, proposes any dissolution, liquidation, composition, financial reorganization or recapitalization with creditors, makes a general assignment for the benefit of creditors, files a voluntary petition in bankruptcy under any provision of Applicable Law or consents to the filing of any bankruptcy or reorganization petition against it under any similar law, or if receivers, trustees, custodians or similar agents are appointed or take possession with respect to any property or business of Customer.

(3) Customer fails to establish or maintain end-user customer rates in compliance with Section 6.3(d), as reasonably determined by Provider, and

fails to establish such rates within sixty (60) days after written notice thereof has been given to Customer; provided, however, that if Customer has sent notice of a rate increase and is awaiting council action, then Customer shall have a commercially reasonable additional period of time to cure such default not to exceed an additional one hundred eighty (180) days.

(4) Customer assigns this Agreement in violation of the provisions of Section 13.6.

(5) Customer fails to comply (other than for Force Majeure reasons) in any other material respect with any term, provision or covenant of this Agreement, other than the payment of sums to be paid hereunder, or as otherwise provided above, and such failure continues for sixty (60) days after written notice thereof has been given to Customer; provided, however, that if such failure cannot reasonably be cured within said sixty (60) day period and Customer has diligently commenced the cure of such failure within said period, then Customer shall have a commercially reasonable additional period of time to cure such default not to exceed an additional ninety (90) days.

(ii) Provider shall not have the right to terminate this Agreement pursuant to this Section 8.2(a) if the occurrence of any of the events or conditions described in this Section 8.2(a) is the result of Provider's bad faith, willful misconduct or gross negligence.

(b) Termination for Convenience. Notwithstanding anything to the contrary in this Agreement, Provider shall be entitled to terminate this Agreement or any part of the Services for convenience, at Provider's sole discretion with or without cause, by delivery of a Termination Notice to Customer at any time after the expiration of the Base Term; provided that no Termination Notice shall be effective for at least thirty (30) days following Customer's receipt of the same, or any such longer period as may be indicated in the Termination Notice.

(c) Timing of Termination. If Provider delivers a Termination Notice to Customer pursuant to Section 8.2(a) or 8.2(b), this Agreement shall terminate as set forth in Section 8.4.

8.3 Cooperation Upon Termination.

In connection with any termination of this Agreement in accordance herewith, at the reasonable request of Customer, Provider shall cooperate with Customer to provide for the orderly transition of the performance of the Services to a replacement administrator, including the transfer of documentation and data access.

8.4 Effect of Termination; No Prejudice.

(a) Effect of Termination. Subject to clause (b) below, if Customer or Provider delivers a Termination Notice in accordance with, and as permitted by, this Agreement, then this Agreement shall terminate on the later to occur of (i) ninety (90) days from the date of such Termination Notice and (ii) the date on which all of the Energy Contracts to which Provider is a party on behalf of Customer on the date of such Termination Notice have terminated in accordance with their respective terms.

(b) No Prejudice. Termination of this Agreement shall not affect any rights or obligations as between the Parties that may have accrued prior to such termination or that expressly or by implication are intended to survive termination whether resulting from the event giving rise to termination or otherwise. In addition, except as expressly provided for herein, termination of this Agreement for any reason shall be without prejudice to Provider's right to receive a proportional amount of the Fixed Fees or payment of any outstanding Reimbursable Expenses as of the date of termination. Except as otherwise set forth in this Agreement, remedies are cumulative and the exercise of, or failure to exercise, one or more remedies by a Party shall not limit or preclude the exercise of, or constitute a waiver of, other remedies provided for under this Agreement by such Party. For breach of any provision of this Agreement for which an express remedy or measure of damages is herein provided, (i) such express remedy or measure of damages shall be the sole and exclusive remedy hereunder, (ii) the liability of the Party that has committed such breach shall be limited as set forth in such provision and (iii) the Parties hereby waive all other remedies or damages at law or in equity with respect to such breach. If no remedy or measure of damages is expressly provided herein with respect to a breach of any provision of this Agreement, the liability of the Party that has committed such breach shall be limited to direct actual damages only; provided that this limitation shall not apply to (A) Provider's obligation with respect to indemnifying and holding harmless each Customer Indemnified Party to the extent of any amount owed to a third party other than a Customer Indemnified Party, if any, or (B) Customer's obligation with respect to indemnifying and holding harmless each Provider Indemnified Party to the extent of any amount owed to a third party other than an Provider Indemnified Party.

ARTICLE 9 FORCE MAJEURE

9.1 Force Majeure.

(a) Notwithstanding any other provision of this Agreement, each Party's obligations under this Agreement shall be suspended by any Force Majeure if and to the extent that such Party is prevented or delayed from performing by reason of the Force Majeure; provided, however, that:

(i) the suspension of performance shall be of no greater scope and of no longer duration than is necessarily caused by the Force Majeure and required by any remedial measures;

(ii) no obligations of any Party that arose before the occurrence of Force Majeure shall be excused as the result of the occurrence; and

(iii) each Party shall use commercially reasonable efforts to remedy its inability to perform; provided, further, that no Force Majeure shall excuse any payment obligations of either Provider or Customer otherwise due hereunder.

(b) If the performance by a Party of its obligations under this Agreement is affected by any Force Majeure, such Party shall as soon as practicable notify the other Parties of the nature and extent thereof.

ARTICLE 10 NOTICES

10.1 Notices.

(a) All notices and other communications required or permitted by this Agreement or by Applicable Law to be served upon or given to a Party by any other Party shall be deemed duly served, given and received (i) on the date of service if served personally or if sent by facsimile transmission or electronic mail during Regular Work Hours (each with appropriate confirmation of receipt) to the Party to whom notice is to be given, or (ii) on the fourth (4th) day after mailing, if mailed by first class registered or certified mail, postage prepaid or (iii) on the next day if sent by a nationally recognized courier for next day service and so addressed and if there is evidence of acceptance by receipt addressed to the address(es) set forth in Exhibit C.

(b) The Parties, by like notice in writing, may designate, from time to time, another address or office to which notices shall be given pursuant to this Agreement.

ARTICLE 11 CONFIDENTIALITY

11.1 General Confidential Information.

(a) Except as otherwise provided in this Agreement, without the prior written consent of the other Parties hereto, no Party shall disclose Confidential Information (as defined below) received in connection with the performance of the Services.

(b) The recipient of any Confidential Information shall use the same degree of care that it uses to protect its own confidential information of like nature, but no less than a reasonable degree of care, to maintain in confidence the Confidential Information of the disclosing Party.

(c) No Party shall have any obligation under this Section 11.1 with respect to any information that:

(i) at the time of disclosure is in the public domain, or thereafter becomes part of the public domain, in each case through a source other than the receiving Party in violation of this Agreement;

(ii) is subsequently learned by receiving Party from a third party that, to the knowledge of the receiving Party, is not under an obligation to keep such information confidential;

(iii) was known to the receiving Party at the time of disclosure without confidentiality restrictions, as can be demonstrated by contemporaneous written evidence;

(iv) is generated independently by the receiving Party without reference to the Confidential Information of the disclosing Party, as can be demonstrated by contemporaneous written evidence, or

(v) is required to be disclosed pursuant to Applicable Law, regulation, subpoena, court order or other legal process or professional requirements, or in connection with the enforcement of the receiving Party's rights under this Agreement.

Prior to any such disclosure, the disclosing Party shall, to the maximum extent possible, provide reasonable notice to the other Party, with adequate time (to be judged based upon the facts and circumstances surrounding the disclosure) for the non-disclosing party to seek court intervention if it should so elect in its sole and absolute discretion.

(d) For purposes of this Agreement, “**Confidential Information**” shall mean all end-user customer specific information, including energy consumption, and market sensitive data, including non-public wholesale energy pricing disclosed in connection with negotiation or procurement of energy or related products under Energy Contracts in connection with the Services whether or not such information was owned or developed by the disclosing Party, which the receiving Party may obtain knowledge of, through or as a result of the relationship established hereunder with the disclosing Party.

(e) Provider shall obtain written approval from the relevant Customer in connection with any press release or promotional materials that reference the relationship established through this Agreement and such Parties shall agree on the form and content of such press release. Any other press announcement by a Party regarding the subject matter of this Agreement will be subject to the approval of the other Parties hereto, which approval shall not be unreasonably withheld or delayed.

11.2 Limited Disclosure of Confidential Information.

Notwithstanding the provisions of Section 11.1, Provider shall be entitled to the extent necessary for the performance of its duties hereunder to allow access to the Confidential Information to such of its employees and consultants who are directly concerned with the carrying out of Provider’s duties under this Agreement, provided that Provider shall inform each of such Persons of the confidential nature of, and Provider’s obligation of confidentiality with respect to, such Confidential Information and such employees and consultants shall agree to keep the Confidential Information confidential in accordance with the terms of this Agreement.

ARTICLE 12 DISPUTE RESOLUTION

12.1 Negotiations.

The Parties shall attempt in good faith to resolve all disputes promptly by negotiation, as set forth below.

(a) A Party may give another Party written notice of any dispute between such Parties that has not been resolved in the normal course of business. Representatives of such Parties at levels one level above the personnel who have previously been involved in the dispute shall meet at a mutually acceptable time and place within ten (10) days after delivery of such notice, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute.

(b) If such representatives are unable to resolve, or do not anticipate being able to resolve, the dispute within twenty (20) days after receiving notice of such dispute, either Party may initiate legal proceedings in a court of competent jurisdiction as provided in Section 13.2.

(c) If a Party intends to be accompanied at a meeting by an attorney, the other Party shall be given at least three (3) Business Days' notice of such intention so that the other Party may also be accompanied by an attorney. All negotiations pursuant to this Section 12.1 are confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and applicable state rules of evidence. Each Party shall bear its own costs for this dispute resolution phase.

12.2 Continued Prosecution of the Work.

In case of any dispute, Provider shall continue to diligently perform its obligations under this Agreement, and, without limiting the generality of the foregoing and subject to Section 5.3(c), Customer shall continue to make payments to Provider for those portions of the Services performed hereunder that are not the subject of dispute in accordance with this Agreement.

ARTICLE 13 MISCELLANEOUS

13.1 Execution.

This Agreement may be executed in any number of counterparts and by the different Parties on separate counterparts, each of which, when so executed and delivered (including by electronic mail), shall be an original, but all such counterparts shall together constitute but one and the same instrument.

13.2 Governing Law; Venue and Jurisdiction.

THIS AGREEMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO ITS CONFLICT OF LAWS RULES.

ANY LITIGATION ARISING HEREUNDER SHALL BE SUBJECT TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED IN THE STATE OF CALIFORNIA AND VENUE SHALL BE IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA OR THE SUPERIOR COURT FOR THE STATE OF CALIFORNIA LOCATED IN LOS ANGELES COUNTY. ANY OF THE FOREGOING COURTS SHALL HAVE PERSONAL JURISDICTION OVER THE PARTIES HERETO. EACH PARTY WAIVES ANY AND ALL RIGHTS TO CONTEST SAID JURISDICTION AND VENUE AND WAIVES ANY RIGHT TO COMMENCE ANY ACTION AGAINST THE OTHER PARTY IN ANY OTHER JURISDICTION.

13.3 Jury Waiver and Judicial Reference.

(a) EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND

(B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) IN THE EVENT ANY LEGAL PROCEEDING IS FILED IN A COURT OF THE STATE OF CALIFORNIA (THE "COURT") BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY CONTROVERSY, DISPUTE OR CLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) (EACH, A "DISPUTE") AND THE WAIVER SET FORTH IN THE PRECEDING PARAGRAPH IS NOT ENFORCEABLE IN SUCH ACTION OR PROCEEDING, THE PARTIES HERETO AGREE AS FOLLOWS:

(c) WITH THE EXCEPTION OF THE MATTERS SPECIFIED IN PARAGRAPH (b) BELOW, ANY DISPUTE WILL BE DETERMINED BY A GENERAL REFERENCE PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1. THE PARTIES INTEND THIS GENERAL REFERENCE AGREEMENT TO BE SPECIFICALLY ENFORCEABLE IN ACCORDANCE WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638.

(d) THE FOLLOWING MATTERS SHALL NOT BE SUBJECT TO A GENERAL REFERENCE PROCEEDING: (1) NON-JUDICIAL FORECLOSURE OF ANY SECURITY INTERESTS IN REAL OR PERSONAL PROPERTY, (2) EXERCISE OF SELF- HELP REMEDIES (INCLUDING, WITHOUT LIMITATION, SET-OFF), (3) APPOINTMENT OF A RECEIVER AND (4) TEMPORARY, PROVISIONAL OR ANCILLARY REMEDIES (INCLUDING, WITHOUT LIMITATION, WRITS OF ATTACHMENT, WRITS OF POSSESSION, TEMPORARY RESTRAINING ORDERS OR PRELIMINARY INJUNCTIONS). THIS AGREEMENT DOES NOT LIMIT THE RIGHT OF ANY PARTY TO EXERCISE OR OPPOSE ANY OF THE RIGHTS AND REMEDIES DESCRIBED IN CLAUSES (1) – (4) AND ANY SUCH EXERCISE OR OPPOSITION DOES NOT WAIVE THE RIGHT OF ANY PARTY TO A REFERENCE PROCEEDING PURSUANT TO THIS AGREEMENT.

(e) UPON THE WRITTEN REQUEST OF ANY PARTY, THE PARTIES SHALL SELECT A SINGLE REFEREE, WHO SHALL BE A RETIRED JUDGE OR JUSTICE. IF THE PARTIES DO NOT AGREE UPON A REFEREE WITHIN TEN (10) DAYS OF SUCH WRITTEN REQUEST, THEN, ANY PARTY MAY REQUEST THE COURT TO APPOINT A REFEREE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 640(B).

(f) ALL PROCEEDINGS AND HEARINGS CONDUCTED BEFORE THE REFEREE, EXCEPT FOR TRIAL, SHALL BE CONDUCTED WITHOUT A COURT REPORTER, EXCEPT WHEN ANY PARTY SO REQUESTS, A COURT REPORTER WILL BE USED AND THE REFEREE WILL BE PROVIDED A COURTESY COPY OF THE TRANSCRIPT. THE PARTY MAKING SUCH REQUEST SHALL HAVE THE OBLIGATION TO ARRANGE FOR AND PAY COSTS OF THE COURT REPORTER, PROVIDED THAT SUCH COSTS, ALONG WITH THE REFEREE'S FEES, SHALL ULTIMATELY BE BORNE BY THE PARTY WHO DOES NOT PREVAIL, AS DETERMINED BY THE REFEREE.

(g) THE REFEREE MAY REQUIRE ONE OR MORE PREHEARING CONFERENCES. THE PARTIES HERETO SHALL BE ENTITLED TO DISCOVERY, AND THE

REFEREE SHALL OVERSEE DISCOVERY IN ACCORDANCE WITH THE RULES OF DISCOVERY, AND MAY ENFORCE ALL DISCOVERY ORDERS IN THE SAME MANNER AS ANY TRIAL COURT JUDGE IN PROCEEDINGS AT LAW IN THE STATE OF CALIFORNIA. THE REFEREE SHALL APPLY THE RULES OF EVIDENCE APPLICABLE TO PROCEEDINGS AT LAW IN THE STATE OF CALIFORNIA AND SHALL DETERMINE ALL ISSUES IN ACCORDANCE WITH APPLICABLE STATE AND FEDERAL LAW. THE REFEREE SHALL BE EMPOWERED TO ENTER EQUITABLE AS WELL AS LEGAL RELIEF AND RULE ON ANY MOTION WHICH WOULD BE AUTHORIZED IN A TRIAL, INCLUDING, WITHOUT LIMITATION, MOTIONS FOR DEFAULT JUDGMENT OR SUMMARY JUDGMENT. THE REFEREE SHALL REPORT HIS OR HER DECISION, WHICH REPORT SHALL ALSO INCLUDE FINDINGS OF FACT AND CONCLUSIONS OF LAW.

(h) THE PARTIES RECOGNIZE AND AGREE THAT ALL DISPUTES RESOLVED IN A GENERAL REFERENCE PROCEEDING PURSUANT HERETO WILL BE DECIDED BY A REFEREE AND NOT BY A JURY.

13.4 Amendments, Supplements, Etc.

Neither this Agreement nor any of the terms hereof may be amended, supplemented, or modified orally, but only by an instrument in writing signed by Provider and by Customer.

13.5 Headings.

The headings of the Articles and Sections of this Agreement have been inserted for convenience of reference only and shall not modify, define or limit any of the terms or provisions hereof.

13.6 Assignment.

(a) Neither Party may assign, pledge or otherwise transfer this Agreement without the prior written consent of the other Party.

(b) Any attempted assignment, pledge or other transfer in violation of this Section 13.6 shall be null and void.

13.7 Successors and Assigns.

This Agreement shall be binding upon and inure to the benefit of the Parties, and their respective successors and assigns, to the extent that assignment is permitted hereunder.

13.8 Other Customers.

Nothing in this Agreement shall be construed to prevent or prohibit Provider from providing the same or similar services to any Person not a Party to this Agreement and from entering into a form of agreement substantially similar to this Agreement with any such Persons; provided that the provision of such services does not adversely affect Provider's ability to perform its obligations hereunder.

13.9 Waiver.

No provision of this Agreement may be waived except in writing by the waiving Party. The waiver of any breach of any term or condition hereof shall not be deemed a waiver of any other or subsequent breach, whether of like or different nature.

13.10 Severability.

If any provision of this Agreement is declared by a court of competent jurisdiction to be illegal, unenforceable or void, that provision shall be modified so as to be enforceable and as nearly as possible reflect the original intention of the Parties, it being agreed and understood by the Parties that (i) this Agreement and all the provisions hereof shall be enforceable in accordance with their respective terms to the fullest extent permitted by Applicable Law, and (ii) the remainder of this Agreement shall remain in full force and effect.

13.11 Construction.

Every term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any Party.

13.12 Entire Agreement.

This Agreement, including the exhibits and schedules attached hereto, which are hereby incorporated by this reference as though fully set forth herein, constitutes the entire agreement between the Parties with respect to the subject matter hereof. Nothing in this Agreement, express or implied, is intended to confer upon any Person other than the Parties any rights, remedies, obligations or liabilities under or by reason of this Agreement.

13.13 Third-Party Beneficiaries.

This Agreement is made and entered into for the sole benefit of the Parties and each of their permitted successors and assigns and no other person or entity shall be a direct or indirect legal beneficiary of, have any rights under, or have any direct or indirect cause of action or claim in connection with this Agreement.

13.14 Survival.

Section 4.4, Section 5.4, Section 5.6, Article 7, Article 8, Article 9, and Article 13 shall survive the termination or expiration of this Agreement and any provision which by its terms or by implication is intended to survive the termination or expiration of this Agreement shall so survive.

13.15 No Rules of Construction Against Drafter.

Each Party acknowledges that it and its attorneys have been given an equal opportunity to negotiate the terms and conditions of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party or any similar rule operating against the drafter of an agreement shall not be applicable to the construction or interpretation of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the duly authorized officers of the Parties have executed this Agreement as of the Effective Date.

CALIFORNIA CHOICE ENERGY AUTHORITY

By: _____
Name: Mark Bozigian
Title: Executive Director

CITY OF PICO RIVERA

By: _____
Name:
Title:

EXHIBIT A

SCHEDULE OF DEFINITIONS

The terms defined in this Schedule of Definitions shall include the plural as well as the singular and the singular as well as the plural. Except as otherwise indicated, all the agreements or instruments herein defined shall mean such agreements or instruments as the same may from time to time be supplemented or amended or the terms thereof waived or modified to the extent permitted by, and in accordance with, the terms thereof. When used in the Agreement (as defined below), unless otherwise defined therein, the following terms shall have the respective meanings set forth below:

“Affiliate” of a Person (the “First Person”) shall mean a Person which directly or indirectly Controls, or is Controlled by, or is under common control with, the First Person, and shall also include any limited partnership or limited liability company of which the First Person or Affiliate thereof is the general partner, managing member or manager, as the case may be, and any Subcontractor, agent, representative, employee or authorized personnel of the First Person. “Control” of a Person shall mean the Customership, directly or indirectly, of more than fifty percent (50%) of the voting securities of that Person.

“Agreement” means this Administrative Services Agreement between Customer and Provider.

“Applicable Law” shall mean all laws, statutes, orders, decrees, injunctions, licenses, permits, approvals, agreements and regulations of any Governmental Authority having jurisdiction over the matter in question which are applicable to or which affect Provider’s provision of the Services and/or the subject matters encompassed by this Agreement.

“Authorization Documents” shall mean the documents identified and summarized in Exhibit D, and the requirements of any documents in replacement of the foregoing or in addition thereto provided by Customer and added to and summarized in Exhibit D from time to time.

“Authorized Officer” means the officer(s) of Customer designated as an “Authorized Officer” in the Customer Approval Procedures.

“Base Term” shall have the meaning set forth in Section 3.1(a).

“Bundled Load” means the proposed electric energy consumption of a member of Provider, as set forth in the implementation plan filed for such member pursuant to Code Section 366.2.

“Business Day” shall mean any day except a Saturday, Sunday or other day on which commercial banks in the State of California are authorized by law to close.

“Claims” shall mean claims, actions, damages, expenses (including reasonable attorneys’ fees), fines, penalties, losses or liabilities.

“Code” shall have the meaning given thereto in the recitals.

“Confidential Information” shall have the meaning given in Section 11.1(e).

“CPUC” shall have the meaning given thereto in the recitals.

“Customer” shall have the meaning given thereto in the introductory paragraph of the Agreement, and its permitted successors and assigns, if any, under the Agreement.

“Customer Approval Procedures” means the approval procedures set forth in Exhibit E hereto.

“Customer Indemnified Party” shall mean Customer (including successors and permitted assigns) and its shareholders, partners, directors, officers, agents and employees.

“Disputed Payment” shall have the meaning given thereto in Section 5.2(c).

“Effective Date” shall have the meaning given in the introductory paragraph of this Agreement.

“Energy Contract” means an agreement for the purchase of energy, renewable energy or related products, including a power purchase agreement and/or confirmation letter thereto, entered into by Provider for the benefit of Customer.

“FERC” means the Federal Energy Regulatory Commission.

“Fixed Fee” shall have the meaning given thereto in Section 5.1(a).

“Fixed Fee Services” shall have the meaning given thereto in Section 4.1(a).

“Force Majeure” shall mean any event that wholly or partly prevents or delays the performance by the Party affected of any obligation arising under this Agreement, but only if and to the extent such event is not within the reasonable control, directly or indirectly, of and not the fault of the Party affected including (provided that the foregoing requirements are satisfied): condemnation; expropriation; invasion; plague; drought; landslide; storms or wind of sufficient intensity to prevent safe performance of work; tornado; hurricane; tsunami; flood; lightning; earthquake; fire; explosion; epidemic; quarantine; war (declared or undeclared), terrorism or other armed conflict; material physical damage to an energy facility caused by third parties; strikes and other labor disputes (including collective bargaining disputes and lockouts) involving Subcontractors; riot or similar civil disturbance or commotion; other acts of God; acts of the public enemy; blockade; insurrection, riot or revolution; sabotage or vandalism; embargoes; and actions of a Governmental Authority (excluding the actions of the claiming party). “Force Majeure” shall not include (1) an event that prevents or delays (i) Provider’s or Customer’s compliance with (a) Applicable Laws; and (b) Permits required under Applicable Law in connection with such Party’s performance under this Agreement and (ii) Customer’s indemnity obligations hereunder, (2) labor shortages; (3) labor strikes and other labor disputes (including collective bargaining disputes and lockouts) with regard to work by Provider or a Subcontractor (except if such action is part of a regional or national action); or (4) economic hardship (including lack of money).

“Governmental Authority” shall mean any federal, provincial, state or local government authority, agency, court or other body, officer or public entity, including any zoning authority, building inspector, or health or safety inspector, including the CPUC.

“Indemnified Party” shall mean a Provider Indemnified Party or Customer Indemnified Party.

“Indemnifying Party” shall have the meaning given thereto in Section 7.3.

“JPA” shall mean that certain Joint Exercise of Powers Agreement Relating to the California Clean Energy Authority dated August 14, 2012, as the same has been or may be amended from time to time.

“Payment Date” shall have the meaning given thereto in Section 5.2.

“Payment Invoice” shall have the meaning given thereto in Section 5.2.

“Permit” shall mean any waiver, exemption, variance, franchise, certification, approval, permit, authorization, license, consent, or similar order of or from any Governmental Authority having jurisdiction over the matter in question.

“Person” shall mean any individual, partnership, joint stock company, corporation, trust, unincorporated association or joint venture, a government or any department or agency thereof, or any other entity.

“Provider” shall have the meaning given thereto in the introductory paragraph of this Agreement, and its successors and permitted assigns, if any.

“Provider Indemnified Party” shall mean Provider and its Affiliates and their respective shareholders, partners, directors, officers, agents, employees and representatives.

“Provider Permits” means those permits required under Applicable Law in order for Provider to perform its obligations hereunder.

“Provider Policies” shall mean Provider’s health, safety and environmental policies.

“Regular Work Hours” means [8:00 am] (PT) to [5:00 pm] (PT) on a Business Day.

“Reimbursable Expenses” shall have the meaning set forth in Section 5.2.

“Reimbursable Services” shall have the meaning given thereto in Section 4.1(b).

“Scope of Work Exhibit” means Exhibit B hereto.

“Security Documents” means, with respect to each Energy Contract, the security documents entered into by Customer in connection therewith pursuant to which Customer grants to the energy suppliers under each Energy Contract (or its collateral agent) a security interest in any and all monies received from the Utility or the end-users in Customer’s territory in connection with such Energy Contract, which security documents shall include (i) an account control agreement for an account (sometimes referred to as a “lockbox account”) among Customer, an account bank and the energy supplier to such Energy Contract (or its collateral agent), (ii) an intercreditor and collateral agency agreement, among Customer, the counterparties to such Energy Contracts and, if applicable, the collateral agent, and (iii) a security agreement between Customer and the counterparty to such Energy Contract (or its collateral agent).

“Services” shall have the meaning set forth in Section 4.1 and shall be comprised of the Fixed Fee Services and the Reimbursable Services.

“Subcontractors” means any subcontractor, of any tier, vendor or supplier of materials, equipment or services to Provider or any subcontractor, of any tier, of any Person engaged or employed by Provider or any subcontractor of any tier that provides any part of the Services.

“Term” shall have the meaning set forth in Section 3.1(a).

“Terminating Party” shall have the meaning given thereto in Section 8.1.

“Termination Notice” shall have the meaning given thereto in Section 3.1(b).

“Utility” means [Pacific Gas and Electric] [Southern California Edison] [San Diego Gas & Electric].

EXHIBIT B
SCOPE OF WORK

A. Fixed Fee Services

1. Portfolio Operations

(a) Energy Procurement.

(i) Provider to consider load patterns of the CCA and advise Customer on assembling a supply portfolio that will match resources to the aggregate load shape of the CCA's customer base.

(ii) Provider to negotiate contracts for the sale of electricity to fill the load requirements of the CCA.

(b) Risk and Credit Management.

(i) Provider to monitor the credit rating and financial condition of Customer's energy suppliers.

(ii) Provider to periodically calculate the financial exposure to a specific supplier.

(c) Load Forecasting and Data Collection.

(i) Provider to collect, process and forecast load information.

(d) Scheduling Coordination.

(i) Provider to coordinate scheduling with the grid operator's schedule coordinator; exchange customer usage and billing formation with the Utility.

2. Account Services

(a) If necessary, Provider to calculate individual end-user customer bills.

(b) Provider to confirm receipt of funds in lockbox account.

(c) Provider to review and validate invoices from Schedule Coordinator.

(d) Provider to direct distribution of funds from lockbox account.

3. Administrative and Management of CCA Program

4. Regulatory Representation and Compliance Filings

B. Reimbursable Services

(a) Data Management Services (e.g., electronic data interchange (EDI) services; customer information system development and maintenance; customer call center management and staffing; billing administration; settlement quality meter data services; customer care, billing and related reports; and qualified reporting entity (QRE) services)

(b) Professional Services (e.g., legal services for negotiation of Energy Contracts and Security Documents on behalf of Pico Rivera; electric load evaluation; community choice aggregation operational analysis; projected customer rate analysis and comparison; and support and maintenance of financial model)

EXHIBIT C

**FIXED FEE RATE, REIMBURSABLE EXPENSES
AND NOTICE ADDRESS**

- 1. **Fixed Fee Rate:** **\$278,054 annually**

- 2. **Reimbursable Expenses:**
 - (a) **Data Management Services: \$ 244,470.00 (estimated)**

 - (b) **Professional Services: \$ 250,000.00 (estimated)**

- 3. **Address for Notices:**

Provider:	[Name of Provider] [Address] Attn: [_____] <input type="text"/> Tel: [_____] <input type="text"/> Facsimile: [_____] <input type="text"/> Email: [_____] <input type="text"/> With a copy to Provider's legal counsel: Troutman Sanders LLP 100 SW Main Street, Suite 1000 Portland, Oregon 97204 Attn: Stephen Hall Tel: 503.290.2336 Email: stephen.hall@troutmansanders.com
Customer:	[Name of Customer] [Address] Attn: [_____] <input type="text"/> Tel: [_____] <input type="text"/> Facsimile: [_____] <input type="text"/> Email: [_____] <input type="text"/>

EXHIBIT D
AUTHORIZATION DOCUMENTS

[To be completed]

EXHIBIT E

CUSTOMER APPROVAL PROCEDURES

1. **Authorized Officer** *[Table to be completed with name/title of Customer's officer that is authorized to provide Provider with necessary approvals.]*

Name	Title

2. **Approval Procedures**

[To be completed – Procedures to contain thresholds for which receipt of Authorized Officer's approval is required.]

Authorized Officer Approval IS Required if Term of Energy Contract is GREATER than:	Five (5) Years
Authorized Officer Approval IS NOT Required if Notional Amount of Energy Contract is EQUAL TO OR LESS than:	Five (5) Years

EXHIBIT F

FORM OF AUTHORIZED OFFICER APPROVAL

[To be inserted]

EXHIBIT G
JOINT EXERCISE OF POWERS AGREEMENT
AND AMENDMENTS THERETO

4840-6911-0854, v. 1

STAFF REPORT
California Choice Energy Authority

CCEA NB 2
05/09/17
MVB

Date: May 9, 2017

To: Chairman Parris and Agency Directors

From: Jason Caudle, Deputy City Manager
Cathy DeFalco, Lancaster Choice Energy Manager

Subject: Approve Professional Services Agreement for Implementation Support Services and Administrative Services Agreement with City of San Jacinto

Recommendations:

- a. Approve Professional Services Agreement for Implementation Support Services with the City of San Jacinto (“San Jacinto”); and authorize the Executive Director, or his designee, to sign all documents.
- b. Approve Administrative Services Agreement with San Jacinto; and authorize the Executive Director, or his designee, to sign all documents.
- c. Recognize revenue of \$64,000 into Account No. 491-3100-001 and appropriate a total of \$64,000 into Account No. 491-4370-001 for professional services to be provided to San Jacinto in accordance with the above agreements.
- d. Approve amendment to Master Professional Services Agreement with Calpine Energy Solutions, LLC (“Calpine”) to support work performed for San Jacinto under the terms of the Professional Services Agreement for Implementation Support Services and Administrative Services Agreement; and authorize the Executive Director, or his designee, to sign all documents.
- e. Approve amendment to Professional Services Agreement with Pacific Energy Advisors (“PEA”) to support work performed for San Jacinto under the terms of the Professional Services Agreement for Implementation Support Services and Administrative Services Agreement; and authorize the Executive Director, or his designee, to sign all documents.

Fiscal Impact:

There is no fiscal impact for FY 16/17. The appropriate expenses and revenues associated with the performance of these agreements for FY 17/18 will be included in the FY 17/18 budget. Sufficient funds will be available through revenues collected from the Professional Services Agreements for Implementation Support Services and the Administrative Services Agreement.

Background:

In 2012, Lancaster City Council adopted Resolution 12-59 forming the California Clean Energy Authority, a Joint Powers Authority (“JPA”) with the City of San Jacinto with the purpose of expanding solar partnerships.

On March 28, 2017, Lancaster City Council adopted Resolution No. 02-17, adopting the first amendment to the California Clean Energy Authority Joint Exercise of Powers Agreement. The amendment changed the name of the JPA to California Choice Energy Authority (“CCEA”) to better reflect the authority’s purpose and administrative support to be provided to member cities for their CCA operational services.

On April 18, 2017, the City a San Jacinto, a newly formed Community Choice Aggregator (“CCA”), approved a Professional Services Agreement for Implementation Support Services with CCEA and an Administrative Services Agreement with CCEA for the purpose of receiving operational and administrative support services, including the purchase and sale of electricity, technical support, and data management services, on behalf of their CCA.

San Jacinto’s CCA program will launch in September 2017. CCEA will provide Implementation Support Services in preparation for launch, and operational support services under the terms of the Administrative Services Agreement.

JC:cd

Attachments:

Professional Services Agreement for Implementation Support Services
Administrative Services Agreement

AGREEMENT FOR CONSULTING SERVICES

THIS AGREEMENT FOR CONSULTING SERVICES (this "Agreement") is made and entered into this ____ day of _____, 20____, by and between the CITY OF SAN JACINTO a municipal corporation (the "City"), and the California Choice Energy Authority, created pursuant to the Joint Exercise of Powers Act (Cal. Gov't. Code Sections 6500 et seq.) ("CCEA") (collectively, the "Parties").

RECITALS

WHEREAS, San Jacinto desires to form a Community Choice Aggregation ("CCA") to provide energy to its residents and businesses.

WHEREAS, San Jacinto desires for CCEA to undertake certain services, as provided herein, identified as:

IMPLEMENTATION SUPPORT OF A COMMUNITY CHOICE AGGREGATION

WHEREAS, CCEA desires to facilitate access to the professional, technical and other knowledge and expertise of certain CCEA Members, their employees, contractors and/or consultants in connection with the formation of the City of San Jacinto's Community Choice Aggregation.

NOW, THEREFORE, the parties agree as follows:

1. **Parties.** The parties to this Agreement are the City of San Jacinto and the California Choice Energy Authority.
2. **Description of Work.** CCEA shall perform or facilitate the performance of the services set forth in the "Scope of Services and Payment Schedule," attached hereto as Exhibit "A" and incorporated herein by reference (collectively, the "Services").
3. **Obligations of the City of San Jacinto.** San Jacinto shall pay the CCEA an amount not to exceed \$160,000 for the Services. San Jacinto will be invoiced five equal payments of \$26,666 beginning in the month of April of 2017 and ending the month of August of 2017 with one final invoice payment of \$26,670 the month of September of 2017. Payments shall be due thirty (30) days after the CCEA invoice is submitted to San Jacinto.
4. **Obligations of the CCEA.** The CCEA's Board of Directors or its designee shall determine which CCEA Members, their employees, contractors and/or consultants shall perform the Services as required by this Agreement.
5. **Term; Termination.** The term of this Agreement shall commence on ____ and terminate upon the completion of Services and final payment therefor, or upon the termination of the Agreement as set forth herein. Either party may terminate this Agreement at any time without cause by giving thirty (30) days written notice to the other party of such termination and specifying the effective

date thereof. In the event of termination of this Agreement, CCEA will be paid on a prorated basis for work completed and/or in progress at the time of issuance of such termination notice.

6. **Indemnification.** San Jacinto agrees to indemnify, defend and hold harmless the CCEA, its board of directors, officers, members, contractors, consultants and members' employees, contractors and/or consultants (collectively, for purposes of this provision, "Indemnified Parties") 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 this Agreement and/or the work to be performed in the formation of the City's CCA pursuant to this Agreement, except where caused by the sole active negligence or willful misconduct of the Indemnified Parties.

7. **Ownership of Documents.** All reports, studies and other documents that are prepared by CCEA, its employees, contractors and/or consultants in the course of performing the work required by this Agreement, that are specific to San Jacinto's CCA, shall be the property of San Jacinto.

8. **Data Provided to CCEA.** San Jacinto shall provide to CCEA all data, including reports, records and other information, in San Jacinto's possession, or cause to be provided data not in San Jacinto's possession, which may facilitate the timely performance of the work described in the Scope of Services.

9. **Notices.** Any notice or communication required or permitted under this Agreement shall be sufficiently given if delivered in person or by certified mail, return receipt requested, and addressed as listed below. All notices required by this Agreement are effective on the day of receipt, unless otherwise indicated herein.

CCEA	Mark Bozigian, Executive Director California Choice Energy Authority c/o City of Lancaster 44933 North Fern Avenue Lancaster, California 93534
CITY	Robert Johnson, City Manager City of San Jacinto 595 S. San Jacinto Ave San Jacinto, CA 92583

10. **Resolution of Disputes.** Disputes regarding the interpretation or application of any provision of this Agreement shall, to the extent reasonably feasible, be resolved through good faith negotiations between the parties.

11. **Severability.** If any provisions of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

12. **Amendment.** 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 CCEA and the City.

13. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of California.

14. **Exhibits.** The following exhibit to which reference is made in this Agreement is deemed incorporated herein in its entirety:

Exhibit "A" Scope of Services and Payment Schedule

15. **Effective Date; Counterparts.** This Agreement may be executed in counterparts by all parties and shall become effective and binding upon the parties at such time as all of the signatories hereto have signed the original or a counterpart original of this Agreement. Each such counterpart shall constitute an original and all such counterparts so executed shall constitute one Agreement, binding upon all of the parties thereto, notwithstanding that all of the parties are not a signatory to the original or the same counterpart. Each counterpart shall have the same force and effect as if all such signatures were contained in one instrument. A facsimile copy shall be considered an original for the purposes of this Agreement. Facsimile or e-mail transmissions shall be deemed effective as originals.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their respective officers thereunto duly authorized.

[Signatures begin on following page]

CITY OF SAN JACINTO
SAN JACINTO, CALIFORNIA

By: _____

(Name, Title)

Dated: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

CALIFORNIA CHOICE ENERGY AUTHORITY

By: _____
(Name, Title)

Dated: _____

ATTEST:

Lancaster City Clerk / CCEA Secretary

APPROVED AS TO FORM:

Lancaster City Attorney /
Counsel for CCEA Board of Directors

EXHIBIT "A"

SCOPE OF SERVICES AND PAYMENT SCHEDULE

1) General CCA Implementation Support

- a. Represent CCA in implementation efforts
 - i. Coordination with SCE and data manager through testing and launch
 - ii. Coordination with data manager and call center operator in development of scripts, terms & conditions
 - iii. Coordinate with San Jacinto staff on development of marketing and notification materials
- b. Preparation of all Southern California Edison Forms and Agreements in support of CCA implementation
- c. Prepare for and participate in City Council meetings, providing technical support during key discussions and decision making
- d. Coordination with pertinent jurisdictional regulatory agencies: to the extent that jurisdictional regulatory agencies have questions regarding applicable reports/submittals and/or general questions regarding CCA operations.
- e. Participate in discussions/meetings with key customer accounts, providing technical expertise related to rates, resource planning, power supply and anticipated environmental impacts; and
- f. General as-needed advisory services

2) Power Supply and Services Contracting - Supplier Selection and Contracting

- a. Develop a detailed load forecast utilizing recent SCE customer information for all eligible customers
- b. Determine desired energy and capacity quantities, which would supply aggregate customer requirements, including anticipated participation in default and voluntary retail service options
- c. Prepare draft solicitation materials, including a Request for Proposals/Offer document and related bid workbooks (which will provide an organized, uniform framework for bidder responses), to support the procurement of necessary energy and capacity products as well as scheduling coordinator services
- d. Prepare draft solicitation materials, including a Request for Proposals/Offer document and related bid workbooks to support the procurement of necessary data management services
- e. Assist the City in developing and finalizing form transaction documents for desired products and services
- f. Evaluate offers received in response to the aforementioned solicitation processes and assist the City in selecting the preferred supplier(s) of such products and services
- g. In conjunction with the City's selected legal counsel, support contract negotiation for desired products and services;
- h. Support "go/no-go" decision to launch the CCA program based on final power supply prices and then-current SCE retail electric rates
- i. Perform necessary coordinative activities with the City's selected supplier(s) during startup.

3) CCA Program Development

- a. Prepare a draft NEM tariff, including applicable tariff language and sample customer impact analyses
- b. Prepare a draft FIT, including applicable project eligibility criteria, pricing schedules and an appropriate power purchase agreement (which will be developed in conjunction with the City’s designated power contracting counsel)
- c. Coordinate with the City’s selected data management services provider to ensure the effective implementation of NEM rates and related bill calculations
- d. Coordinate with the City’s selected Qualified Reporting Entity to ensure that energy production from FIT projects is appropriately communicated to and tracked within the Western Renewable Energy Generation Information System (“WREGIS”)

4) Regulatory Registrations and Compliance Systems

- a. Prepare a regulatory compliance calendar and reporting matrix to ensure that management has a thorough understanding of currently applicable technical reporting requirements and related submittal deadlines
- b. Prepare load forecast and related filings to ensure compliance with California’s resource adequacy program
- c. Assist in completing requisite registration materials to become a WREGIS account holder – a WREGIS account will be necessary to track and report on renewable energy purchases for purposes of complying with California’s Renewables Portfolio Standard program and substantiating procurement of renewable energy, generally speaking
- d. Assist in becoming a candidate Congestion Revenue Rights (“CRR”) holder with the California Independent System Operator (“CAISO”) – CRRs may help mitigate certain financial risks and reduce costs associated with energy delivery within the CAISO market
- e. Assist in preparing requisite customer cost comparisons, which indicate the cost comparative cost impact of taking service with the CCA program relative to SCE, and prospective power source disclosures

5) Rate Setting

- a. Develop preliminary and final revenue requirements for the first year of program operation
- b. Prepare preliminary and final rate schedules for the first year of program operation
- c. Prepare CCA/SCE cost comparisons to ensure an understanding of anticipated customer cost impacts

Total Costs for Implementation Support Work..... \$160,000.00

Five equal payments of \$26,666 (April 2017-August 2017) and one final payment of \$26,670 (September 2017) will be invoiced at the end of each month beginning with the month of April. Payment will be due within 30 days.

**ADMINISTRATIVE SERVICES AGREEMENT
(CITY OF SAN JACINTO),**

dated as of [_____], 2017,

between

**CALIFORNIA CHOICE ENERGY AUTHORITY,
as Provider,**

and

**CITY OF SAN JACINTO,
as Customer**

**ADMINISTRATIVE SERVICES AGREEMENT
(CITY OF SAN JACINTO)**

This ADMINISTRATIVE SERVICES AGREEMENT (CITY OF SAN JACINTO) (this “**Agreement**”), dated as of [DATE], 2017 (the “**Effective Date**”), is between California Choice Energy Authority, a California joint powers authority (“**Provider**”), and City of San Jacinto, a municipal corporation organized and operating under the laws of the State of California (“**Customer**”). Provider and Customer are sometimes referred to in this Agreement individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

WHEREAS, pursuant to California Public Utilities Code (the “**Code**”) Sections 366.1, *et seq.*, Customer has been registered as a “community choice aggregator” (as defined in the Code), which has been established for the purpose of delivering community choice aggregation services to certain customers located within its boundaries;

WHEREAS, pursuant to Code Section 366.2, Customer submitted its implementation plan detailing the process and consequences of community choice aggregation, and its statement of intent to establish electrical load aggregation, to the California Public Utilities Commission (the “**CPUC**”);

WHEREAS, pursuant to Code Section 366.2, a community choice aggregator may enter into agreements for services to facilitate the sale and purchase of electricity and other related services;

WHEREAS, Provider has also been registered as a CCA and has expertise and knowledge in the management and administration of community choice aggregation programs and maintains business relationships with multiple energy suppliers;

WHEREAS, due to Provider’s expertise and knowledge, Customer wishes to engage Provider as an independent contractor, during the Term of this Agreement, for the purpose of facilitating the purchase and sale of electricity and other related services on behalf of Customer and for performing certain other duties and services on the terms and conditions set forth herein; and

WHEREAS, Provider is willing to perform such duties and services for Customer on the terms and conditions set forth herein for a fee.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**ARTICLE 1
DEFINITIONS**

1.1 Definitions.

As used in this Agreement, all capitalized terms shall have the respective meanings given to them in this Agreement and in Exhibit A (Schedule of Definitions).

1.2 Construction.

All references herein to an agreement shall be to such agreement as amended, supplemented or modified from time to time. All references to a particular entity shall include a reference to such entity's successors and permitted assigns. The words "herein", "hereof" and "hereunder" and other words of similar import shall refer to this Agreement as a whole, including all appendices, annexes, exhibits and schedules, and not to any particular section or subsection of this Agreement. Wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and neuter genders. The words "includes" or "including" shall be deemed to be followed by the words "without limitation". All references to statutes and related regulations shall include any amendments of the same and any successor statutes and regulations. All exhibits and schedules to this Agreement are hereby incorporated herein by reference, including the following:

- (i) Exhibit A – Schedule of Definitions
- (ii) Exhibit B – Scope of Work
- (iii) Exhibit C – Fixed Fee Rate, Reimbursable Expenses and Notice Address
- (iv) Exhibit D – Authorization Documents
- (v) Exhibit E – Customer Approval Procedures
- (vi) Exhibit F – Form of Authorized Officer Approval
- (vii) Exhibit G – Joint Exercise of Powers Agreement Relating to the California Choice Energy Authority and amendments thereto

ARTICLE 2 ENGAGEMENT OF CONTRACTOR

2.1 Engagement of Provider.

Customer hereby engages Provider as an independent contractor to perform certain administration, energy procurement and resource planning services (as such Services are described herein) on behalf of Customer in connection and to perform certain other duties, all as set forth in this Agreement. In consideration of the fees and cost reimbursements payable to Provider hereunder, Provider accepts such engagement and agrees to perform the Services in accordance with the terms and conditions hereof.

2.2 Relationship.

Provider shall act as an independent contractor of Customer with respect to the performance of its obligations hereunder. Neither Provider nor its Affiliates, employees or Subcontractors (including Provider's legal counsel) or the employees of any such parties engaged in connection with the Services shall be deemed to be an agent, representative, employee, or servant of Customer. This Agreement is not intended to create, and shall not be construed to create, a relationship

of partnership or an association of profit between Customer and Provider. Provider is not admitted to practice law in any jurisdiction, and will not provide legal advice to Customer in connection with the performance of the Services. Provider is not licensed as a provider of accounting services, does not hold any certifications required to be held by those providing accounting services, and will not provide any services that require such licensing and certification. Provider is not licensed as a financial advisor, financial manager, insurance advisor, or insurance broker.

2.3 Engagement of Third Parties.

Provider may, subject to the other provisions of this Agreement, engage such Persons as it deems reasonably necessary and appropriate for the purpose of performing or carrying out any of the Services or its obligations under this Agreement; provided, however, that no such engagement shall relieve Provider of any of its obligations or liabilities under this Agreement, including those set forth in Article 7; and provided further, that, except as provided herein, Provider's use of such Persons shall not modify or increase the compensation payable to Provider pursuant to Article 5. Except as expressly set forth herein, nothing in this Agreement shall be construed to create any contractual relationship between any such Person (including Provider's legal counsel) and Customer.

ARTICLE 3 TERM AND RENEWAL

3.1 Term.

(a) Unless earlier terminated in accordance with Article 8, the term of this Agreement shall commence on the Effective Date and shall continue for a period equal to the longer of (a) three (3) years from the Effective Date, or (b) the longest term of any Energy Contract to which the Authority is a party on behalf of Customer (the "**Base Term**"; as such period may be extended pursuant to clause (b), the "**Term**").

(b) Unless sooner terminated as set forth in Article 8, at the expiration of the Base Term, the term of this Agreement shall be automatically extended until such time as a Party provides written notice to the other Party that it elects to terminate this Agreement pursuant to Article 8 (such written notice, a "**Termination Notice**"). Following receipt by such other Party of a Termination Notice, this Agreement shall terminate as set forth in Section 8.4.

(c) For purposes of greater clarity, the definition of "Term" shall include the Base Term and the renewal term of this Agreement as set forth in clause (b).

ARTICLE 4 DUTIES OF PROVIDER

4.1 Services.

During the Term, Provider shall perform the administration, energy procurement, contract negotiation, contract administration, resource planning services and other services identified in the Scope of Work set forth in Exhibit B hereto or as otherwise agreed to by the Parties pursuant to the terms hereof (the "**Services**"). The Services shall be comprised of those services identified in the Scope of Work Exhibit as "Fixed Fee Services" (collectively, the "**Fixed Fee Services**") and those

services to be performed on behalf of Customer and identified in the Scope of Work Exhibit as “Reimbursable Services” (collectively, the “**Reimbursable Services**”).

4.2 **General Operating Standards.**

Provider shall perform the Services in a good, workmanlike, and commercially reasonable manner in accordance with the requirements of this Agreement and Applicable Laws. Provider shall use commercially reasonable efforts to cause the Services to be planned and performed in a timely and cost-effective manner. Provider shall reasonably cooperate with Customer with respect to the requirements relating to applicable provisions of the Authorization Documents that relate to the tasks to be completed by Customer on or before the date requested by Customer.

4.3 **Personnel.**

Provider’s administration personnel as a group, including any Persons engaged by Provider pursuant to Section 2.3, shall be qualified in administering services related to community choice aggregation programs, possess any certification(s) or license(s) necessary or required by law to perform the service, and experienced in the duties to which they are assigned.

ARTICLE 5 FEES AND COST REIMBURSEMENT

5.1 **Fixed Fees.**

(a) As compensation for performing the Fixed Fee Services, Customer shall pay Provider a monthly fee equal to the “Fixed Fee Rate” identified on Exhibit C hereto (as such fee is adjusted pursuant to Section 5.1(b), the “**Fixed Fee**”) during the Term. The Fixed Fee shall be based on the pro-rata share of Customer’s Bundled Load compared to the aggregate Bundled Load for all Provider’s members, determined each fiscal year by Provider, and payable in accordance with Section 5.3. The Fixed Fee does not include amounts payable under Energy Contracts or the Security Documents.

(b) The Fixed Fee shall be adjusted as follows:

(i) No later than July 1, 2019, Provider shall have a one-time right to adjust (by increasing or decreasing) the Fixed Fee amount set forth in Exhibit “C” to reflect actual costs incurred or expected to be incurred in providing the Fixed Fee Services. Provider’s one-time adjustment of the Fixed Fee as described in this subparagraph shall be preceded by written notice to Customer, and said notice shall provide an explanation and support for the adjustment;

(ii) Commencing on July 1, 2019, and every July 1 thereafter during the Term of this Agreement, to reflect reasonable cost increases incurred by Provider in performing this Agreement, the Fixed Fee shall be increased in an amount equal to the change in the Consumer Price Index (CPI-U) for the Los Angeles – Riverside – Orange County region as published by the Federal Bureau of Labor Statistics as measured from May to May of each year, provided that no such increase shall be more than three percent (3%) of the Fixed Fee applicable for the immediately preceding fiscal year; and

(iii) within ninety (90) days after the commencement or termination of deliveries of electricity under an Energy Contract associated with a in membership of Provider, Provider shall recalculate the Fixed Fee in accordance with Section 5.1(a), and the recalculated Fixed Fee shall be applied and payable on a prospective basis.

5.2 Reimbursable Expenses.

(a) During the Term, Customer shall reimburse Provider for the expenses actually incurred by Provider in connection with the performance of the Reimbursable Services (the “**Reimbursable Expenses**”).

(b) The Reimbursable Expenses shall be allocated to Customer as follows:

(i) Data management fees will be allocated to Customer on the basis of the Customer’s total number of electric service accounts multiplied by the per account maintenance fee invoiced by the Data Management service provider.

(ii) Professional services fees and costs, and any other Reimbursable Expenses not allocated pursuant to Section 5.2(b)(i), will be allocated among all Provider members on an equal basis.

(c) The Reimbursable Expenses incurred by Provider shall be invoiced and payable as set forth in Section 5.3.

5.3 Invoicing and Payment Procedures.

(a) The Fixed Fee and the Reimbursable Expenses shall be payable for each month on the twenty-fifth (25th) each calendar month during the Term (each such date, a “**Payment Date**”) and shall be prorated for any partial monthly period at the beginning and end of the Term, with such prorations based on a thirty (30) day calendar month. Invoiced amounts will be paid by wire transfer of immediately available funds to Provider at an account designated in writing by Provider.

(b) Provider shall submit invoices to Customer at least ten (10) days prior to the relevant Payment Date for the Fixed Fee and Reimbursable Expenses that are due and payable on such Payment Date. Invoices by Provider shall be sent to Customer at the address(es) set out in Exhibit C.

(c) Once Customer has maintained a positive cash flow for three (3) consecutive months, Provider may submit invoices to Customer and to the collateral agent for payment from the lockbox account established pursuant to the Security Documents not less than ten (10) days prior to the relevant Payment Date for the Fixed Fee and Reimbursable Expenses that are due and payable on such Payment Date.

(d) Customer may, in good faith, dispute the correctness of any invoice, bill, charge, or any adjustment to an invoice, rendered under this Agreement, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, bill, charge, or adjustment to an invoice, was rendered. If a Payment Invoice or portion thereof, or any other claim or adjustment arising thereunder, is disputed, payment of the undisputed portion of the Payment Invoice shall be required to be made when due, with written notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or

adjustment. Payment of the disputed amount (the “**Disputed Payment**”) shall not be required until the dispute is resolved. The Parties shall use commercially reasonable efforts to resolve the Disputed Payment within ten (10) Business Days of receipt by Provider of the notice of the Disputed Payment. Within five (5) days of the Parties agreeing on a resolved payment amount, Customer shall pay, or cause to be paid, such resolved payment to Provider in accordance with this Section 5.2(c). In the event the Parties are unable to resolve a payment dispute within ten (10) Business Days, the lesser amount shall be deemed due payable unless and until a different amount is identified following conclusion of the dispute resolution provisions in Article 12, or a court of competent jurisdiction orders otherwise.

5.4 Records and Audits.

(a) Except as otherwise required by Applicable Laws, Provider shall keep books and records in accordance with generally accepted accounting principles with respect to Services performed for a period of three (3) years after the applicable creation date of such book or record; or any such longer period as may be required by law.

(b) Upon no less than seventy-two (72) hours’ notice to Provider, Provider shall make such books and records related to the Services available for inspection and audit by Customer or its designated agents at Customer’s expense during Regular Work Hours and at the office where such books and records are kept; provided that Provider’s company software, books and records not directly related to this Agreement shall not be subject to inspection or audit.

(c) If any such inspection or audit discloses that any error has occurred and that, as a result thereof, any overpayment or any underpayment has occurred, the amount thereof shall promptly be paid with interest at the rate set forth in Section 5.4 to the Party to whom it is owed by the other Party; provided that Provider or Customer, as applicable, shall only be liable for any amounts hereunder that relate to a period within twelve (12) months of the date of the inspection or audit conducted by Customer.

5.5 Past Due Amounts.

Any amounts due under this Agreement, if not timely paid by the Party from whom they are due, shall bear interest at the per annum rate equal to the Prime Rate (as published in The Wall Street Journal) plus one and one-half percent (1.5%), prorated on the basis of a 365-day year (or such lower rate as is the maximum rate permitted by Applicable Law) from the date that such amount was due and payable (taking into account any grace period herein provided) until the time that such amount is paid.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES; COVENANTS

6.1 General Representations and Warranties.

Each Party, for itself only, hereby represents and warrants to the other Party hereto, as of the date hereof, that:

(a) It is an entity duly organized, validly existing and in good standing under the applicable laws of the jurisdiction in which it was formed.

(b) It has the requisite power and authority to enter into this Agreement and to perform its obligations hereunder (including with respect to any indemnity obligations hereunder), and the execution, delivery and performance hereof do not and will not contravene any Applicable Law, or any order of any court or Governmental Authority or agency applicable to or binding on it or any of its properties, or contravene the provisions of, or constitute a default under, its organizational documents or any indenture, mortgage, contract or other agreement or instrument to which it is a party or by which it or any of its property is bound or affected.

(c) This Agreement has been duly authorized by all necessary actions on the part of such Party and the execution, delivery and performance by such Party of this Agreement do not require any approval not already obtained by it or any approval or consent not already obtained of any trustee or holders of indebtedness or obligations of such Party.

(d) No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority or regulatory body is required for the due execution, delivery or performance by such Party of this Agreement.

(e) The execution, delivery and performance of this Agreement have been duly authorized by all requisite entity actions.

(f) The person signing this Agreement is authorized to execute this Agreement on behalf of, and to bind, the applicable Party.

(g) Assuming the due authorization, execution and delivery of this Agreement by the other Parties hereto, this Agreement constitutes its valid and binding obligation, enforceable against it in accordance with its terms, except to the extent such enforceability is limited by bankruptcy, insolvency, moratorium or similar laws affecting or relating to the enforcement of creditors' rights generally and by general equitable principles (regardless of whether such enforcement is considered in a proceeding in equity or at law).

(h) There are no pending or, to such Party's knowledge, threatened actions or proceedings against such Party before any court or administrative agency which would materially adversely affect such Party's ability to perform its obligations hereunder.

6.2 **Additional Customer Representations and Warranties.**

(a) Delegation of Authority and Authorization Documents. Customer has taken and performed all acts necessary, and has received all necessary authorizations, approvals or other actions required by, and has made all necessary filings with, any Governmental Authority that is required for the (i) delegation of authority to Provider as contemplated hereby (ii) filing with Provider an executed counterpart of the JPA and (iii) adoption of a resolution of its governing body approving the JPA and the execution and delivery thereof. The Authorization Documents represent a true, complete and accurate list of all such necessary authorizations, approvals, actions and filings and Customer has provided true, complete and accurate copies of the Authorization Documents to Provider as of the Effective Date. Other than the Authorization Documents, there are no other authorizations, approvals, filings or other actions required for Customer to enter into this Agreement, perform its obligations hereunder and delegate authority to Provider to perform the Services.

(b) Security Documents and Ancillary Documents. Subject to Provider's compliance with the Customer Approval Procedures and, in connection with any Energy Contract entered into on behalf of Customer, Provider is authorized to (i) enter into Energy Contracts on behalf of Customer, (ii) grant to the counterparties to any such Energy Contracts a first priority security interest in any amounts received from the Utility, Customer or the end-users in Customer's territory pursuant to such Energy Contracts (as contemplated in the Security Documents), (iii) arrange for any funds received from the Utility, Customer or such end-users in connection with such Energy Contracts to be deposited into a lockbox account pledged to the counterparties to any such Energy Contract and be paid to any such counterparties in accordance with the terms and conditions of such Energy Contracts and the Security Documents, and (iv) enter into any needed ancillary documentation required in connection with the execution, performance or administration of the Energy Contracts, the Security Documents or in connection with the provision of the Services.

(c) Authorized Officer. Customer has designated the Authorized Officer to approve Provider's execution of Energy Contracts as set forth in and subject to the Customer Approval Procedures, on behalf of Customer, for the purchase of energy and renewable energy and Customer has authorized the Authorized Officer to provide any such approval in the form attached hereto as Exhibit E. Upon receipt of the Authorized Officer's approval of any Energy Contract or other action, Provider is authorized to enter into such Energy Contract or perform such action on behalf of Customer.

6.3 Customer Covenants. Customer covenants and agrees as follows:

(a) Authorizing Documents. Customer shall maintain the Authorization Documents in full force and effect throughout the Term and shall immediately inform Provider of any change to the identity of the Authorized Officer hereunder or to the Authorization Documents that may affect the ability of Provider to perform its obligations hereunder.

(b) Collateral Agent's Determinations. In performing the Services hereunder, Provider may rely upon the authorizations and instructions received from the Authorized Officer (if such authorization is required pursuant to the Customer Authorization Procedures) and may rely on the accuracy of the Customer Approval Procedures. Provider shall have no liability to Customer for actions taken in reliance on authorizations or instructions received by the Authorized Officer or in compliance with the Customer Approval Procedures. Until such time as Customer instructs Provider in writing that an individual is no longer an "Authorized Officer" hereunder, Provider shall have no duty to inquire as to the authority of such Authorized Officer to provide the authorizations or instructions in connection with the Services. In the event that Provider is at any time unsure as to the identity of the Authorized Officer hereunder, Provider may request written instructions from Customer as to the course of action to be adopted by Provider and Provider shall be entitled to conclusively rely upon such written instructions without liability to Customer or any other Person.

(c) Data Access. If requested by Provider, Customer shall assist Provider in obtaining information regarding Customer's end-users from the Utility, including the number of end-user customers that form part of Customer's community choice aggregation program, the energy consumption, load shapes and usage data of such end-users and the proportional share of such end-users in Customer's territory.

(d) Customer Rates. Customer shall establish and maintain end-user customer rates designed to generate revenues sufficient to satisfy the overall revenue requirement for Customer,

including timely payment of all Customer's obligations under this Agreement, all Energy Contracts and the Security Documents.

6.4 **Response Time.**

(a) Customer Response Time.

(i) In all circumstances where Provider requests the approval, consent or cooperation of Customer to any action (or inaction) hereunder, Customer shall consider and respond to such request as promptly as feasible under the circumstances.

(ii) Provider will exercise commercially reasonable efforts to provide as much advance notice of such request as is reasonable given the prevailing circumstances and the nature of the matters for which a response is requested.

(iii) If Provider is prevented from performing its obligations under this Agreement as the result of an unreasonable delay on the part of Customer to provide a required response required pursuant hereto, then Provider's obligations hereunder shall be excused until such time as Customer provides its required response.

(b) Provider Response Time.

(i) With respect to the provision of the Services, Provider shall promptly respond to any request or direction from or on behalf of Customer and to any event that requires action by Provider pursuant to this Agreement within the time frame by which such response is required hereunder.

ARTICLE 7 INDEMNIFICATION

7.1 **Indemnification by Provider.**

(a) Subject to Section 7.1(b), Provider shall defend, indemnify and hold harmless each Customer Indemnified Party from and against any and all Claims incurred or asserted against such Customer Indemnified Party arising out of or otherwise in connection with Provider's gross negligence, bad faith, recklessness or willful misconduct in connection with the performance of the Services hereunder, including any Claims relating to any liability resulting from any violation of or noncompliance with any Applicable Law to be complied with by Provider hereunder. Provider's obligations under this paragraph shall include all costs (including but not limited to attorneys fees) incurred in performing the same. Customer may employ counsel at its own expense with respect to any claims or demands asserted or sought to be collected against it; provided, if counsel is employed because Provider does not assume control of the defense, Provider will bear the reasonable expenses of Customer's counsel.

(b) Notwithstanding anything to the contrary in the foregoing, Provider shall not be required to defend, indemnify or hold harmless any Customer Indemnified Party from and against, and no Customer Indemnified Party shall be exculpated from, any Claims to the extent such Claims (i) are caused by or arise from the breach of this Agreement by Customer or the gross negligence, bad faith, recklessness or willful misconduct of such Customer Indemnified Party; (ii) relate to changes to

the market rate for electricity, including the fact that, from time to time, negotiated rates under Energy Contracts entered into by Provider on behalf of Customer may be higher than rates charged by the Utility, (iii) relate to defaults under the Energy Contracts that are not caused by Provider's gross negligence, bad faith, recklessness or willful misconduct, or (iv) are the result of a change in governmental regulation or a change in Applicable Law.

7.2 Indemnification by Customer.

(a) Subject to Section 7.2(b), Customer shall defend, indemnify and hold harmless each Provider Indemnified Party from and against any and all Claims incurred or asserted against such Provider Indemnified Party arising out of or otherwise in connection with this Agreement and/or Provider's entry into any Energy Contract on behalf of Customer or the end-users in Customer's territory, including any Claims resulting from (i) the failure of Customer (or the end-users in its territory) to make payments with respect to an Energy Contract, or (ii) a default by Provider under any Energy Contract entered into pursuant hereto. Customer's obligations under this paragraph shall include all costs (including but not limited to attorneys fees) incurred in performing the same. Provider may employ counsel at its own expense with respect to any claims or demands asserted or sought to be collected against it; provided, if counsel is employed because Customer does not assume control of the defense, Customer will bear the reasonable expenses of Provider's counsel.

(b) Notwithstanding anything to the contrary in the foregoing, Customer shall not be required to defend, indemnify or hold harmless any Provider Indemnified Party from and against, and no Provider Indemnified Party shall be exculpated from, any Claims to the extent caused by or arising from the breach of this Agreement by Provider or the gross negligence, bad faith, recklessness or willful misconduct of such Provider Indemnified Party.

7.3 Indemnification Procedure.

(a) After receipt by an Indemnified Party of notice of the commencement of any Claim that is indemnifiable by Provider under Section 7.1 or Customer under Section 7.2 (as applicable, in such capacity, the "Indemnifying Party"), such Indemnified Party shall give prompt written notice to the relevant Indemnifying Party of the commencement thereof. The failure to promptly notify such Indemnifying Party shall not relieve the Indemnifying Party of any liability that it may have to any Indemnified Party with respect to such action; provided that, to the extent that any such failure to provide prompt notice is responsible for an increase in the indemnity obligations of the Indemnifying Party, the Indemnifying Party shall not be responsible for any such increase.

(b) When required to indemnify an Indemnified Party in accordance with this Article 7, the relevant Indemnifying Party shall assume on behalf of such Indemnified Party and conduct with due diligence and in good faith the defense of any Claim against such Indemnified Party, whether or not the Indemnifying Party shall be joined therein, and the Indemnified Party shall cooperate with the Indemnifying Party in such defense.

(c) The Indemnifying Party shall have charge and direction of the defense and settlement of such Claim; provided, however, that without relieving the Indemnifying Party of its obligations hereunder or impairing the Indemnifying Party's right to control the defense or settlement thereof, the Indemnified Party may elect to participate through separate counsel in the defense of any such Claim, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless (i) the employment of counsel by such Indemnified Party has been authorized in writing by the

Indemnifying Party, (ii) the Indemnified Party shall have reasonably concluded that there exists a material conflict of interest between the Indemnifying Party and such Indemnified Party in the conduct of the defense of such Claim (in which case the Indemnifying Party shall not have the right to control the defense or settlement of such Claim on behalf of such Indemnified Party) or (iii) the Indemnifying Party shall not have employed counsel to assume the defense of such Claim within a reasonable time after notice of the commencement thereof. In each of such cases the reasonable fees and expenses of counsel shall be at the expense of the Indemnifying Party.

(d) The Indemnifying Party shall obtain the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed) before entering into a settlement of or ceasing to defend such claim or action if, pursuant to or as a result of such settlement or cessation, injunctive or equitable relief or other non-monetary relief, remedy or arrangement will be imposed against the Indemnified Party or if the Indemnifying Party will not fully pay or satisfy all amounts payable with respect to such proceeding or settlement. In no event shall the Indemnifying Party be required to indemnify an Indemnified Party with respect to amounts paid in settlement of a claim unless such claim was settled with the consent of the Indemnifying Party.

7.4 Limitations of Liability.

(a) Total Limitation of Liability. Except for amounts payable as provided in Section 7.1 (Indemnification) and Section 2.2(b), Provider's total liability under this Agreement to Customer Indemnified Parties on all Claims of any kind, whether based on contract, indemnity, warranty, tort (including negligence), strict liability or otherwise, for all losses or damages arising out of, connected with, or resulting from this Agreement or from the performance or breach thereof, or from any services covered by or furnished during the Term of this Agreement shall with respect to any fiscal year in no case exceed one hundred percent (100%) of the value of the Fixed Fee payable in such fiscal year. Similarly, except for amounts payable as provided in Section 7.2 (Indemnification), Customer's total liability under this Agreement to Provider Indemnified Parties on all Claims of any kind, whether based on contract, indemnity, warranty, tort (including negligence), strict liability or otherwise, for all losses or damages arising out of, connected with, or resulting from this Agreement or from the performance or breach thereof, or from any services covered by or furnished during the Term of this Agreement shall with respect to any fiscal year in no case exceed one hundred percent (100%) of the value of the Fixed Fee payable in such fiscal year.

(b) No Liability for Energy Contracts. Customer acknowledges that Provider will be entering into Energy Contracts on behalf of Customer and the end-users in Customer's territory. Customer acknowledges and agrees that neither Provider nor any member of Provider shall be liable for the amount of any shortfall between the payments due to the counterparty under such Energy Contracts and the amount received from such end-users unless such shortfall is the result of the gross negligence, willful misconduct, conversion, misappropriation or theft on the part of Provider.

(c) Waiver of Consequential Damages. Except in connection with indemnification for third-party Claims or Claims resulting from gross negligence or willful misconduct, in no event, whether based on contract, indemnity, warranty, tort (including negligence), strict liability or otherwise, shall a Party or its respective Affiliates be liable for special, incidental, exemplary, indirect or consequential damages.

7.5 Survival.

Notwithstanding any other provision of this Agreement, the provisions of this Article 7 are intended to and shall survive termination of this Agreement

ARTICLE 8 TERMINATION

8.1 Termination by Customer.

(a) Termination for Cause.

(i) Without limiting any other rights or remedies it may have, Customer shall be entitled to terminate this Agreement for cause by delivery of a Termination Notice to Provider in connection with the occurrence of any of the following events:

(1) Provider fails to make any payment required to be made by Provider to Customer hereunder when such payment is due and owing under this Agreement, and such failure shall continue for ten (10) days after written notice thereof has been given to Provider.

(2) Provider has filed against it petitions under any insolvency or bankruptcy Law of any jurisdiction which are not dismissed within ninety (90) days of the date filed, proposes any dissolution, liquidation, composition, financial reorganization or recapitalization with creditors, makes a general assignment for the benefit of creditors, files a voluntary petition in bankruptcy under any provision of Applicable Law or consents to the filing of any bankruptcy or reorganization petition against it under any similar law, or if receivers, trustees, custodians or similar agents are appointed or take possession with respect to any property or business of Provider.

(3) Provider fails to comply (other than for Force Majeure reasons) in any material respect with any term, provision or covenant of this Agreement, other than the payment of sums to be paid hereunder, and such failure shall continue for sixty (60) days after written notice thereof has been given to Provider; provided, however, that if such failure cannot reasonably be cured within said sixty (60) day period and Provider has diligently commenced the cure of such failure within said period, then Provider shall have a commercially reasonable additional period of time to cure such default not to exceed an additional one hundred eighty (180) days.

(4) Provider assigns this Agreement in violation of the provisions of Section 13.6.

(ii) Notwithstanding the foregoing, Customer shall not have the right to terminate this Agreement pursuant to this Section 8.1(a) if the occurrence of any of the events or conditions described in this Section 8.1(a) is the result of Customer's bad faith, willful misconduct or gross negligence.

(b) Termination for Convenience. Notwithstanding anything to the contrary in this Agreement, Customer shall be entitled to terminate this Agreement or any part of the Services for

convenience, at Customer's sole discretion with or without cause, by delivery of a Termination Notice to Provider at any time after the expiration of the Base Term.

(c) Timing of Termination. If Customer delivers a Termination Notice to Provider pursuant to Section 8.1(a) or 8.1(b), this Agreement shall terminate as set forth in Section 8.4.

8.2 Termination by Provider.

(a) Termination for Cause.

(i) Without limiting any other rights or remedies it may have, Provider shall be entitled to terminate this Agreement for cause by delivery of a Termination Notice to Customer in connection with the occurrence of any of the following events:

(1) Customer has failed to make any undisputed payment required to be made to Provider under this Agreement and such failure is not remedied within ten (10) days after the date on which Customer has received notice of such failure to make such payment.

(2) Customer has filed against it petitions under any insolvency or bankruptcy Law of any jurisdiction which are not dismissed within ninety (90) days of the date filed, proposes any dissolution, liquidation, composition, financial reorganization or recapitalization with creditors, makes a general assignment for the benefit of creditors, files a voluntary petition in bankruptcy under any provision of Applicable Law or consents to the filing of any bankruptcy or reorganization petition against it under any similar law, or if receivers, trustees, custodians or similar agents are appointed or take possession with respect to any property or business of Customer.

(3) Customer fails to establish or maintain end-user customer rates in compliance with Section 6.3(d), as reasonably determined by Provider, and fails to establish such rates within sixty (60) days after written notice thereof has been given to Customer; provided, however, that if Customer has sent notice of a rate increase and is awaiting council action, then Customer shall have a commercially reasonable additional period of time to cure such default not to exceed an additional one hundred eighty (180) days.

(4) Customer assigns this Agreement in violation of the provisions of Section 13.6.

(5) Customer fails to comply (other than for Force Majeure reasons) in any other material respect with any term, provision or covenant of this Agreement, other than the payment of sums to be paid hereunder, or as otherwise provided above, and such failure continues for sixty (60) days after written notice thereof has been given to Customer; provided, however, that if such failure cannot reasonably be cured within said sixty (60) day period and Customer has diligently commenced the cure of such failure within said period, then Customer shall have a commercially reasonable additional period of time to cure such default not to exceed an additional ninety (90) days.

(ii) Provider shall not have the right to terminate this Agreement pursuant to this Section 8.2(a) if the occurrence of any of the events or conditions described in this Section 8.2(a) is the result of Provider's bad faith, willful misconduct or gross negligence.

(b) Termination for Convenience. Notwithstanding anything to the contrary in this Agreement, Provider shall be entitled to terminate this Agreement or any part of the Services for convenience, at Provider's sole discretion with or without cause, by delivery of a Termination Notice to Customer at any time after the expiration of the Base Term; provided that no Termination Notice shall be effective for at least thirty (30) days following Customer's receipt of the same, or any such longer period as may be indicated in the Termination Notice.

(c) Timing of Termination. If Provider delivers a Termination Notice to Customer pursuant to Section 8.2(a) or 8.2(b), this Agreement shall terminate as set forth in Section 8.4.

8.3 Cooperation Upon Termination.

In connection with any termination of this Agreement in accordance herewith, at the reasonable request of Customer, Provider shall cooperate with Customer to provide for the orderly transition of the performance of the Services to a replacement administrator, including the transfer of documentation and data access.

8.4 Effect of Termination; No Prejudice.

(a) Effect of Termination. Subject to clause (b) below, if Customer or Provider delivers a Termination Notice in accordance with, and as permitted by, this Agreement, then this Agreement shall terminate on the later to occur of (i) ninety (90) days from the date of such Termination Notice and (ii) the date on which all of the Energy Contracts to which Provider is a party on behalf of Customer on the date of such Termination Notice have terminated in accordance with their respective terms.

(b) No Prejudice. Termination of this Agreement shall not affect any rights or obligations as between the Parties that may have accrued prior to such termination or that expressly or by implication are intended to survive termination whether resulting from the event giving rise to termination or otherwise. In addition, except as expressly provided for herein, termination of this Agreement for any reason shall be without prejudice to Provider's right to receive a proportional amount of the Fixed Fees or payment of any outstanding Reimbursable Expenses as of the date of termination. Except as otherwise set forth in this Agreement, remedies are cumulative and the exercise of, or failure to exercise, one or more remedies by a Party shall not limit or preclude the exercise of, or constitute a waiver of, other remedies provided for under this Agreement by such Party. For breach of any provision of this Agreement for which an express remedy or measure of damages is herein provided, (i) such express remedy or measure of damages shall be the sole and exclusive remedy hereunder, (ii) the liability of the Party that has committed such breach shall be limited as set forth in such provision and (iii) the Parties hereby waive all other remedies or damages at law or in equity with respect to such breach. If no remedy or measure of damages is expressly provided herein with respect to a breach of any provision of this Agreement, the liability of the Party that has committed such breach shall be limited to direct actual damages only; provided that this limitation shall not apply to (A) Provider's obligation with respect to indemnifying and holding harmless each Customer Indemnified Party to the extent of any amount owed to a third party other than a Customer Indemnified Party, if any,

or (B) Customer's obligation with respect to indemnifying and holding harmless each Provider Indemnified Party to the extent of any amount owed to a third party other than an Provider Indemnified Party.

ARTICLE 9 FORCE MAJEURE

9.1 Force Majeure.

(a) Notwithstanding any other provision of this Agreement, each Party's obligations under this Agreement shall be suspended by any Force Majeure if and to the extent that such Party is prevented or delayed from performing by reason of the Force Majeure; provided, however, that:

(i) the suspension of performance shall be of no greater scope and of no longer duration than is necessarily caused by the Force Majeure and required by any remedial measures;

(ii) no obligations of any Party that arose before the occurrence of Force Majeure shall be excused as the result of the occurrence; and

(iii) each Party shall use commercially reasonable efforts to remedy its inability to perform; provided, further, that no Force Majeure shall excuse any payment obligations of either Provider or Customer otherwise due hereunder.

(b) If the performance by a Party of its obligations under this Agreement is affected by any Force Majeure, such Party shall as soon as practicable notify the other Parties of the nature and extent thereof.

ARTICLE 10 NOTICES

10.1 Notices.

(a) All notices and other communications required or permitted by this Agreement or by Applicable Law to be served upon or given to a Party by any other Party shall be deemed duly served, given and received (i) on the date of service if served personally or if sent by facsimile transmission or electronic mail during Regular Work Hours (each with appropriate confirmation of receipt) to the Party to whom notice is to be given, or (ii) on the fourth (4th) day after mailing, if mailed by first class registered or certified mail, postage prepaid or (iii) on the next day if sent by a nationally recognized courier for next day service and so addressed and if there is evidence of acceptance by receipt addressed to the address(es) set forth in Exhibit C.

(b) The Parties, by like notice in writing, may designate, from time to time, another address or office to which notices shall be given pursuant to this Agreement.

ARTICLE 11 CONFIDENTIALITY

11.1 **General Confidential Information.**

(a) Except as otherwise provided in this Agreement, without the prior written consent of the other Parties hereto, no Party shall disclose Confidential Information (as defined below) received in connection with the performance of the Services.

(b) The recipient of any Confidential Information shall use the same degree of care that it uses to protect its own confidential information of like nature, but no less than a reasonable degree of care, to maintain in confidence the Confidential Information of the disclosing Party.

(c) No Party shall have any obligation under this Section 11.1 with respect to any information that:

(i) at the time of disclosure is in the public domain, or thereafter becomes part of the public domain, in each case through a source other than the receiving Party in violation of this Agreement;

(ii) is subsequently learned by receiving Party from a third party that, to the knowledge of the receiving Party, is not under an obligation to keep such information confidential;

(iii) was known to the receiving Party at the time of disclosure without confidentiality restrictions, as can be demonstrated by contemporaneous written evidence;

(iv) is generated independently by the receiving Party without reference to the Confidential Information of the disclosing Party, as can be demonstrated by contemporaneous written evidence, or

(v) is required to be disclosed pursuant to Applicable Law, regulation, subpoena, court order or other legal process or professional requirements, or in connection with the enforcement of the receiving Party's rights under this Agreement. Prior to any such disclosure, the disclosing Party shall, to the maximum extent possible, provide reasonable notice to the other Party, with adequate time (to be judged based upon the facts and circumstances surrounding the disclosure) for the non-disclosing party to seek court intervention if it should so elect in its sole and absolute discretion.

(d) For purposes of this Agreement, "**Confidential Information**" shall mean all end-user customer specific information, including energy consumption, and market sensitive data, including non-public wholesale energy pricing disclosed in connection with negotiation or procurement of energy or related products under Energy Contracts in connection with the Services whether or not such information was owned or developed by the disclosing Party, which the receiving Party may obtain knowledge of, through or as a result of the relationship established hereunder with the disclosing Party.

(e) Provider shall obtain written approval from the relevant Customer in connection with any press release or promotional materials that reference the relationship established through this Agreement and such Parties shall agree on the form and content of such press release. Any

other press announcement by a Party regarding the subject matter of this Agreement will be subject to the approval of the other Parties hereto, which approval shall not be unreasonably withheld or delayed.

11.2 Limited Disclosure of Confidential Information.

Notwithstanding the provisions of Section 11.1, Provider shall be entitled to the extent necessary for the performance of its duties hereunder to allow access to the Confidential Information to such of its employees and consultants who are directly concerned with the carrying out of Provider's duties under this Agreement, provided that Provider shall inform each of such Persons of the confidential nature of, and Provider's obligation of confidentiality with respect to, such Confidential Information and such employees and consultants shall agree to keep the Confidential Information confidential in accordance with the terms of this Agreement.

ARTICLE 12 DISPUTE RESOLUTION

12.1 Negotiations.

The Parties shall attempt in good faith to resolve all disputes promptly by negotiation, as set forth below.

(a) A Party may give another Party written notice of any dispute between such Parties that has not been resolved in the normal course of business. Representatives of such Parties at levels one level above the personnel who have previously been involved in the dispute shall meet at a mutually acceptable time and place within ten (10) days after delivery of such notice, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute.

(b) If such representatives are unable to resolve, or do not anticipate being able to resolve, the dispute within twenty (20) days after receiving notice of such dispute, either Party may initiate legal proceedings in a court of competent jurisdiction as provided in Section 13.2.

(c) If a Party intends to be accompanied at a meeting by an attorney, the other Party shall be given at least three (3) Business Days' notice of such intention so that the other Party may also be accompanied by an attorney. All negotiations pursuant to this Section 12.1 are confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and applicable state rules of evidence. Each Party shall bear its own costs for this dispute resolution phase.

12.2 Continued Prosecution of the Work.

In case of any dispute, Provider shall continue to diligently perform its obligations under this Agreement, and, without limiting the generality of the foregoing and subject to Section 5.3(c), Customer shall continue to make payments to Provider for those portions of the Services performed hereunder that are not the subject of dispute in accordance with this Agreement.

ARTICLE 13 MISCELLANEOUS

13.1 **Execution.**

This Agreement may be executed in any number of counterparts and by the different Parties on separate counterparts, each of which, when so executed and delivered (including by electronic mail), shall be an original, but all such counterparts shall together constitute but one and the same instrument.

13.2 **Governing Law; Venue and Jurisdiction.**

THIS AGREEMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO ITS CONFLICT OF LAWS RULES.

ANY LITIGATION ARISING HEREUNDER SHALL BE SUBJECT TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED IN THE STATE OF CALIFORNIA AND VENUE SHALL BE IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA OR THE SUPERIOR COURT FOR THE STATE OF CALIFORNIA LOCATED IN LOS ANGELES COUNTY. ANY OF THE FOREGOING COURTS SHALL HAVE PERSONAL JURISDICTION OVER THE PARTIES HERETO. EACH PARTY WAIVES ANY AND ALL RIGHTS TO CONTEST SAID JURISDICTION AND VENUE AND WAIVES ANY RIGHT TO COMMENCE ANY ACTION AGAINST THE OTHER PARTY IN ANY OTHER JURISDICTION.

13.3 **Jury Waiver and Judicial Reference.**

(a) EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) IN THE EVENT ANY LEGAL PROCEEDING IS FILED IN A COURT OF THE STATE OF CALIFORNIA (THE "**COURT**") BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY CONTROVERSY, DISPUTE OR CLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) (EACH, A "**DISPUTE**") AND THE WAIVER SET FORTH IN THE PRECEDING PARAGRAPH IS NOT ENFORCEABLE IN SUCH ACTION OR PROCEEDING, THE PARTIES HERETO AGREE AS FOLLOWS:

(c) WITH THE EXCEPTION OF THE MATTERS SPECIFIED IN PARAGRAPH (b) BELOW, ANY DISPUTE WILL BE DETERMINED BY A GENERAL REFERENCE PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1. THE PARTIES INTEND THIS

GENERAL REFERENCE AGREEMENT TO BE SPECIFICALLY ENFORCEABLE IN ACCORDANCE WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638.

(d) THE FOLLOWING MATTERS SHALL NOT BE SUBJECT TO A GENERAL REFERENCE PROCEEDING: (1) NON-JUDICIAL FORECLOSURE OF ANY SECURITY INTERESTS IN REAL OR PERSONAL PROPERTY, (2) EXERCISE OF SELF- HELP REMEDIES (INCLUDING, WITHOUT LIMITATION, SET-OFF), (3) APPOINTMENT OF A RECEIVER AND (4) TEMPORARY, PROVISIONAL OR ANCILLARY REMEDIES (INCLUDING, WITHOUT LIMITATION, WRITS OF ATTACHMENT, WRITS OF POSSESSION, TEMPORARY RESTRAINING ORDERS OR PRELIMINARY INJUNCTIONS). THIS AGREEMENT DOES NOT LIMIT THE RIGHT OF ANY PARTY TO EXERCISE OR OPPOSE ANY OF THE RIGHTS AND REMEDIES DESCRIBED IN CLAUSES (1) – (4) AND ANY SUCH EXERCISE OR OPPOSITION DOES NOT WAIVE THE RIGHT OF ANY PARTY TO A REFERENCE PROCEEDING PURSUANT TO THIS AGREEMENT.

(e) UPON THE WRITTEN REQUEST OF ANY PARTY, THE PARTIES SHALL SELECT A SINGLE REFEREE, WHO SHALL BE A RETIRED JUDGE OR JUSTICE. IF THE PARTIES DO NOT AGREE UPON A REFEREE WITHIN TEN (10) DAYS OF SUCH WRITTEN REQUEST, THEN, ANY PARTY MAY REQUEST THE COURT TO APPOINT A REFEREE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 640(B).

(f) ALL PROCEEDINGS AND HEARINGS CONDUCTED BEFORE THE REFEREE, EXCEPT FOR TRIAL, SHALL BE CONDUCTED WITHOUT A COURT REPORTER, EXCEPT WHEN ANY PARTY SO REQUESTS, A COURT REPORTER WILL BE USED AND THE REFEREE WILL BE PROVIDED A COURTESY COPY OF THE TRANSCRIPT. THE PARTY MAKING SUCH REQUEST SHALL HAVE THE OBLIGATION TO ARRANGE FOR AND PAY COSTS OF THE COURT REPORTER, PROVIDED THAT SUCH COSTS, ALONG WITH THE REFEREE'S FEES, SHALL ULTIMATELY BE BORNE BY THE PARTY WHO DOES NOT PREVAIL, AS DETERMINED BY THE REFEREE.

(g) THE REFEREE MAY REQUIRE ONE OR MORE PREHEARING CONFERENCES. THE PARTIES HERETO SHALL BE ENTITLED TO DISCOVERY, AND THE REFEREE SHALL OVERSEE DISCOVERY IN ACCORDANCE WITH THE RULES OF DISCOVERY, AND MAY ENFORCE ALL DISCOVERY ORDERS IN THE SAME MANNER AS ANY TRIAL COURT JUDGE IN PROCEEDINGS AT LAW IN THE STATE OF CALIFORNIA. THE REFEREE SHALL APPLY THE RULES OF EVIDENCE APPLICABLE TO PROCEEDINGS AT LAW IN THE STATE OF CALIFORNIA AND SHALL DETERMINE ALL ISSUES IN ACCORDANCE WITH APPLICABLE STATE AND FEDERAL LAW. THE REFEREE SHALL BE EMPOWERED TO ENTER EQUITABLE AS WELL AS LEGAL RELIEF AND RULE ON ANY MOTION WHICH WOULD BE AUTHORIZED IN A TRIAL, INCLUDING, WITHOUT LIMITATION, MOTIONS FOR DEFAULT JUDGMENT OR SUMMARY JUDGMENT. THE REFEREE SHALL REPORT HIS OR HER DECISION, WHICH REPORT SHALL ALSO INCLUDE FINDINGS OF FACT AND CONCLUSIONS OF LAW.

(h) THE PARTIES RECOGNIZE AND AGREE THAT ALL DISPUTES RESOLVED IN A GENERAL REFERENCE PROCEEDING PURSUANT HERETO WILL BE DECIDED BY A REFEREE AND NOT BY A JURY.

13.4 Amendments, Supplements, Etc.

Neither this Agreement nor any of the terms hereof may be amended, supplemented, or modified orally, but only by an instrument in writing signed by Provider and by Customer.

13.5 **Headings.**

The headings of the Articles and Sections of this Agreement have been inserted for convenience of reference only and shall not modify, define or limit any of the terms or provisions hereof.

13.6 **Assignment.**

(a) Neither Party may assign, pledge or otherwise transfer this Agreement without the prior written consent of the other Party.

(b) Any attempted assignment, pledge or other transfer in violation of this Section 13.6 shall be null and void.

13.7 **Successors and Assigns.**

This Agreement shall be binding upon and inure to the benefit of the Parties, and their respective successors and assigns, to the extent that assignment is permitted hereunder.

13.8 **Other Customers.**

Nothing in this Agreement shall be construed to prevent or prohibit Provider from providing the same or similar services to any Person not a Party to this Agreement and from entering into a form of agreement substantially similar to this Agreement with any such Persons; provided that the provision of such services does not adversely affect Provider's ability to perform its obligations hereunder.

13.9 **Waiver.**

No provision of this Agreement may be waived except in writing by the waiving Party. The waiver of any breach of any term or condition hereof shall not be deemed a waiver of any other or subsequent breach, whether of like or different nature.

13.10 **Severability.**

If any provision of this Agreement is declared by a court of competent jurisdiction to be illegal, unenforceable or void, that provision shall be modified so as to be enforceable and as nearly as possible reflect the original intention of the Parties, it being agreed and understood by the Parties that (i) this Agreement and all the provisions hereof shall be enforceable in accordance with their respective terms to the fullest extent permitted by Applicable Law, and (ii) the remainder of this Agreement shall remain in full force and effect.

13.11 **Construction.**

Every term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any Party.

13.12 Entire Agreement.

This Agreement, including the exhibits and schedules attached hereto, which are hereby incorporated by this reference as though fully set forth herein, constitutes the entire agreement between the Parties with respect to the subject matter hereof. Nothing in this Agreement, express or implied, is intended to confer upon any Person other than the Parties any rights, remedies, obligations or liabilities under or by reason of this Agreement.

13.13 Third-Party Beneficiaries.

This Agreement is made and entered into for the sole benefit of the Parties and each of their permitted successors and assigns and no other person or entity shall be a direct or indirect legal beneficiary of, have any rights under, or have any direct or indirect cause of action or claim in connection with this Agreement.

13.14 Survival.

Section 4.4, Section 5.4, Section 5.6, Article 7, Article 8, Article 9, and Article 13 shall survive the termination or expiration of this Agreement and any provision which by its terms or by implication is intended to survive the termination or expiration of this Agreement shall so survive.

13.15 No Rules of Construction Against Drafter.

Each Party acknowledges that it and its attorneys have been given an equal opportunity to negotiate the terms and conditions of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party or any similar rule operating against the drafter of an agreement shall not be applicable to the construction or interpretation of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the duly authorized officers of the Parties have executed this Agreement as of the Effective Date.

CALIFORNIA CHOICE ENERGY AUTHORITY

By: _____
Name: Mark Bozigian, Executive Director
Title:

CITY OF SAN JACINTO

By: _____
Name:
Title:

EXHIBIT A

SCHEDULE OF DEFINITIONS

The terms defined in this Schedule of Definitions shall include the plural as well as the singular and the singular as well as the plural. Except as otherwise indicated, all the agreements or instruments herein defined shall mean such agreements or instruments as the same may from time to time be supplemented or amended or the terms thereof waived or modified to the extent permitted by, and in accordance with, the terms thereof. When used in the Agreement (as defined below), unless otherwise defined therein, the following terms shall have the respective meanings set forth below:

“Affiliate” of a Person (the “First Person”) shall mean a Person which directly or indirectly Controls, or is Controlled by, or is under common control with, the First Person, and shall also include any limited partnership or limited liability company of which the First Person or Affiliate thereof is the general partner, managing member or manager, as the case may be, and any Subcontractor, agent, representative, employee or authorized personnel of the First Person. “Control” of a Person shall mean the Customership, directly or indirectly, of more than fifty percent (50%) of the voting securities of that Person.

“Agreement” means this Administrative Services Agreement between Customer and Provider.

“Applicable Law” shall mean all laws, statutes, orders, decrees, injunctions, licenses, permits, approvals, agreements and regulations of any Governmental Authority having jurisdiction over the matter in question which are applicable to or which affect Provider’s provision of the Services and/or the subject matters encompassed by this Agreement.

“Authorization Documents” shall mean the documents identified and summarized in Exhibit D, and the requirements of any documents in replacement of the foregoing or in addition thereto provided by Customer and added to and summarized in Exhibit D from time to time.

“Authorized Officer” means the officer(s) of Customer designated as an “Authorized Officer” in the Customer Approval Procedures.

“Base Term” shall have the meaning set forth in Section 3.1(a).

“Bundled Load” means the proposed electric energy consumption of a member of Provider, as set forth in the implementation plan filed for such member pursuant to Code Section 366.2.

“Business Day” shall mean any day except a Saturday, Sunday or other day on which commercial banks in the State of California are authorized by law to close.

“Claims” shall mean claims, actions, damages, expenses (including reasonable attorneys’ fees), fines, penalties, losses or liabilities.

“Code” shall have the meaning given thereto in the recitals.

“Confidential Information” shall have the meaning given in Section 11.1(e).

“CPUC” shall have the meaning given thereto in the recitals.

“Customer” shall have the meaning given thereto in the introductory paragraph of the Agreement, and its permitted successors and assigns, if any, under the Agreement.

“Customer Approval Procedures” means the approval procedures set forth in Exhibit E hereto.

“Customer Indemnified Party” shall mean Customer (including successors and permitted assigns) and its shareholders, partners, directors, officers, agents and employees.

“Disputed Payment” shall have the meaning given thereto in Section 5.2(c).

“Effective Date” shall have the meaning given in the introductory paragraph of this Agreement.

“Energy Contract” means an agreement for the purchase of energy, renewable energy or related products, including a power purchase agreement and/or confirmation letter thereto, entered into by Provider for the benefit of Customer.

“FERC” means the Federal Energy Regulatory Commission.

“Fixed Fee” shall have the meaning given thereto in Section 5.1(a).

“Fixed Fee Services” shall have the meaning given thereto in Section 4.1(a).

“Force Majeure” shall mean any event that wholly or partly prevents or delays the performance by the Party affected of any obligation arising under this Agreement, but only if and to the extent such event is not within the reasonable control, directly or indirectly, of and not the fault of the Party affected including (provided that the foregoing requirements are satisfied): condemnation; expropriation; invasion; plague; drought; landslide; storms or wind of sufficient intensity to prevent safe performance of work; tornado; hurricane; tsunami; flood; lightning; earthquake; fire; explosion; epidemic; quarantine; war (declared or undeclared), terrorism or other armed conflict; material physical damage to an energy facility caused by third parties; strikes and other labor disputes (including collective bargaining disputes and lockouts) involving Subcontractors; riot or similar civil disturbance or commotion; other acts of God; acts of the public enemy; blockade; insurrection, riot or revolution; sabotage or vandalism; embargoes; and actions of a Governmental Authority (excluding the actions of the claiming party). “Force Majeure” shall not include (1) an event that prevents or delays (i) Provider’s or Customer’s compliance with (a) Applicable Laws; and (b) Permits required under Applicable Law in connection with such Party’s performance under this Agreement and (ii) Customer’s indemnity obligations hereunder, (2) labor shortages; (3) labor strikes and other labor disputes (including collective bargaining disputes and lockouts) with regard to work by Provider or a Subcontractor (except if such action is part of a regional or national action); or (4) economic hardship (including lack of money).

“Governmental Authority” shall mean any federal, provincial, state or local government authority, agency, court or other body, officer or public entity, including any zoning authority, building inspector, or health or safety inspector, including the CPUC.

“Indemnified Party” shall mean a Provider Indemnified Party or Customer Indemnified Party.

“Indemnifying Party” shall have the meaning given thereto in Section 7.3.

“JPA” shall mean that certain Joint Exercise of Powers Agreement Relating to the California Clean Energy Authority dated August 14, 2012, as the same has been or may be amended from time to time.

“Payment Date” shall have the meaning given thereto in Section 5.2.

“Payment Invoice” shall have the meaning given thereto in Section 5.2.

“Permit” shall mean any waiver, exemption, variance, franchise, certification, approval, permit, authorization, license, consent, or similar order of or from any Governmental Authority having jurisdiction over the matter in question.

“Person” shall mean any individual, partnership, joint stock company, corporation, trust, unincorporated association or joint venture, a government or any department or agency thereof, or any other entity.

“Provider” shall have the meaning given thereto in the introductory paragraph of this Agreement, and its successors and permitted assigns, if any.

“Provider Indemnified Party” shall mean Provider and its Affiliates and their respective shareholders, partners, directors, officers, agents, employees and representatives.

“Provider Permits” means those permits required under Applicable Law in order for Provider to perform its obligations hereunder.

“Provider Policies” shall mean Provider’s health, safety and environmental policies.

“Regular Work Hours” means [8:00 am] (PT) to [5:00 pm] (PT) on a Business Day.

“Reimbursable Expenses” shall have the meaning set forth in Section 5.2.

“Reimbursable Services” shall have the meaning given thereto in Section 4.1(b).

“Scope of Work Exhibit” means Exhibit B hereto.

“Security Documents” means, with respect to each Energy Contract, the security documents entered into by Customer in connection therewith pursuant to which Customer grants to the energy suppliers under each Energy Contract (or its collateral agent) a security interest in any and all monies received from the Utility or the end-users in Customer’s territory in connection with such Energy Contract, which security documents shall include (i) an account control agreement for an account (sometimes referred to as a “lockbox account”) among Customer, an account bank and the energy supplier to such Energy Contract (or its collateral agent), (ii) an intercreditor and collateral agency agreement, among Customer, the counterparties to such Energy Contracts and, if applicable, the collateral agent, and (iii) a security agreement between Customer and the counterparty to such Energy Contract (or its collateral agent).

“Services” shall have the meaning set forth in Section 4.1 and shall be comprised of the Fixed Fee Services and the Reimbursable Services.

“Subcontractors” means any subcontractor, of any tier, vendor or supplier of materials, equipment or services to Provider or any subcontractor, of any tier, of any Person engaged or employed by Provider or any subcontractor of any tier that provides any part of the Services.

“Term” shall have the meaning set forth in Section 3.1(a).

“Terminating Party” shall have the meaning given thereto in Section 8.1.

“Termination Notice” shall have the meaning given thereto in Section 3.1(b).

“Utility” means [Pacific Gas and Electric] [Southern California Edison] [San Diego Gas & Electric].

EXHIBIT B
SCOPE OF WORK

A. Fixed Fee Services

1. Portfolio Operations

(a) Energy Procurement.

(i) Provider to consider load patterns of the CCA and advise Customer on assembling a supply portfolio that will match resources to the aggregate load shape of the CCA's customer base.

(ii) Provider to negotiate contracts for the sale of electricity to fill the load requirements of the CCA.

(b) Risk and Credit Management.

(i) Provider to monitor the credit rating and financial condition of Customer's energy suppliers.

(ii) Provider to periodically calculate the financial exposure to a specific supplier.

(c) Load Forecasting and Data Collection.

(i) Provider to collect, process and forecast load information.

(d) Scheduling Coordination.

(i) Provider to coordinate scheduling with the grid operator's schedule coordinator; exchange customer usage and billing formation with the Utility.

2. Account Services

(a) If necessary, Provider to calculate individual end-user customer bills.

(b) Provider to confirm receipt of funds in lockbox account.

(c) Provider to review and validate invoices from Schedule Coordinator.

(d) Provider to direct distribution of funds from lockbox account.

3. Administrative and Management of CCA Program

4. Regulatory Representation and Compliance Filings

B. Reimbursable Services

(a) Data Management Services (e.g., electronic data interchange (EDI) services; customer information system development and maintenance; customer call center management and staffing; billing administration; settlement quality meter data services; customer care, billing and related reports; and qualified reporting entity (QRE) services)

(b) Professional Services (e.g., legal services for negotiation of Energy Contracts and Security Documents on behalf of San Jacinto; electric load evaluation; community choice aggregation operational analysis; projected customer rate analysis and comparison; and support and maintenance of financial model)

EXHIBIT C

**FIXED FEE RATE, REIMBURSABLE EXPENSES
AND NOTICE ADDRESS**

- 1. **Fixed Fee Rate:** **\$260,260.00 annually**

- 2. **Reimbursable Expenses:**
 - (a) **Data Management Services:** **\$ 200,685.00 (estimated)**

 - (b) **Professional Services:** **\$ 250,000.00 (estimated)**

- 3. **Address for Notices:**

Provider:	[Name of Provider] [Address] Attn: [_____] <input type="text"/> Tel: [_____] <input type="text"/> Facsimile: [_____] <input type="text"/> Email: [_____] <input type="text"/> With a copy to Provider's legal counsel: Troutman Sanders LLP 100 SW Main Street, Suite 1000 Portland, Oregon 97204 Attn: Stephen Hall Tel: 503.290.2336 Email: stephen.hall@troutmansanders.com
Customer:	[Name of Customer] [Address] Attn: [_____] <input type="text"/> Tel: [_____] <input type="text"/> Facsimile: [_____] <input type="text"/> Email: [_____] <input type="text"/>

EXHIBIT D
AUTHORIZATION DOCUMENTS

[To be completed]

EXHIBIT E

CUSTOMER APPROVAL PROCEDURES

1. **Authorized Officer** *[Table to be completed with name/title of Customer's officer that is authorized to provide Provider with necessary approvals.]*

Name	Title

2. **Approval Procedures**

[To be completed – Procedures to contain thresholds for which receipt of Authorized Officer's approval is required.]

Authorized Officer Approval IS Required if Term of Energy Contract is GREATER than:	Five (5) Years
Authorized Officer Approval IS NOT Required if Notional Amount of Energy Contract is EQUAL TO OR LESS than:	Five (5) Years

EXHIBIT F

FORM OF AUTHORIZED OFFICER APPROVAL

[To be inserted]

EXHIBIT G
JOINT EXERCISE OF POWERS AGREEMENT
AND AMENDMENTS THERETO

4840-6911-0854, v. 1

M 1
05/09/17
MVB

**LANCASTER
CITY COUNCIL/SUCCESSOR AGENCY/
FINANCING/POWER/
CALIFORNIA CHOICE ENERGY AUTHORITY
MINUTES
April 25, 2017**

CALL TO ORDER

Vice Mayor/Vice Chair Crist called the meeting of the Lancaster City Council/Successor Agency/Financing/Power/California Choice Energy Authority to order at 5:01 p.m.

ROLL CALL

PRESENT: Council Members/Agency Directors/Authority Members: Malhi, Mann, Underwood-Jacobs, Vice Mayor/Vice Chair Crist

EXCUSED: Mayor/Chair Parris

On a motion by Council Member Mann and seconded by Council Member Malhi, the City Council/Successor Agency/Financing/Power/California Choice Energy Authority excused Mayor/Chair Parris from the meeting, by the following vote: 4-0-0-1; AYES: Malhi, Mann, Underwood-Jacobs, Crist; NOES: None; ABSTAIN: None; ABSENT: Parris

STAFF

MEMBERS: City Manager/Executive Director; Deputy City Manager/Deputy Executive Director; City Attorney/Agency/Authority Counsel; City Clerk/Agency/Authority Secretary; Assistant to the City Manager; Parks, Recreation and Arts Director; Development Services Director; Planning Director; Finance Director; Economic Development Director; Housing Director; Public Safety Director

INVOCATION

Chaplain Wade Little, Los Angeles County Fire Department

PLEDGE OF ALLEGIANCE

Council Member Malhi

LANCASTER CITY COUNCIL/ SUCCESSOR AGENCY/
FINANCING/POWER/CALIFORNIA CHOICE ENERGY AUTHORITY
MINUTES
April 25, 2017

PRESENTATIONS

1. Recognition of Dan Munz
Presenters: Mayor Parris and City Manager, Mark Bozigian
2. Recognition of LA County Air Show STEM Scholarship Winners
Presenters: Mayor Parris and Dr. David Vierra
3. Sexual Assault Awareness Month and Child Abuse Awareness Month
Presenter: Mayor Parris

M 1. MINUTES

On a motion by Council Member Mann and seconded by Council Member Underwood-Jacobs, the City Council/Successor Agency/Financing/Power Authority approved the City Council/Successor Agency/Financing/ Power Authority Regular Meeting Minutes of March 28, 2017, by the following vote: 4-0-0-1; AYES: Malhi, Mann, Underwood-Jacobs, Crist; NOES: None; ABSTAIN: None; ABSENT: Parris

M 2. MINUTES

On a motion by Authority Member Mann and seconded by Authority Member Underwood-Jacobs, the California Choice Energy Authority approved the California Choice Energy Authority Special Meeting Minutes of March 28, 2017, by the following vote: 4-0-0-1; AYES: Malhi, Mann, Underwood-Jacobs, Crist; NOES: None; ABSTAIN: None; ABSENT: Parris

CONSENT CALENDAR

Item No.'s CC 2, CC 6 and CC 10 were removed for separate discussion.

Addressing the City Council on Item No. CC 2:
Maria Paesano – discussed specific items on the Check Register.

Addressing the City Council on Item No. CC 6:
Fran Sereseres – discussed the Animal Shelter.

On a motion by Council Member Mann and seconded by Council Member Malhi, the City Council approved the Consent Calendar with the exception of Item No. CC 10, by the following vote: 4-0-0-1; AYES: Malhi, Mann, Underwood-Jacobs, Crist; NOES: None; ABSTAIN: None; ABSENT: Parris

Council Member Malhi stated he needs to recuse himself from Item No. CC 10 due to the proximity of the project to property his family owns and left the dais at this time.

On a motion by Council Member Mann and seconded by Council Member Underwood-Jacobs, the City Council approved Item No. CC 10, by the following vote: 3-0-1-1; AYES: Mann, Underwood-Jacobs, Crist; NOES: None; RECUSED: Malhi; ABSENT: Parris

LANCASTER CITY COUNCIL/ SUCCESSOR AGENCY/
FINANCING/POWER/CALIFORNIA CHOICE ENERGY AUTHORITY
MINUTES
April 25, 2017

CC 1. ORDINANCE WAIVER

Waived further reading of any proposed ordinances. (This permits reading the title only in lieu of reciting the entire text.)

CC 2. WARRANT REGISTER

Approved the Check and Wire Registers for March 05, 2017 – April 01, 2017 in the amount of \$19,381,887.19.

CC 3. INVESTMENT REPORT

Accepted and approved the March 2017, Monthly Report of Investments as submitted.

CC 4. TRANSFER OF FUNDS FOR UNCLAIMED CHECKS

Approved the transfer of funds for checks issued by the City for individual items less than fifteen dollars (\$15) which have remained unclaimed for the period of one year and the transfer of funds for checks issued by the City for individual items fifteen dollars (\$15) or greater which have remained unclaimed for the period of three years and have successfully completed the disposition procedures as outlined in the City Administrative Policy for Unclaimed and Uncashed Checks.

CC 5. LEASE PURCHASE AGREEMENT WITH NATIONAL COOPERATIVE LEASING

Entered into a five year lease purchase agreement with National Cooperative Leasing to replace seven (7) light duty fleet vehicles in FY 16-17.

CC 6. GENERAL SERVICES AGREEMENT BETWEEN THE COUNTY OF LOS ANGELES AND THE CITY OF LANCASTER

Renewed the General Services Agreement between the County of Los Angeles and the City of Lancaster for a period of five years.

CC 7. JOINT USE AGREEMENT WITH THE SOUTHERN CALIFORNIA EDISON

Approved the Joint Use Agreement with the Southern California Edison Company (SCE) to provide for the relocation of existing SCE facilities necessitated by the widening of Division Street with Site Plan Review (SPR) 15-03, Pacific Auto Retailer project, and authorized the City Manager, or his designee, to sign all documents.

CC 8. ACCEPTANCE OF IMPROVEMENTS

Approved the map and accepted the dedications as offered on the map for Tract Map No. 60430-01; approved and accepted the Subdivision Improvement and Lien Agreement as improvement securities required as a condition of recordation of the map; made findings that this project will not violate any of the provisions of Sections 66473.5, 66474.1, and 66474.6 of the Subdivision Map Act; and instructed the City Clerk to endorse on the face of the map the certificate which embodies the approval of said map and the dedications shown thereon.

LANCASTER CITY COUNCIL/ SUCCESSOR AGENCY/
FINANCING/POWER/CALIFORNIA CHOICE ENERGY AUTHORITY
MINUTES
April 25, 2017

CC 9. AMENDMENT TO THE SUBDIVISION UNDERTAKING AGREEMENT

Approved and accepted an amendment to the Subdivision Undertaking Agreement submitted by Magnolia, L.P. (the “Subdivider”) for Tract No. 53102, located on the southwest corner of Avenue J-8 and 45th Street West, extending the date of completion to March 17, 2019.

CC 10. PUBLIC WORKS CONSTRUCTION PROJECT NO.13-015

Approved an increase in the contract amount for **Public Works Construction Project No. 13-015, 20th Street West, Lancaster Boulevard to Avenue J Street Rehabilitation and Repair, Professional Consultant Services**, with Stantec Consulting Services, Inc., of Lancaster, California, by \$12,766.00, and authorized the City Manager, or his designee, to sign all documents.

Council Member Malhi returned to the dais at this time.

NB 1. PURCHASE & SALE AGREEMENT WITH MARK E. THOMPSON

Council Member Underwood-Jacobs stated she needs to recuse herself from this item due to the proximity of the project to her employer and left the dais at this time.

It was the consensus of the City Council to waive the staff report for this item.

On a motion by Council Member Mann and seconded by Council Member Malhi, the City Council approved the Purchase & Sale Agreement with Mark E. Thompson for APN 3133-003-006 to provide additional public parking in the downtown area, by the following vote: 3-0-1-1; AYES: Malhi, Mann, Crist; NOES: None; RECUSED: Underwood-Jacobs; ABSENT: Parris

On a motion by Council Member Mann and seconded by Council Member Malhi, the City Council appropriated \$174,079 from available Proposition C fund balance to expenditure Account No. 209-4540-912 for the acquisition, by the following vote: 3-0-1-1; AYES: Malhi, Mann, Crist; NOES: None; RECUSED: Underwood-Jacobs; ABSENT: Parris

Council Member Underwood-Jacobs returned to the dais at this time.

NB 2. PRESENTATION ON 2017-18 GOALS & METRICS FOR THE BLVD ASSOCIATION AND DESTINATION LANCASTER

The Economic Development Director and Projects Assistant presented this item.

Discussion took place regarding the impact the Medical Main Street project may have on The Blvd’s strategic plan.

Received and filed the presentation on the 2017-18 Goals & Metrics for The BLVD Association and Destination Lancaster.

LANCASTER CITY COUNCIL/ SUCCESSOR AGENCY/
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April 25, 2017

CR 1. REPORT ON THE ACTIVITIES OF THE BOARD OF DIRECTORS FOR THE ANTELOPE VALLEY TRANSIT AUTHORITY

No Report

CR 2. REPORT ON THE ACTIVITIES OF THE BOARD OF DIRECTORS FOR DISTRICT NO. 14 OF THE COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

No Report

CR 3. COUNCIL REPORTS

Vice Mayor Crist stated the AVAQMD is looking at riding lawn mowers that are solar powered.

Council Member Malhi discussed the update he provided to the Board of Trade regarding the Medical Main Street Project.

CALIFORNIA CHOICE ENERGY AUTHORITY

No action required at this time.

LANCASTER HOUSING AUTHORITY

No action required at this time.

LANCASTER FINANCING AUTHORITY

No action required at this time.

LANCASTER POWER AUTHORITY

No action required at this time.

LANCASTER SUCCESSOR AGENCY

No action required at this time.

CITY MANAGER / EXECUTIVE DIRECTOR ANNOUNCEMENT

The City Manager discussed the recent Poppy Festival and thanked the Parks, Recreation & Arts and Public Safety Departments for their attention to detail and for their professionalism with the entire event. A brief video showcasing the recent presentation of the Key to the City to Deputy District Attorney Steve Frankland was shown.

Development Services Director Jeff Hogan discussed the success of the City's first round-about which is located at Avenue L and Challenger Way; specifically, Mr. Hogan discussed the reduction in the number of collisions at this location. Additional discussion took place regarding the future roundabouts to be located in the City with construction possibly beginning in the fall of 2017.

LANCASTER CITY COUNCIL/ SUCCESSOR AGENCY/
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April 25, 2017

CITY CLERK /AGENCY/AUTHORITY SECRETARY ANNOUNCEMENT

The City Clerk provided the public with the procedure to address the City Council/Successor Agency/Authority regarding non-agendized item.

PUBLIC BUSINESS FROM THE FLOOR - NON-AGENDIZED ITEMS

Addressing the City Council at this time:

Maria Paesano – discussed sexual assault and awareness.

Geoffrey Sheldon – discussed the construction taking place near Avenue K and 10th Street West; discussed the impact on children due to an increase in traffic; provided alternatives for the City Council to consider.

Robert Clifton – student at Antelope Valley College discussed his history with homelessness and requested funding to build housing for the homeless.

Arnaud Kamga – student at Antelope Valley College asked the City Council what is being done regarding assistance with integration of foreign students.

Jose Alcaraz – student at Antelope Valley College, asked the City Council where they see Lancaster in 20 years.

Shannon McDonald – discussed street racing on the west side of town and discussed having the City offer a venue for young people to show their cars as a way to generate revenue and an opportunity to keep them out of trouble.

David Paul – stated he is proud of the City and enjoys seeing how many things the City does; appreciates the attention to detail from staff.

Fran Sereseres – thanked Development Services staff for adding crosswalks in a specific area of the City; stated Made In Lancaster should be Made In Lancaster, CA.

COUNCIL / AGENCY COMMENTS

Council Members Malhi and Mann thanked staff for the incredible job with the recent Poppy Festival.

Chairman Vose discussed an ordinance that will be recommended from the Planning Commission to the City Council regarding grazing.

Criminal Justice Commissioner Carter discussed the impact of the Teen Court program.

Gerald Cosey discussed the upcoming Fire Service Day at Fire Station 129 on May 6th

Vice Mayor Crist requested that a meeting be set with the City Manager and two City Council Members from the City of Palmdale to discuss working together on projects of mutual interest.

LANCASTER CITY COUNCIL/ SUCCESSOR AGENCY/
FINANCING/POWER/CALIFORNIA CHOICE ENERGY AUTHORITY
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April 25, 2017

ADJOURNMENT

Vice Mayor Crist adjourned the meeting at 6:32 p.m. and stated the next City Council meeting will be held on Tuesday, May 9, 2017 at 5:00 p.m.

PASSED, APPROVED and ADOPTED this 9^h day of May, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

BRITT AVRIT, MMC
CITY CLERK
AGENCY/AUTHORITY SECRETARY

R. REX PARRIS
MAYOR/CHAIRMAN

LANCASTER CITY COUNCIL/ SUCCESSOR AGENCY/
FINANCING/POWER/CALIFORNIA CHOICE ENERGY AUTHORITY
MINUTES
April 25, 2017

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES }ss
CITY OF LANCASTER }

CERTIFICATION OF MINUTES
CITY COUNCIL/SUCCESSOR AGENCY/FINANCING/POWER/CALIFORNIA CHOICE
ENERGY AUTHORITY

I, _____, _____ of the City of Lancaster,
CA, do hereby certify that this is a true and correct copy of the original City Council/Successor
Agency/Financing/Power/California Choice Energy Authority Minutes, for which the original is
on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, CA on this
_____ day of _____, _____.

(seal)

STAFF REPORT
City of Lancaster

CC 2
05/09/17
MVB

Date: May 9, 2017
To: Mayor Parris and City Council Members
From: Pamela Statsmann, Finance Director
Subject: **Check Registers – April 2, 2017 through April 15, 2017**

Recommendation:

Approve the Check Registers as presented.

Fiscal Impact:

\$4,362,624.91 as detailed in the Check Registers.

Background:

At each regular City Council Meeting, the City Council is presented with check and ACH/wire registers listing the financial claims (invoices) against the City for purchase of materials, supplies, services, and capital projects issued the prior three to four weeks. This process provides the City Council the opportunity to review the expenditures of the City. Claims are paid via checks, Automated Clearing House (ACH) payments, or federal wires. The justifying backup information for each expenditure is available in the Finance Department.

Check Nos.:	7386765 - 7387023	\$ 4,251,915.92
ACH/wire Check Nos.:	101009803 – 101009805	<u>\$ 110,708.99</u>
		\$ 4,362,624.91
Voided Check No.:	7386863	
Voided ACH/wire No.:	N/A	

PS:af

Attachments:

Check Register
ACH/wire Register

City of Lancaster Check Register



From Check No.: 7386765 - To Check No.: 7387023

From Check Date: 04/02/17 - To Check Date: 04/15/17

Printed: 4/17/2017 16:11

Check No	Supplier	Supplier Name	Invoice Description	Invoice Amt	Charge Code	GL Amount
7386765	05966	A P A, INC	DEP-BLACK HUMOUR-05/06/17	12,500.00	402 4650318	12,500.00
7386766	03672	A T & T	10/16-TELEPHONE SERVICE	14.10	402 4650651	14.10
7386767	07257	ARTS MANAGEMENT ASSOC., LLC	BAL-GAME OF TONES-04/13/17	3,010.00	402 2177000 402 4650318	(490.00) 3,500.00
				<u>3,010.00</u>		<u>3,010.00</u>
7386768	07471	B Q PRODUCTIONS	BAL-PHIL VASSAR-04/07/17	8,600.00	402 2177000 402 4650318	(1,400.00) 10,000.00
				<u>8,600.00</u>		<u>8,600.00</u>
7386769	07151	ELEGANT AFFAIRS	ZELDAS-CRDT CD TPS-03/23-25/17	199.35	402 2176000	199.35
7386770	07151	ELEGANT AFFAIRS	ZELDAS-SERVERS-03/17-25/17	912.50	402 4652308	912.50
7386771	07151	ELEGANT AFFAIRS	ZELDAS-BARTENDERS-03/15-24/17	1,043.75	402 4652308	1,043.75
7386772	02108	FRANCHISE TAX BOARD	TAX WITHHOLDING ORDER	100.00	101 2159000	100.00
7386773	02108	FRANCHISE TAX BOARD	TAX WITHHOLDING ORDER	155.00	101 2159000	155.00
7386774	A4691	ISU STEPHEN B MARVIN AGENCY	TA-NOTARY BOND/E&O INSURANCE	88.00	101 4320256	88.00
7386775	D3448	L A CO SHERIFF'S DEPT	FILE #3631104150058	125.00	101 2159000	125.00
7386776	1214	L A CO SHERIFF'S DEPT	02/17-SPECIAL INVESTIGATIONS	316.54	101 4820355 101 4820357	289.08 27.46
				<u>316.54</u>		<u>316.54</u>
7386777	1214	L A CO SHERIFF'S DEPT	02/17-SPECIAL EVENT-PARTY CAR	13,514.73	101 4820355 101 4820357	12,342.22 1,172.51
				<u>13,514.73</u>		<u>13,514.73</u>
7386778	1215	L A CO WATERWORKS	01/23/17-03/28/17 WATER SVC	9,070.63	101 4632654 101 4633654 203 4636654 203 4752654 306 4542684 402 4650654 482 4636654	2,406.12 42.78 1,606.41 214.44 727.31 426.83 3,646.74
				<u>9,070.63</u>		<u>9,070.63</u>
7386779	A4930	LANDALE MUTUAL WATER COMPANY	L/CHALLENGER-03/17 WATER SVC	53.39	203 4636654	53.39
7386780	D4035	MARQUEZ, ALMA	RFND-CLASS REGISTRATION	20.00	101 2182001	20.00

City of Lancaster Check Register



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Check No	Supplier	Supplier Name	Invoice Description	Invoice Amt	Charge Code	GL Amount
7386781	08048	SCHAEFFER, DAVID	RFND-PAC-MOMS NIGHT OUT	46.20	402 3405100	46.20
7386782	03154	SO CA EDISON	02/10/17-03/29/17 ELECTRIC SVC	35.45	363 4542770	35.45
7386783	03154	SO CA EDISON	02/22/17-03/23/17 ELECTRIC SVC	187.71	482 4636652	187.71
7386784	03154	SO CA EDISON	02/15/17-03/30/17 ELECTRIC SVC	11,813.68	101 4540902 101 4632652 101 4633652 101 4634652 363 4542770 363 4542771 402 4650652 482 4636652 483 4785652 483 4785660 484 4755652	424.66 1,695.05 2,437.78 4,078.85 14.78 29.21 2,605.92 174.46 99.55 97.09 156.33
				11,813.68		11,813.68
7386785	03154	SO CA EDISON	12/19/15-11/30/16 NON ENERGY	36,950.29	490 4370301	36,950.29
7386786	1907	SO CA GAS COMPANY	02/21/17-03/24/17 GAS SVC	7,777.34	101 4631655 101 4633655 101 4651655 101 4810403 363 4542770 402 4650655	3,999.80 1,644.14 539.12 130.24 9.66 1,454.38
				7,777.34		7,777.34
7386787	C2555	TIME WARNER CABLE	04/17-BUSINESS-MAYORS OFFICE	125.23	101 4100301	125.23
7386788	06209	WAGEWORKS	02/17-FSA ADMIN FEES	445.99	101 2170213 101 2170213 101 2170214	34.64 387.61 23.74
				445.99		445.99
7386789	07152	4WALL LOS ANGELES, INC.	PAC-EQUIPMNT RNTL-01/06-12/17	847.25	402 4650602	847.25
7386790	06576	A V CHEVROLET	PIN-EQ3831	44.76	203 4752207	44.76
7386791	01058	A V TROPHY & UNIFORM CO	PLAQUE PLATES(5) PLAQUE PLATES(5)	80.95 79.04	101 4100301 101 4100301	80.95 79.04
				159.99		159.99
7386792	03418	AEROTECH NEWS AND REVIEW	PAC-ADVERTISEMENT	1,200.00	402 4650205	1,200.00
7386793	07161	ALTA ENVIRONMENTAL, LP	CONSULTING SERVICES CONSULTING SERVICES	1,345.00 180.00	101 4633301 101 4633301	1,345.00 180.00
				1,525.00		1,525.00

City of Lancaster Check Register



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Check No	Supplier	Supplier Name	Invoice Description	Invoice Amt	Charge Code	GL Amount
7386794	D1663	AMERICAN IRON WORK	LMS-LATCH REPLACEMENTS(3) LMS-HELMETS(2)	480.00 695.00 <u>1,175.00</u>	213 12BS014924 213 12BS014924	480.00 695.00 <u>1,175.00</u>
7386795	D3147	AMERICAN PLUMBING SERVICES,INC	OMP-UNCLOG RESTROOM DRAIN OMP-UNCLOG RESTROOM DRAIN HP-UNGLOG RESTROOM DRAINS	142.50 118.75 95.00 <u>356.25</u>	101 4634402 101 4634402 101 4634402	142.50 118.75 95.00 <u>356.25</u>
7386796	04190	AMERIPRIDE SERVICES	UNIFORM CLEANINGS ZELDAS-LINEN RENTALS	43.88 127.17 <u>171.05</u>	101 4753209 402 4652251	43.88 127.17 <u>171.05</u>
7386797	05251	AMTECH ELEVATOR SERVICES	04/17-ELEVATOR SERVICE	759.79	101 4632301 101 4633301 402 4650301	192.06 192.06 375.67 <u>759.79</u>
7386798	02693	ANDY GUMP, INC	HP-FENCE RNTL-03/09-04/05/17 PDW-RSTRM RNTLS-03/13-04/09/17	17.62 105.40 <u>123.02</u>	101 4634402 101 4634402	17.62 105.40 <u>123.02</u>
7386799	05179	ARAMARK UNIFORM SVCS	UNIFORM CLEANINGS	115.89	480 4755209	115.89
7386800	C8559	AUNE, CHRIS	RFND-PIE-BLACK HSTRY MNTH LNCH	30.00	101 4320251	30.00
7386801	04446	AUTO PROS	SMOG INSPECTION-EQ7603	45.00	101 4761207	45.00
7386802	06440	AUTRY, SHAKIRA	03/17-SPORTS OFFICIAL	486.00	101 4641308	486.00
7386803	C4028	AVANT, DEREK	03/17-SPORTS OFFICIAL	160.00	101 4641308	160.00
7386804	C4080	AVRIT, BRITT	BA-PR DM-CTHDRL CTY-4/11-14/17	224.00	101 4320256	224.00
7386805	04151	AXES FIRE INC	FIRE CERTS(10)	105.00	101 4545207 101 4545207 101 4761207 203 4752207 251 4783207 480 4755207 480 4755207 483 4785207 483 4785207 484 4752207	10.50 10.50 10.50 10.50 10.50 10.50 10.50 10.50 10.50 10.50 <u>105.00</u>
7386806	07214	BOLANOS, CLAUDIA	CB-FUEL-SLO-03/12-17/17 CB-PR DM-ONTARIO-04/12-13/17	36.01 81.00 <u>117.01</u>	101 4761217 101 4320256	36.01 81.00 <u>117.01</u>

City of Lancaster Check Register



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 From Check Date: 04/02/17 - To Check Date: 04/15/17

Printed: 4/17/2017 16:11

Check No	Supplier	Supplier Name	Invoice Description	Invoice Amt	Charge Code	GL Amount
7386807	06799	BRAUN BLAISING MCLAUGHLIN & SM	02/17-LCE-LEGAL CONSULTING	26,664.63	490 4370303	26,664.63
7386808	A8701	BRETZ, WILLIAM	03/17-SPORTS OFFICIAL	30.00	101 4641308	30.00
7386809	08017	BURKE, WILLIAMS & SORENSEN LLP	02/17-PROFESSIONAL SERVICES	2,457.00	101 4320301	2,457.00
7386810	06351	C T WEST, INC	THERMAL CAMERA REPAIRS	495.28	483 4785461	495.28
7386811	C0914	CAMPBELL II, EDWARD LEE	03/17-SPORTS OFFICIAL	770.00	101 4641308	770.00
7386812	06020	CANON FINANCIAL SERVICES, INC	04/17 COPIER LEASE	11,852.23	101 4310254	11,852.23
7386813	07171	CASTRO, MONICA D	03/17-SPORTS OFFICIAL	220.00	101 4641308	220.00
7386814	00794	CORRALES, RUDY	03/17-SPORTS OFFICIAL	40.00	101 4641308	40.00
7386815	D3231	COUWENBERG, ANDREA	04/17-CONTRACT SERVICES	10,266.00	101 4644308	10,266.00
7386816	08044	DANGERFIELD, MERCEDES	03/17-SPORTS OFFICIAL	60.00	101 4641308	60.00
7386817	C7625	DAPEER,ROSENBLIT & LITVAK, LLP	02/17-SPECIALIZED LGL SVCS	1,297.50	101 4400303	1,297.50
			02/17-SPECIALIZED LGL SVCS	1,867.50	101 4400303	1,867.50
				<u>3,165.00</u>		<u>3,165.00</u>
7386818	05844	DAVID EVANS AND ASSOCIATES INC	CP14014-PROFESSIONAL SERVICES	32,168.37	210 15ST055924	10,418.51
			CP14014-PROFESSIONAL SERVICES	8,729.48	399 15ST055924	21,749.86
				<u>40,897.85</u>	210 15ST055924	<u>8,729.48</u>
						<u>40,897.85</u>
7386819	D3792	DEFALCO, CATHY	CD-PR DM-SACRAMNTO-04/03-04/17	96.00	490 4370201	96.00
7386820	03311	DELTA LIQUID ENERGY	PROPANE(14.19 GALS)	25.62	331 4755785	25.62
7386821	00414	DESERT LOCK COMPANY	LUC-LOCKS/KEYS	1,957.50	101 4633403	1,957.50
			OMP-PUSH BAR ADJUSTMENT	72.50	101 4634402	72.50
				<u>2,030.00</u>		<u>2,030.00</u>
7386822	07159	DIAZ, BRANDON	03/17-TENNIS INSTRUCTOR	138.60	101 4643308	138.60
			03/17-TENNIS INSTRUCTOR	18.90	101 4643308	18.90
			03/17-TENNIS INSTRUCTOR	150.50	101 4643308	150.50
				<u>308.00</u>		<u>308.00</u>
7386823	03409	DOUTRE, ROBERT	03/17-SPORTS OFFICIAL	250.00	101 4641308	250.00
7386824	08047	EATON, LAKEISTA	RFND-CLASS REGISTRATION	140.00	101 2182001	140.00
			RFND-CLASS REGISTRATION	4.00	101 2182001	4.00
				<u>144.00</u>		<u>144.00</u>
7386825	05665	EGGERTH, DARRELL	03/17-SPORTS OFFICIAL	190.00	101 4641308	190.00

City of Lancaster Check Register



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From Check Date: 04/02/17 - To Check Date: 04/15/17

Printed: 4/17/2017 16:11

Check No	Supplier	Supplier Name	Invoice Description	Invoice Amt	Charge Code	GL Amount
7386826	07971	ENSMINGER, ASHLEY	03/17-SPORTS OFFICIAL	240.00	101 4641308	240.00
7386827	06857	ENTERTAINMENTMAX, INC	COMMISSION-AFY-02/07/17 COMMISSION-DOO WOP-03/17/17 BAL-HYPNOSIS/ILLUSION-04/09/17	400.00 1,300.00 3,250.00 <u>4,950.00</u>	402 4650318 402 4650318 402 4650318	400.00 1,300.00 3,250.00 <u>4,950.00</u>
7386828	D2427	ENVIRONMENTAL SOUND SOLUTIONS	04/17-MUSIC SERVICE	65.00	101 4633402	65.00
7386829	07197	ESPRITT, JAVAUGHN	03/17-SPORTS OFFICIAL	475.00	101 4641308	475.00
7386830	C9406	ESTES, MAURICE	03/17-SPORTS OFFICIAL	60.00	101 4641308	60.00
7386831	08046	EXAMWORKS INC	CLAIM #023-14/A/CLGL-1330A1/B1	1,405.62	109 4330300	1,405.62
7386832	D3240	FASTENAL COMPANY	SCREWS/LOCK NUTS CTTNG WHLS/SNPS/WRNCH/FLNG/NTS	71.05 323.91 <u>394.96</u>	203 4752410 203 4785208	71.05 323.91 <u>394.96</u>
7386833	00617	FEDERAL EXPRESS CORPORATION	EXPRESS MAILINGS EXPRESS MAILINGS	86.80 162.57 <u>249.37</u>	101 4400212 101 4680225 209 16ST007924 402 4650212 101 4200212 101 4320212 209 16ST007924 306 4542212	23.13 19.42 24.83 19.42 33.88 22.96 19.09 <u>86.64</u> <u>249.37</u>
7386834	D0315	FREGOSO, PHYLLIS	04/17-STANDARD RETAINER	8,300.00	101 4680225	8,300.00
7386835	04721	GET TIRES, INC	TIRES(2)-EQ3814	293.80	480 4755207	293.80
7386836	06649	GRADY, VICTOR	03/17-GUITAR INSTRUCTOR	98.00	101 4643308	98.00
7386837	C9980	GRANICUS, INC	04/17-MNGD SVC/STRM REP UPGRD	1,677.14	101 4305402	1,677.14
7386838	C2066	GREATER A V ASSN OF REALTORS	DC-2017 INSTALLATN TICKETS(2)	130.00	101 4100202	130.00
7386839	05789	H D SUPPLY WATERWORKS, LTD	OMP-VALVE	903.89	101 4634404	903.89
7386840	00849	HAAKER EQUIPMENT CO	BUTTERFLY VALVE-EQ3779	505.88	480 4755207	505.88
7386841	07243	HALL IV, CHARLES S	03/17-SPORTS OFFICIAL	462.00	101 4641308	462.00
7386842	07201	HALL JR, CHARLES	03/17-SPORTS OFFICIAL	884.00	101 4641308	884.00
7386843	D0325	HAMMOND, GWYNNE	03/17-SPORTS OFFICIAL	100.00	101 4641308	100.00

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7386844	02585	HARRELL, BARON	03/17-SPORTS OFFICIAL	794.00	101 4641308	794.00
7386845	07354	HAWLEY, ROBYN	02/17-AM EXERCISE INSTRUCTOR	70.00	101 4643308	70.00
7386846	D0501	HIESL CONSTRUCTION INC	240 E AVE J12-RENOVATNS 44188 GLENRAVEN-RENOVATIONS	9,357.00 11,549.00 <u>20,906.00</u>	363 4542770 363 4542770	9,357.00 11,549.00 <u>20,906.00</u>
7386847	D0641	HOLCOMB, SAKIMA	SH-REIMB-LICENSE RENEWAL	42.00	101 2140000	42.00
7386848	07127	HUMAN ELEMENT	03/17-BELLY FIT INSTRUCTION	168.00	101 4643308	168.00
7386849	07506	IDAX	LCE-STREETLGH T AUDT SVCS-PHS 4	23,085.71	483 4755301	23,085.71
7386850	D3842	INNOVATION EDUCATION	03/17-LEGO ROBOTICS INSTRUCTN 03/17-ITALIAN INSTRUCTION 03/17-ITALIAN INSTRUCTION	216.00 168.00 252.00 <u>636.00</u>	101 4643308 101 4643308 101 4643308	216.00 168.00 252.00 <u>636.00</u>
7386851	06623	INTERN'L DANCE FITNESS ACADEMY	03/17-ZUMBA INSTRUCTION 03/17-HIP HOP INSTRUCTION	179.40 252.00 <u>431.40</u>	101 4643308 101 4643308	179.40 252.00 <u>431.40</u>
7386852	A2594	INTERSTATE BATTERY SYS OF A V	BATTERIES(7)	681.82	101 4631207 101 4635207 203 4752207 251 4783207 480 4755207 480 4755207 483 4785207 <u>681.82</u>	104.68 104.68 91.96 56.50 109.99 109.99 104.02 <u>681.82</u>
7386853	01419	JOHNSTONE SUPPLY	BELTS(6)	136.26	101 4633403	136.26
7386854	D1903	KERN MACHINERY INC-LANCASTER	KEYS/GREASE-EQ5831	70.32	101 4634207	70.32
7386855	C8919	KOCUREK, PHILLIP	03/17-PHOTOGRAPHY INSTRUCTOR	117.00	101 4643308	117.00
7386856	1203	LANCASTER PLUMBING SUPPLY	OMP-PINS/ACTUATORS LMS-CLOSET KIT	100.09 29.87 <u>129.96</u>	101 4634403 101 4632403	100.09 29.87 <u>129.96</u>
7386857	D3426	LAW OFFICES CHRISTOPHER RAMSEY	CLAIM #040-15/CLGL-1346A1	4,754.00	109 4330300	4,754.00
7386858	D3390	LOPEZ, JOE	03/17-SPORTS OFFICIAL	320.00	101 4641308	320.00
7386859	04351	LYN GRAFIX	UNIFORM HOODIES(25)	954.02	101 4680225	954.02
7386860	05457	MAULDIN JR, LEO	03/17-SPORTS OFFICIAL	678.00	101 4641308	678.00

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7386861	03351	MAULDIN, JOSEPH	03/17-SPORTS OFFICIAL	956.00	101 4641308	956.00
7386862	C8380	MC CORMICK ELECTRIC & CONST	MOAH-PLATFORM REPAIRS LMS-ROOF REPAIRS	1,980.00 475.00	101 4644402 213 12BS014924	1,980.00 475.00
7386863	VOID			2,455.00		2,455.00
7386864	C8463	MEYER, BEN	03/17-SPORTS OFFICIAL	30.00	101 4641308	30.00
7386865	06673	MILLER, JACK C	03/17-TABLE TENNIS INSTRUCTOR 03/17-TABLE TENNIS INSTRUCTOR	108.00 144.00	101 4643308 101 4643308	108.00 144.00
7386866	D3578	MINUTEMAN PRESS	LCE-00N1 WEEK 74 NOTICES LCE-00N2 WEEK 74 NOTICES TBP-COPIES(3) LCE-00N1 WEEK 75 NOTICES LCE-00N2 WEEK 75 NOTICES LCE-00N1 WEEK 76 NOTICES LCE-00N2 WEEK 76 NOTICES	233.87 171.13 12.89 237.88 129.15 214.33 143.85	490 4370213 490 4370213 101 4631403 490 4370213 490 4370213 490 4370213 490 4370213	233.87 171.13 12.89 237.88 129.15 214.33 143.85
7386867	06936	MOSMAN, DESIREA	02/17-AM EXERCISE INSTRUCTOR	490.00	101 4643308	490.00
7386868	D1296	N B S	FINAL ARBT RBT ANLYS-02/01/17	2,250.00	991 4540962	2,250.00
7386869	07509	NAPA AUTO PARTS	QUIET IMPACTOOL HEADLAMP ASSY(2)-EQ3814 BRAKE ROTOR/HUB ASSY-EQ7504 GASKET MATERIALS(3)-EQ3804 CLOTH/PROTECTOR-EQ2309 ELBOWS(6)-EQ3775 BRAKE PADS-EQ7603 VALVE/CORE-EQ3759 CONNECTOR-EQ3770 BRAKE PADS-EQ7768 PASTE/COMPOUNDS-EQ3759 SPARK PLUGS(6)-EQ4999 BLWER MTR RESISTOR-EQ3989 WIPER BLADES(2)-EQ5856 CABLE TERMINAL-EQ5761	337.11 226.29 318.00 19.71 13.00 18.60 42.60 66.12 4.61 81.45 20.15 13.70 18.76 14.05 6.42	101 4753208 480 4755207 251 4783207 203 4752207 101 4753207 203 4752207 101 4761207 203 4752207 203 4752207 251 4783207 203 4752207 203 4752207 480 4755207 101 4631207 101 4634207	337.11 226.29 318.00 19.71 13.00 18.60 42.60 66.12 4.61 81.45 20.15 13.70 18.76 14.05 6.42
7386870	08019	NEW YORK DUELING PIANOS INC	PF-DEP-DUELING PIANOS-4/22/17	1,925.00	101 4682222	1,925.00
7386871	06704	NIGHT OWLS	MAR 17-WELLNESS WEBSITE SUPPRT	350.00	106 4100770	350.00
7386872	06148	NIK-O-LOK, INC	04/17-MONTHLY COIN LOCK LEASE	39.00	101 4633403	39.00

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7386873	08007	O S T S INC	CPR/FIRST AID CLASSES(3)	2,700.00	101 4320301	2,700.00
7386874	05741	P P G ARCHITECTURAL FINISHES	LMS-PAINT	148.37	101 4632403	148.37
			LMS-PAINT	148.78	101 4632403	148.78
			NSC-PAINT	1,129.87	101 4635404	1,129.87
				<u>1,427.02</u>		<u>1,427.02</u>
7386875	07554	PACIFIC PRODUCTS AND SVCS LLC	BRACKETS(60)	785.29	206 12ST035924	785.29
			TUBINGS(200)	6,882.39	203 4785455	6,882.39
				<u>7,667.68</u>		<u>7,667.68</u>
7386876	07271	PAULATEER, MICHA	03/17-SPORTS OFFICIAL	150.00	101 4641308	150.00
7386877	07188	PEPPER POT CHEFS	03/17-PASTA MAKING INSTRUCTION	126.00	101 4643308	126.00
			03/17-PASTA MAKING INSTRUCTION	99.00	101 4643308	99.00
			03/17-PASTA MAKING INSTRUCTION	135.00	101 4643308	135.00
			03/17-PASTA MAKING INSTRUCTION	135.00	101 4643308	135.00
				<u>495.00</u>		<u>495.00</u>
7386878	07493	PRICE, DEON	03/17-SPORTS OFFICIAL	75.00	101 4641308	75.00
7386879	06858	PRICE, TYLEN	03/17-SPORTS OFFICIAL	160.00	101 4641308	160.00
7386880	07287	PRINTING BOSS	PF-BANNERS(2)	156.96	101 4682222	156.96
			PF-BANNER	285.47	101 4682222	285.47
				<u>442.43</u>		<u>442.43</u>
7386881	06607	PUMPMAN INC	SEWAGE PUMP SYSTEM REPAIRS	3,437.00	480 4755402	3,437.00
7386882	05864	QUINN COMPANY	CONTROL BOX-EQ5503	1,586.27	101 4633207	1,586.27
7386883	07002	READYREFRESH BY NESTLE	03/17-WTR COOLER RENTAL/WATER	8.69	402 4650251	8.69
7386884	04337	RUIZ, LINDA	03/17-TENNIS INSTRUCTOR	464.10	101 4643308	464.10
			03/17-TENNIS INSTRUCTOR	142.80	101 4643308	142.80
				<u>606.90</u>		<u>606.90</u>
7386885	03962	SAFETY KLEEN	HAZARDOUS MATERIALS	13,758.02	101 4755355	8,758.02
					330 4755251	5,000.00
				<u>13,758.02</u>		<u>13,758.02</u>
7386886	A8260	SAGE STAFFING	PUBLIC SAFETY STFF-03/13-17/17	1,417.40	101 4820301	1,417.40
7386887	C3064	SANTOS, RENALDO	03/17-SPORTS OFFICIAL	700.00	101 4641308	700.00
7386888	D3200	SECRETARY OF STATE/CALIFORNIA	JPA AMENDMENT FEE	1.00	101 4110259	1.00
7386889	08037	SHOOK, DEAN	03/17-SPORTS OFFICIAL	60.00	101 4641308	60.00

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7386890	1894	SIGNS & DESIGNS	PLAQUES(3)	768.06	101 4634455	768.06
7386891	05952	SINCLAIR PRINTING COMPANY	SPRING 2017 OUTLOOK(63310)	27,209.25	101 4305253	16,325.55
					101 4643253	10,883.70
				<u>27,209.25</u>		<u>27,209.25</u>
7386892	01816	SMITH PIPE & SUPPLY INC	SPRINKLER BODIES/ROTORS	286.35	101 4631404	286.35
			OMP-VALVE/PVC	224.81	101 4634404	224.81
			OMP-CEMENT/PVC	101.16	101 4634404	101.16
			OMP-SOLENOID	70.39	101 4634404	70.39
			OMP-ROTORS	51.11	101 4634404	51.11
			OMP-ROTORS/SOLENOID	619.15	101 4634404	619.15
			POPUPS/ROTORS/PLIER	575.51	101 4631404	575.51
				<u>1,928.48</u>		<u>1,928.48</u>
7386893	07553	SMITH, MICHAEL	03/17-SPORTS OFFICIAL	60.00	101 4641308	60.00
7386894	05339	SNAP-ON INDUSTRIAL	CIRCUIT TESTER	63.98	101 4753208	63.98
7386895	06999	SPORTS FIELD SERVICES	LMS-BASEBALL FIELD IMPROVEMNTS	8,700.00	101 4632402	8,700.00
7386896	C7814	ST JOHN & ASSOCIATES	03/17-CONSULTING SERVICES	3,000.00	101 4545216	3,000.00
7386897	06429	STANTEC CONSULTING SRVCS INC	CP1406-10W/I-ROAD DIET DESIGN	1,330.00	209 15ST042924	1,330.00
7386898	2009	THE TIRE STORE	TIRE-EQ3814	41.88	480 4755207	41.88
			TIRES(4)-EQ7603	291.45	101 4761207	291.45
			TIRES(2)-EQ3804	130.50	203 4752207	130.50
				<u>463.83</u>		<u>463.83</u>
7386899	07494	THOMPSON, JACKLYN	03/17-SPORTS OFFICIAL	90.00	101 4641308	90.00
7386900	C5522	THOMSON REUTERS-WEST PMT CENT LIBRARY PLAN-02/05/17-03/04/17		21.70	101 4400301	21.70
7386901	D4104	TROUTMAN SANDERS LLP	02/17-LEGAL SERVICES-RFI/RFP	6,405.00	490 4370303	6,405.00
7386902	07359	VARGAS, TYLER MICHAEL	03/17-SPORTS OFFICIAL	30.00	101 4641308	30.00
7386903	05834	VENCO WESTERN, INC	03/17-LMD MAINTENANCE	37,320.00	101 4631402	18,750.00
					101 4634402	9,570.00
					101 4635402	9,000.00
				<u>37,320.00</u>		<u>37,320.00</u>
7386904	06384	VOYAGER FLEET SYSTEMS INC	VOYAGER FLEET SYSTEMS 03/24/17	1,106.88	101 2602000	1,106.88
7386905	04496	VULCAN MATERIAL WESTERN DIV	ASPHALT	690.56	484 4752410	690.56
			COLD MIX	232.29	484 4752410	232.29
			COLD MIX	301.67	484 4752410	301.67
				<u>1,224.52</u>		<u>1,224.52</u>

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7386906	31026	WAXIE SANITARY SUPPLY	TOWEL ROLLS/SOAP/DISINFECTANT	881.09	101 4633406	881.09
7386907	05806	WEST COAST SAFETY SUPPLY CO	SENSORS(2)	426.50	480 4755402	426.50
7386908	06600	WILKERSON, BRANDON LAMONT	03/17-SPORTS OFFICIAL	341.00	101 4641308	341.00
7386909	06713	WILSON, SIEDAH	03/17-SPORTS OFFICIAL	251.00	101 4641308	251.00
7386910	C5965	WOLF, LAWRENCE	03/17-SPORTS OFFICIAL	60.00	101 4641308	60.00
7386911	D3242	ZIMMER, DANIEL	03/17-SPORTS OFFICIAL	440.00	101 4641308	440.00
7386912	08049	LA CO AUDITOR CONTROLLER	CRPTF LAND SALE-APN 3128003909	924,413.80	991 4540998	924,413.80
7386913	A2089	SO CA EDISON-ACCTS REC	ST LGHT ACQSTN-PHS 5-TD1165092	1,930,960.49	483 4755753	1,930,960.49
7386914	06947	BYD AMERICA CORP	STREETLIGHTS(2000)	419,279.40	483 4755665	419,279.40
7386915	06716	CEDRO CONSTRUCTION, INC.	2016 SEWER MANHOLE REPAIR-2	55,711.80	480 17SR004924	55,711.80
7386916	07662	MEDLIN JR, RICK A	ZELDAS-PERF-MUSIC-03/30/17	170.00	402 4652251	170.00
7386917	02745	3 C M A	JC-ANNUAL MEMBERSHIP DUES	400.00	101 4305206	400.00
7386918	00107	A V PRESS	PAC-03/17 ADVERTISING	2,103.15	402 4650205	2,103.15
7386919	08054	ALLIANCE ENVIRONMENTAL GROUP	RFND-ASBESTOS ABATEMENT FEE	300.00	251 3201120	300.00
7386920	08055	CACHO, LUIS	RFND-PERMIT FEE-ECR17-01372	2,247.00	251 3201120	2,247.00
7386921	08057	CHANCE TINDER	TICKET PROCEEDS-ELVIS-03/18/17	14,012.64	101 2107000 402 3405127 402 3405300 402 3405302 402 3405303 402 3405304 402 3405306	18,873.51 (1,617.24) (1,600.00) (411.18) (912.45) (30.00) (290.00)
				14,012.64		14,012.64
7386922	C5896	DIVERSIFIED UTILITY	RFND-INSPECTN FEE-ECR17-01277	640.00	251 3201120	640.00
7386923	02108	FRANCHISE TAX BOARD	QTRLY ENTRTNMT WHLDNG-03/31/17	3,859.00	402 2177000	3,859.00
7386924	02536	GRACE RESOURCES CENTER	03/17-WINTER SHELTER PROGRAM	3,963.38	261 4542770	3,963.38
7386925	02536	GRACE RESOURCES CENTER	03/17-CDBG SHELTER PRGRM	11,948.90	361 4541776	11,948.90
7386926	02536	GRACE RESOURCES CENTER	03/17-YEAR ROUND SHELTER PRGRM	16,396.22	261 4542771	16,396.22
7386927	1215	L A CO WATERWORKS	02/01/17-04/05/17 WATER SVC	2,138.63	203 4636654	843.62

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					363 4542770	68.93
					482 4636654	1,226.08
				2,138.63		2,138.63
7386928	08056	LANCASTER TRADING CENTER LLC	RFND-ADMIN CITATION LATE FEE	100.00	101 3310400	100.00
7386929	1906	SO CA EDISON	RFND-PERMIT FEE-ECR16-05619	7,007.00	251 3201120	4,455.00
				7,007.00	251 3201200	2,552.00
						7,007.00
7386930	03154	SO CA EDISON	03/01/17-04/06/17 ELECTRIC SVC	13,702.64	203 4636652	23.23
					482 4636652	245.35
					483 4752652	48.92
					483 4755652	13,105.54
					483 4785652	241.33
					483 4785660	38.27
				13,702.64		13,702.64
7386931	C2555	TIME WARNER CABLE	04/17-ROADRUNNER SERVICE	228.52	101 4315651	228.52
7386932	D4213	A V COCAINE ANONYMOUS	RFND-RNTL DEP-CDR ST-04/01/17	100.00	101 2182001	100.00
7386933	02605	A V COLLISION REPAIRS, INC	REPAIRS/LABOR-EQ5601	1,783.68	101 4662207	1,783.68
7386934	A5389	A V FAIR	02/17-WATCH & WAGER COMM	2,406.94	101 2189000	2,406.94
7386935	01039	A V FORD LINCOLN MERCURY	COVER-EQ3989	120.34	480 4755207	120.34
			COVER-EQ3989	110.65	480 4755207	110.65
				230.99		230.99
7386936	03854	A V JANITORIAL SUPPLY	PBP-T PPR/CN LNR/TWLS/INSCTCDE	700.26	101 4631406	700.26
7386937	01058	A V TROPHY & UNIFORM CO	PLAQUE PLATE	33.75	101 4100301	33.75
7386938	03327	AARON GRAPHICS	COLOR BOND(10)	363.42	101 4310254	363.42
7386939	07489	ACCESSO SHOWARE	PAC-03/17-TICKET SALES	1,850.35	402 4650302	1,850.35
7386940	A8728	ALL THINGS ENGRAVABLE	TROPHIES(223)	1,697.59	101 4641251	1,697.59
7386941	06972	AMERICA MOBILE ORNAMENTAL WELL PAC-CONDUIT COVER		990.00	402 4650402	990.00
7386942	C6143	AMERICAN BUSINESS MACHINES	IMAGE RUNNER ADV COPIER	30.46	101 4310254	30.46
			IMAGE RUNNER ADV COPIER	23.87	101 4310254	23.87
				54.33		54.33
7386943	D3147	AMERICAN PLUMBING SERVICES,INC	LMS-CONCESSNS PLUMBNG REPAIRS	672.21	213 12BS014924	672.21
			RDP-UNCLOG RESTROOM DRAIN	95.00	101 4634402	95.00
				767.21		767.21

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7386944	04190	AMERIPRIDE SERVICES	UNIFORM CLEANINGS	43.88	101 4753209	43.88
7386945	04446	AUTO PROS	SMOG INSPECTION-EQ3760	45.00	203 4636207	45.00
7386946	03485	BAKERSFIELD TRUCK CENTER	KNOB-EQ3779	9.38	480 4755207	9.38
7386947	07769	BENAVIDES, NIDIA	NEM CASH OUT	120.25	490 4370658	120.25
7386948	03353	BOZIGIAN, MARK	MB-PR DM-NAPA-04/19-21/17	172.50	490 4370201	172.50
7386949	04142	BRINKS INC	CH-03/17-TRANSPORTATION SVCS	179.14	101 3501110	179.14
7386950	06102	CAPKO, ANTHONY S	ZELDAS-PERF-MUSIC-04/08/17	300.00	402 4652251	300.00
7386951	00382	CARRIER COMMUNICATIONS	04/17-HAUSER MTN SITE RENT	517.09	101 4200350	517.09
7386952	D0775	CAUDLE, JASON	JC-PR DM-NAPA-04/19-21/17	172.50	490 4370201	172.50
7386953	04636	CAYENTA/N HARRIS COMPUTER CORP	HR-REVIEW/TRAINING-PYMNT 2/2	2,800.00	101 4320301	2,800.00
			HR-REVIEW/TRAINING-PYMNT 1/2	2,800.00	101 4320301	2,800.00
				<u>5,600.00</u>		<u>5,600.00</u>
7386954	08025	CHO, NELSON	NC-MILEAGE-SANTA BARBRA-4/6/17	223.84	101 4540340	223.84
7386955	03475	CLARK AND HOWARD	TOWING FEES-EQ5501	125.00	101 4644207	125.00
7386956	07545	COSTAR REALTY INFORMATION INC	04/17-PROFESSIONAL SERVICES	717.00	101 4540301	717.00
7386957	07131	DE LAGE LANDEN FINANCIAL SVCS	03/15-04/14/17 NETWORK PRINTER	177.40	101 4810254	177.40
7386958	D3792	DEFALCO, CATHY	CD-PR DM-AUSTIN-04/19-21/17	147.50	490 4370201	147.50
7386959	A0925	DESERT HAVEN ENTERPRISES	12/16-NSP1 MONTHLY SERVICE	224.72	363 4542770	224.72
7386960	00414	DESERT LOCK COMPANY	PAC-KEYS(3)	11.42	402 4650402	11.42
			PAC-KEYS(3)	11.42	402 4650402	11.42
				<u>22.84</u>		<u>22.84</u>
7386961	05178	E-POLY STAR INC	TRASH BAGS(33 CASES)	1,915.35	101 4682222	1,915.35
7386962	06857	ENTERTAINMENTMAX, INC	COMMISSION-MOMS NIGHT-04/01/17	800.00	402 4650318	800.00
			COMMISSION-KUTLESS-04/01/17	1,000.00	402 4650318	1,000.00
			COMMISSN-PETER RABBIT-04/03/17	450.00	402 4650318	450.00
				<u>2,250.00</u>		<u>2,250.00</u>
7386963	07638	EVERBRIDGE INC	NIXLE EMERGNCY COMMNCTN SVCS	25,140.00	101 4200350	25,140.00
7386964	06380	EWING IRRIGATION PRODUCTS, INC	LMS-CLEAT CLEANER(2)	98.91	101 4632404	98.91
			LMS-HOSE NOZZLE	94.79	101 4634404	94.79

City of Lancaster Check Register



From Check No.: 7386765 - To Check No.: 7387023
 From Check Date: 04/02/17 - To Check Date: 04/15/17

Printed: 4/17/2017 16:11

Check No	Supplier	Supplier Name	Invoice Description	Invoice Amt	Charge Code	GL Amount
				193.70		193.70
7386965	07937	FARRELL, ANTHONY R	ZELDAS-PERF-MUSIC-04/06/17	200.00	402 4652251	200.00
7386966	A9988	FIRE ACE INC	PAC/ZELDAS-CARBON DIOXIDE(5)	140.00	402 4650274	84.00
					402 4652251	56.00
				140.00		140.00
7386967	07124	FIRST AMERICAN DATA TREE, LLC	03/17-PROFESSIONAL SERVICES	500.00	101 4400301	500.00
7386968	A8286	FLAG SYSTEMS	PAC-SOUND EQUIPMNT RNTL-4/1/17	2,650.00	402 4650602	2,650.00
7386969	04203	FRANK'S RADIO SERVICE	APR-JUN 17-QRTRLY REPEATER	1,500.00	101 4200350	1,500.00
7386970	07369	FRONTIER COMMUNICATIONS CORP	03/25-04/24/17 TELEPHONE SVC	567.03	101 4633651	567.03
7386971	00849	HAAKER EQUIPMENT CO	RODDER HOSE-EQ3779	1,522.50	480 4755207	1,522.50
7386972	D0501	HIESL CONSTRUCTION INC	1009 W AVE J8-REHABILITATION	8,800.00	361 4541777	8,800.00
7386973	D2553	HIGH DESERT TERMITE & PEST	44912 ANDALE AVE-PEST INSPECTN	80.00	363 4542770	80.00
7386974	C4032	HOUSING RIGHTS CENTER	12/16-FAIR HOUSING PROGRAM	3,745.63	361 4541301	3,745.63
7386975	A2594	INTERSTATE BATTERY SYS OF A V	BATTERY-EQ5501	123.30	101 4644207	123.30
7386976	D1903	KERN MACHINERY INC-LANCASTER	SWITCHES(2)-EQ5831	56.91	101 4634207	56.91
7386977	D2287	LANCASTER CODE ENFRCMNT ASSN	UNION DUES-PP 07-2017	300.00	101 2171000	300.00
7386978	D3426	LAW OFFICES CHRISTOPHER RAMSEY	CLAIM #039-15/CLGL-1343A1	8,824.00	109 4330300	8,824.00
7386979	05599	LEE, WATSON W S	03/17-FINGERPRINT ANALYSIS	1,032.40	101 4820301	1,032.40
7386980	D3753	LOPEZ, LAUREN	LL-REIMB-AIR-COUNCIL BEVERAGES	23.89	101 4680225	23.89
7386981	07927	LORENZO, JOSE	LCE-NEM PAYOUT	256.44	490 4370658	256.44
7386982	1300	M M A S C	CD-MMASC MEMBERSHIP FEES	85.00	101 4540206	85.00
			TB-MMASC MEMBERSHIP FEES	85.00	101 4200206	85.00
				170.00		170.00
7386983	08045	MASKED REPUBLIC	DEP-MASKED REPUBLIC-04/22/17	2,000.00	101 4682222	2,000.00
7386984	1397	METRO FLOORS	LMS-FURNITURE DISPLACEMENT	75.00	101 4632402	75.00
7386985	D3578	MINUTEMAN PRESS	LCE-00N1 WEEK 77 NOTICES	201.66	490 4370213	201.66
			LCE-LPMT NOTICES(997)	499.14	490 4370213	499.14
			LCE-TLPM NOTICES(1135)	567.13	490 4370213	567.13
				1,267.93		1,267.93

City of Lancaster Check Register



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Check No	Supplier	Supplier Name	Invoice Description	Invoice Amt	Charge Code	GL Amount
7386986	07464	MORGAN SOLAR USA INC	03/17-NSC-SOLAR POWER	2,652.07	101 4635652	2,652.07
7386987	07509	NAPA AUTO PARTS	TUBE-EQ3818	39.82	203 4752207	39.82
			ENAMEL SPRAY-EQ3832	26.01	203 4752207	26.01
			ALTERNTR/CORE DEP-EQ5501	279.09	101 4644207	279.09
			OIL/AIR/FUEL FILTERS-EQ5841	46.85	101 4634207	46.85
			BRAKE CHAMBER-EQ3365	90.63	203 4752207	90.63
			THREADLOCKER-EQ2308	9.66	203 4752207	9.66
			HITCH-EQ4742	145.20	203 4752207	145.20
			AIR HOSE-EQ3365	17.84	203 4752207	17.84
			OIL FILTER-EQ3760	3.58	203 4636207	3.58
			EVAPORATOR CORE-EQ3818	93.00	203 4752207	93.00
			OIL FILTER-EQ2386	3.58	101 4753207	3.58
			OIL FILTER-EQ4328	3.58	203 4785207	3.58
			CREDIT/CORE DEPOSITS(2)	(132.24)	101 4644207	(60.48)
					480 4755207	(71.76)
			AIR HOSE ASSY-EQ3365	12.40	203 4752207	12.40
			OIL/FUEL FILTERS(3)-EQ3783	50.53	203 4752207	50.53
				<u>689.53</u>		<u>689.53</u>
7386988	03614	NIXON EGLI EQUIPMENT CO INC	BUCKETS(3)-EQ3782	3,122.77	203 4752207	3,122.77
7386989	D2634	O'REAR, JEFFREY R	03/17-PRODUCTION SERVICES	400.00	101 4680225	400.00
7386990	03762	OFFICE DEPOT	ENVELOPES/TAPE/CORRECTION TAPE	87.96	101 4782259	87.96
7386991	A7221	P E R S LONG TERM CARE PROGRAM	LONG TERM CARE PREM-PP 07-2017	2,171.87	101 2170200	2,171.87
7386992	05741	P P G ARCHITECTURAL FINISHES	EDP-PAINT	66.07	101 4631403	66.07
7386993	06984	PACIFIC DESIGN & INTEGRATION	03/17-BROADCAST MANAGER SVCS	3,381.00	101 4305302	3,381.00
7386994	06681	PACIFIC ENERGY ADVISORS, INC	03/17-LCE CONSULTING SERVICES	16,052.50	490 4370301	16,052.50
			03/17-LCE CONSULTING SERVICES	3,280.00	490 4370301	3,280.00
				<u>19,332.50</u>		<u>19,332.50</u>
7386995	07249	PATRIOT PLUMBING	CDR ST-UNCLOG SEWER LINE	202.75	101 4651402	202.75
7386996	05998	PAVING THE WAY FOUNDATION	CMMNTY SPPRT/GOOD CTZNSHP PRGM	5,500.00	101 4820301	5,500.00
7386997	05499	PENSKE TRUCK LEASING CO LP	MOAH-VAN RENTAL-03/06/17	142.20	101 4644602	142.20
7386998	05780	PLUMBERS DEPOT, INC	CCTV CAMERA REPAIRS/PARTS	2,929.68	480 4755405	2,929.68
			SEWER HOSES(2)	3,817.13	480 4755207	1,648.65
					480 4755207	2,168.48
				<u>6,746.81</u>		<u>6,746.81</u>
7386999	03249	PRAXAIR DISTRIBUTION, INC	ARGON GAS	227.10	101 4753405	227.10

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7387000	07363	Q C LOCKSMITH	KEYS(6)	68.08	363 4542770	68.08
7387001	05864	QUINN COMPANY	HOSES(14)-EQ3779	205.38	480 4755207	205.38
7387002	C9798	RENNE SLOAN HOLTZMAN SAKAI LLP	CLAIM #043-15/CLGL-1341A2	3,750.96	109 4330300	3,750.96
7387003	A8260	SAGE STAFFING	PUBLIC SAFETY STFF-03/20-24/17	1,268.20	101 4820301	1,268.20
7387004	07990	SCIAPS INC	HAZ WASTE ANALYZER EQUIPMENT	46,175.00	330 4755753	46,175.00
7387005	1894	SIGNS & DESIGNS	CD-CHAMBER NAMEPLATE	13.05	101 4100259	13.05
			BANNER LETTERING	48.94	101 4640251	48.94
			DW/CC-CHAMBER NAMEPLATES(2)	26.10	101 4780259	26.10
			DW/CC-NAMEPLATE/FACEPLATE	30.81	101 4782253	13.05
					251 4783253	17.76
				118.90		118.90
7387006	5210	SLATER PIANO SERVICE	PAC-PIANO TUNING	95.00	402 4650301	95.00
7387007	01816	SMITH PIPE & SUPPLY INC	SPEARS/WIRE/CHNNLLCK/VALVE BOX	364.54	482 4636404	364.54
7387008	06672	SO CAL DESIGN	DEP-CH-FASCIA IMPROVEMENT	39,918.60	109 11BS019924	16,680.00
					228 11BS019924	10,200.00
					480 11BS019924	13,038.60
				39,918.60		39,918.60
7387009	D3733	STOTZ EQUIPMENT	OMP-MOWER BLADES(6)	168.38	101 4634207	168.38
7387010	06220	T R C SOLUTIONS, INC	CP13018-AVE K/SR14 INTERCHANGE	42,606.29	210 15BR004924	42,606.29
7387011	2009	THE TIRE STORE	TIRES(2)-EQ3820	123.13	203 4752207	123.13
7387012	04239	TIM WELLS MOBILE TIRE SERVICE	TIRES(3)-EQ5831	112.52	101 4634207	112.52
7387013	C2555	TIME WARNER CABLE	04/17-TV SERVICE-VICE MAYOR	24.79	101 4315651	24.79
7387014	08041	TOP GEAR INC.	HELMETS(1100)	7,925.00	101 2175000	(572.69)
					324 4782770	8,497.69
				7,925.00		7,925.00
7387015	D1594	TOUCHPOINT ENERGIZED COMM	04/17-E NEWSLETTER SVC	375.00	101 4305302	375.00
7387016	A7515	U S BANK	02/17-ADMIN FEE	199.14	101 4310301	199.14
7387017	31009	UNIVERSAL ELECTRONIC ALARMS	LUC-APR-JUN 17-FIRE ALARM	75.00	101 4633301	75.00
			LUC-APR-JUN 17-SECURITY ALARM	81.00	101 4633301	81.00
				156.00		156.00
7387018	06062	VALLEY MANUFACTURNG/ENGINEERN	OIL RECYCLING BUCKETS/SETUP	15,440.00	331 4755785	15,440.00

City of Lancaster Check Register



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Check No	Supplier	Supplier Name	Invoice Description	Invoice Amt	Charge Code	GL Amount
7387019	C2434	VINSA INSURANCE ASSOCIATES	PF-GENERAL LIABILITY INSURANCE	8,965.00	101 4682222	8,965.00
7387020	D0298	WILLDAN FINANCIAL SERVICES	AD 93-3-LOCAL IMPROVMNT ADMIN	1,204.88	811 4100301	1,204.88
7387021	C7367	WINE WAREHOUSE	ZELDAS-BEVERAGES	253.40	402 4652251	253.40
7387022	02357	A V TRANSIT AUTHORITY	OCT-DEC 16-BUS STOP MAINTENNCE	18,845.75	207 4330404	18,845.75
			JAN-MAR 17-BUS STOP MAINTENNCE	18,845.75	207 4330404	18,845.75
			JUL-SEP 16-BUS STOP MAINTENNCE	18,845.75	207 4330404	18,845.75
				<u>56,537.25</u>		<u>56,537.25</u>
7387023	1916	STRADLING,YOCCA,CARLSON,RAUTH	01/17-LEGAL SERVICES	52,725.62	101 4400303	522.50
					101 4400303	550.00
					101 4400303	642.20
					101 4400303	1,725.90
					101 4400303	3,211.00
					101 4400303	3,358.80
					101 4400303	4,402.20
					101 4400303	10,037.70
					101 4400303	23,506.60
					209 15ST026924	799.70
					490 4370303	1,289.20
					811 4100303	21.00
					811 4100303	153.60
					830 4300303	115.20
					830 4300303	153.60
					830 4300303	153.60
					830 4300303	153.60
					830 4300303	239.80
					830 4300303	2,003.50
					833 4300303	(572.48)
					833 4300303	38.40
					991 4540303	220.00
			01/17-LEGAL SERVICES	<u>7,934.00</u>	101 4400303	<u>7,934.00</u>
				<u>60,659.62</u>		<u>60,659.62</u>

Chk Count 259

Check Report Total 4,251,915.92

City of Lancaster Check Register



From Check No.: 101009803 - To Check No.: 101009805
 From Check Date: 04/02/17 - To Check Date: 04/15/17

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Check No	Supplier	Supplier Name	Invoice Description	Invoice Amt	Charge Code	GL Amount
101009803	08038	LUMINARIUM COMPANY LTD	LUMINARIUM EXHBT-DEP/2ND PYMNT	9,975.00	101 4682222	9,975.00
101009804	05987	THE VISITORS BUREAU/LANCASTER	02/17 TBID FEES	38,220.79	101 2501000	38,220.79
101009805	C9589	U S BANK CORP PAYMENT SYSTEMS	04/10/17-CALCARD STATEMENT	62,513.20	101 2601000	62,513.20

Chk Count 3

Check Report Total 110,708.99

STAFF REPORT
City of Lancaster

CC 3
05/09/17
MVB

Date: May 09, 2017

To: Mayor Parris and City Council Members

From: Jeff Hogan, Development Services Director

Subject: **Amendment to Development Improvements Undertaking Agreement for Site Plan Review No. 05-23a (Located on the Southwest Corner of 30th Street West and Future Avenue H-10)**

Recommendation:

Approve and accept an amendment to the Development Improvements Undertaking Agreement submitted by Copper Square Apartments, LP (the “Developer”) for Site Plan Review No. 05-23a, located on the southwest corner of 30th Street West and future Avenue H-10, extending the date of completion to April 3, 2019.

Background:

In the Development Improvements Undertaking Agreement, the Developer agrees to complete the improvements under which the project was conditioned. These improvements usually consist of curbs, gutters, sidewalks, asphalt pavement, drainage basins, storm drains, water and sewer systems, landscaping, and street lighting systems. The improvement securities posted with the undertaking agreement secure the completion of the conditioned improvements. If the Developer fails to complete these improvements, the City may use the posted securities to pay for the completion of the improvements.

On April 4, 2016, the City and Developer entered into a Development Improvements Undertaking Agreement to complete the required improvements for Site Plan Review No. 05-23a. The agreement expired April 3, 2017. On March 22, 2017, the City Engineer received a letter from the Developer requesting an extension.

Staff recommends that Council approve an amendment to the existing Development Improvements Undertaking Agreement submitted by Copper Square Apartments, LP for Site Plan Review No. 05-23a, extending the completion date to April 3, 2019.

JM:pjp

Attachments:

Amendment to Undertaking Agreement
Exhibit “A”
Map

AMENDMENT TO UNDERTAKING AGREEMENT

(DEVELOPMENT IMPROVEMENTS)

SITE PLAN REVIEW NO. 05-23a

THIS AMENDMENT made this _____ day of _____, 20__ by and between the City of Lancaster, (the “City”) and Copper Square Apartments, LP, (the “Developer”).

RECITALS

A. The City approved Project Site Plan Review No. 05-23a (the “Project”), subject to certain conditions of approval set forth in the conditions list, which conditions include construction of certain public improvements as set forth herein below.

B. The City and Developer entered into that certain Undertaking Agreement dated April 4, 2016 (“Agreement”).

C. The Agreement requires Developer to complete all Work required thereunder on or before April 3, 2017 (“Completion Date”).

D. Developer desires to extend the Completion Date.

E. City desires to impose additional conditions on the Map.

F. This Agreement is executed pursuant to the provisions of the Subdivision Map Act of the State of California and applicable City ordinances.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and of the approval of the Map and of the acceptance of the dedications therein offered, and in order to insure satisfactory performance by the Developer of the Developer’s obligations under said Subdivision Map Act and said ordinance, the parties agree as follows:

1. Performance of Work.

Section 1 of the Agreement is amended and restated to read as follows:

“Developer, at its sole cost and expense, will improve Site Plan Review No. 05-23a by the grading and paving of streets, construction of curbs and gutters, cross gutters and sidewalks, installation of drainage and sanitary sewerage facilities, provision of an underground utility and street lighting system, installation of street signs, parkway trees, a water system, and all related facilities, and such other improvements required by the ordinances of the City and the resolution or resolutions of the Planning Commission and the City Council adopted in conjunction with the approval of the Project, together with appurtenances, contingencies, and engineering costs, and as more particularly shown in the improvement plans for contingencies and engineering costs, and as more particularly shown in the improvement plans for said Project, as well as all improvements identified in the Project Site Plan Review No. 05-23a Conditions List (“Amended”) dated September 24, 2015, and attached hereto as Exhibit “A” (the “Improvements”). Developer will do all work and furnish

all materials necessary, in the opinion of the City Engineer, to complete said Improvements in accordance with the plans and specifications on file in the office of the City Engineer or with any changes or modifications required or ordered by the City Engineer which, in his opinion, are necessary or required to complete the Improvements. Developer shall maintain the Improvements and adjacent public facilities clear of all debris, weeds, and other materials which inhibit the performance of the Improvements or become a public nuisance. Should the Developer fail to act promptly in accordance with this requirement, the City may at its option, perform the necessary work and the Developer shall pay to the City the actual cost of such maintenance plus fifteen (15) percent.

2. Extension of Term.

Section 17 of the Agreement is amended and restated to provide as follows:

“Developer shall complete all of said Work on or before _____,
or within such further time as may be granted by the City Council.”

3. Agreement Remains in Effect.

Except as expressly revised herein, the terms, conditions and requirements set forth in the Agreement shall remain in full force and effect. Any terms not defined in this Amendment shall have the meaning set forth in the Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

APPROVED:

CITY OF LANCASTER

**COPPER SQUARE APARTMENTS, LP
A CALIFORNIA LIMITED
PARTNERSHIP**

By: _____
City Engineer

By: Copper Square GP, LLC, A California
limited liability company, its Administrative
General Partner

Darin Davidson, Manager

**DEVELOPER SIGNATURES MUST
BE ACKNOWLEDGED BY NOTARY**

APPROVED AS TO FORM:

By: _____
City Attorney

EXHIBIT "A"



R. Rex Parris Mayor
Marvin E. Crist Vice Mayor
Ronald D. Smith Council Member
Ken Mann Council Member
Angela E. Underwood-Jacobs Council Member
Mark V. Bozigian City Manager

October 5, 2015

Lancaster Development, LLC
Attn: Robert Ketner
1620 N. Mamer Rd, Bldg B
Spokane, WA 99216

RE: APPROVAL OF SITE PLAN REVIEW NO. 05-23 AMENDED

204-unit multi-family apartment complex located at the southwest corner of 30th Street West and future Avenue H-10 (APN 3107-012-116)

This is to notify you that on September 24, 2015, the City of Lancaster Development Services Department Planning Section approved Site Plan Review No. 05-23 Amended. Enclosed are the acceptance of conditions, and conditions list with the option to request three one-year extensions if the proposed use has not commenced by September 24, 2017.

Also, please be advised that within 10 working days following Planning Section action, the decision may be appealed to the City Council through the office of City Clerk, pursuant to City of Lancaster Uniform Appeal Procedures, including submittal of a \$777.00 filing fee. Approval of the Site Plan Review will not become effective until and unless this period has passed without an appeal and until the enclosed "Acceptance" of the conditions of approval has been executed and returned to the Development Services Department Planning Section.

Should you have any further questions, you may contact this office at (661) 723-6100.

Sincerely,

A handwritten signature in black ink, appearing to read "Chuen Ng", written in a cursive style.

Chuen Ng
Associate Planner

Attachments: Acceptance of Conditions
Conditions List

cc: TAO, PLLC
City Engineering Section

EXHIBIT "A"
SITE PLAN REVIEW NO. 15-23 AMENDED
CONDITIONS LIST
September 24, 2015

Applicant: Lancaster Development, LLC
Project: 204-unit multi-family apartment complex
Location: 19.48± acres located on the southwest corner of 30th Street West and future Avenue H-10 (APN 3107-012-116)

STREETS

1. Per the direction of the Development Services Director, improve and offer for dedication:
 - 30th Street West at 84 feet of an ultimate 112-foot right-of-way
 - Avenue H-10 at 42 feet of an ultimate 60-foot right-of-way
2. Per the direction of the Development Services Director, dedicate:
 - 32nd Street West at 28 feet of an ultimate 56-foot right-of-way
3. Per the direction of the Development Services Director, submit a cash deposit, prior to issuance of grading permit, for the future construction of a landscaped median in 30th Street West.
4. Per the direction of the Development Services Director, design and construct 30th Street West to include curb, gutter, 8-foot landscaped parkway, and 6-foot meandering sidewalk.
5. Per the direction of the Development Services Director, the owner of private property adjoining the public right-of-way shall be responsible for installation and maintenance of all parkway landscaping free and clear of refuse, noxious weeds, hazardous materials and plants bearing thorns, stickers or other potentially injurious parts. Plants, mulches and inorganic groundcover materials shall not be allowed to overgrow or spill over the edge of the sidewalk or curb.
6. Per the direction of the Development Services Director, for purposes of pedestrian and vehicular safety, all parkway landscaping shall be maintained so as not to interfere with necessary vehicular or pedestrian traffic lines of sight, including views of traffic signage and signals, and clear views of vehicles within the roadbed or exiting driveways. Such standards, which include limitations on taller landscape elements within street intersection areas, shall be determined by the City Engineer.

DRAINAGE

7. Per the direction of the Development Services Director, design and install a storm drain in 30th Street West and in a future easterly roadway alignment to connect to the existing drainage channel that is northeast of the project site. Upon demonstration of hardship in

EXHIBIT "A"

Site Plan Review No. 05-23 Amended
Conditions List
September 24, 2015
Page 2

implementing the preferred drainage alignment, the City may consider alternative designs, to the satisfaction of the City Engineer. Any design proposed that includes pumping of off-site storm runoff shall require a maintenance agreement with the City to ensure regular and proper maintenance by the applicant/owner in perpetuity.

SEWER

8. Per the direction of the Development Services Director, design and install an appropriately sized sewer main to serve the project and the surrounding properties and connect to the existing trunk sewer that is northeast of the project site. Any connection to a trunk sewer line is subject to approval by the Los Angeles County Sanitation District. Upon demonstration of hardship in implementing the preferred sewer alignment, the City may consider alternative designs, to the satisfaction of the City Engineer. If the applicant proposes to install a pump and forced main to the south as shown on the site plan, then he or any subsequent owner of the property shall have fiscal responsibility for the maintenance of the pump station and force main in perpetuity. The applicant shall be required to enter into a maintenance agreement with the City to ensure regular and proper maintenance.

WATER

9. In order to obtain a conditional will serve letter, the Project applicant must secure permanent water supply entitlements sufficient to meet the Project's annual water demands as determined by the Los Angeles County Waterworks District 40 (District). This entitlement may be secured through entering an agreement with the District to purchase new State Water Project Table A or other permanent water supply through the Antelope Valley-East Kern Water Agency.
10. In addition to the condition above, the District may require that: (1) various charges/fees be paid by the owner/developer of the property; (2) on-site and off-site water system facilities be installed by a State licensed contractor retained by the owner/developer and inspected and accepted by the District, using plans prepared by a licensed engineer that are reviewed by the District; or (3) a combination of (1) and (2). Once constructed to the satisfaction of the District, the water system facilities are to be dedicated gratis to the District for subsequent operation and maintenance.

OTHER

11. Per the direction of the Development Services Director, submit a seismic hazard report to address liquefaction, prior to grading.
12. Per the direction of the Development Services Director, elevate all finished floors above 2,315 feet, since the project site is located in the AH Flood Zone (EL 2315).

EXHIBIT "A"

Site Plan Review No. 05-23 Amended
Conditions List
September 24, 2015
Page 3

GENERAL ADVISORY

13. Unless otherwise indicated herein, the development of the site shall be in substantial conformance with approved site plans on file in the Development Services Department.
14. This Site Plan Review approval must be used within two (2) years from the date of approval, or the Site Plan Review approval will expire. The applicant may, not less than sixty (60) days prior to the expiration date, request a total of three one-(1)-year extensions in writing to the Development Services Director. Modifications to the plan, including timing of on and off site improvements that do not raise significant new issues or extend the overall time frame beyond the approval period may be approved by the Development Services Director.

NOTE: Issuance of building permits, installation of off-site improvements, and grading of the site do not constitute "use" of the Site Plan Review approval. Under the Zoning Ordinance, construction or other development authorized by the Site Plan Review approval must have commenced. Generally, the City requires that the slab of a major building in the project be poured and inspected in order to consider the permit used, although the circumstances of each case may vary depending on the land use involved.
15. All requirements of the Municipal Code and of the specific zoning of subject property must be complied with unless otherwise set forth in the permit or shown on the stamped approved site plan.
16. The Development Services Director is authorized to review and approve the elevations of future buildings proposed to ensure that they are compatible with the architectural design guidelines established for the overall development. Design and location of such buildings are subject to review and approval of the Development Services Director, including but not limited to architectural style, color, exterior materials, material and type of walls. The applicant shall provide 360 degree architectural treatments for all proposed buildings. In the event disputes arise between the applicant and the Development Services Director regarding elevations, or design of the buildings, the matter may be appealed to the Architectural and Design Commission (ADC) and the ADC shall render the final decision.
17. The applicant shall contact the City of Lancaster Fire Warden to determine improvements that may be required to protect the property from the fire hazard and shall provide and install at his expense such improvements as may be deemed necessary by the Fire Warden. Fire protection improvements shall be completed to the satisfaction of the Development Services Director prior to certification of completion and occupancy of the subject buildings.
18. Three (3) copies of a signage plan shall be submitted for approval by the Planning Section prior to building occupancy to be in compliance with the Lancaster Municipal Code and Design Guidelines. Such plan shall be comprehensive and shall include: location, height,

EXHIBIT "A"

Site Plan Review No. 05-23 Amended
Conditions List
September 24, 2015
Page 4

square-footage, method of attachment, construction materials, and colors of each sign proposed to be placed on the site.

19. The following items/plans shall be submitted to the Development Services Department for concurrent review and approval prior to issuance of permits:
 - a. Lighting Plan: Such plan shall include decorative, directional, and security lighting. Such lighting shall be directed away or shielded from neighboring properties.
 - b. Building Plan: Such plan shall demonstrate adherence to design elements approved by the Planning Commission including but not limited to: building elevations (all sides), construction materials and colors, and the method of screening rooftop equipment.
 - c. Grading Plan: Such plan shall show height of finished building pads in addition to walls, berming and/or contour mounding if such features are approved by the Planning Commission.
 - d. Landscape Plan: Landscape plans shall be prepared in accordance with Ordinance No. 907 and submitted to the Building and Safety Department, along with required plan check fees, for review and approval prior to the installation of landscaping or irrigation systems. Such plans are to be incorporated into development of the site and shall show size, type, and location of all plants, trees and irrigation facilities
 - e. Trash Enclosure Plan: Such plan shall show location, design, construction materials, and color of materials and shall be in accordance with such plans contained within the Municipal Code and Design Guidelines. All trash enclosures shall be located in a covered area or the covered with a roof or metal lattice treatment to prevent windblown trash from leaving the enclosure.
20. The development shall comply with all requirements of Ordinance No. 907 (Water Efficient Landscaping Requirements).
21. All necessary permits shall be obtained from the City Engineering Section of the Development Services Department prior to any construction, remodeling, or replacement of buildings or other structures.
22. The applicant is hereby advised that this project is subject to development fees at the time of building permit issuance, including, but not limited to, the following as applicable: 1) Los Angeles County Sanitation District Sewer Connection Fee; 2) Interim School Facilities Financing Fee; 3) Installation or Upgrade of Traffic Signals Fee; 4) Planned Local Drainage Facilities Fee; 5) Dwelling Unit Fee; 6) Traffic Impact Fees; and 7) Urban Structure Fee (Park Development Fee, Administrative Office Fee, Corporate Yard Fee, and Operations Impact Fee, etc); 8) Landscape Fee.

EXHIBIT "A"

Site Plan Review No. 05-23 Amended
Conditions List
September 24, 2015
Page 5

23. Per the direction of the Development Services Director, the submission of a hydrology study will be required with the grading plan check.
24. An encroachment permit shall be obtained from the Development Services Department prior to doing any work within the public right-of-way.
25. Per the direction of the Development Services Director, install dual ADA-compliant curb ramps at all intersections.
26. Per the direction of the Development Services Director, street lights are required and shall be designed as City owned and maintained street lighting systems (LS-3 rate schedule). The Developer's engineer shall prepare all plans necessary to build said street lighting system in accordance with Southern California Edison and City of Lancaster standards.
27. All construction and/or installation of improvements shall be undertaken to the specifications of the City of Lancaster Municipal Code.
28. Per direction of the Development Services Director, comply with City Municipal Code, Chapter 13.20 Article II, entitled Installation/Relocation for New/Expanded Development of Overhead Utilities.
29. If determined necessary by the Development Services Director, testing of the existing pavement section is to be performed prior to submitting street plans for plan checking. The minimum allowable structural section will be per the City requirement or the soil test recommendation whichever is greater based on the City's Traffic Index for the street. Removal and reconstruction of the street centerline may be necessary to meet the required structural section.
30. Street grades shall meet the specifications of the Development Services Department.
31. Per the direction of the Development Services Director, a Dust Control Plan shall be prepared and submitted to the Antelope Valley Air Quality Management District (AVAQMD) in accordance with Rule 403 of the AVAQMD. An approved copy of the Dust Control Plan shall be submitted to Development Services Department prior to issuance of a grading permit within the City for commercial/industrial projects of 5 acres or larger. In lieu of an approved plan, a letter waiving this requirement shall be submitted.
32. Prior to grading, the applicant shall provide a contact name and valid phone number where someone is available 24-hours, 7 days a week to report the blowing of dust or debris from the site.
33. The project shall comply with the Best Management Practices (BMPs) of the National Pollutant Discharge Elimination System (NPDES) and all NPDES Permit Requirements.

EXHIBIT "A"

Site Plan Review No. 05-23 Amended
Conditions List
September 24, 2015
Page 6

34. Per the direction of the Development Services Director, install a clarifier or other BMP to treat first flush.
35. Mitigate onsite nuisance water and developmental storm water runoff to the satisfaction of the Development Services Director.
36. Box culverts or other structures acceptable to the Development Services Director are required at all intersections with arterial streets to eliminate nuisance water from crossing the streets above ground. (No cross gutters allowed).
37. Prior to occupancy, the property shall be annexed into the Lancaster Lighting Maintenance District.
38. Prior to occupancy, the property shall be annexed into the Lancaster Drainage Maintenance District.
39. The applicant is hereby advised that the use of any signs, strings or pennants, banners or streamers, clusters of flags and similar attention-getting devices are prohibited, except where there has been prior approval from the Planning Section.
40. If any provision of this permit is held or declared to be invalid, the permit shall be void, and the privileges granted hereunder shall lapse.
41. It is further declared and made a condition of this permit that if any condition hereof is violated, or if any law, statute, or ordinance is violated, the permit shall be suspended and the privileges granted hereunder shall lapse provided that the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.
42. Prior to occupancy of any buildings or structures, the permittee shall request, not less than forty-eight (48) hours in advance, that on-site inspection be made by the Development Services Department to verify that development of the property has occurred in conformity with conditions as enumerated in this permit.
43. Landscape materials, once approved, shall be maintained in perpetuity.
44. If the project is developed in phases, undeveloped portions of the site shall not contribute to blowing debris, dirt or dust.
45. If the project is developed in phases, all the development requirements shall be met for each phase including parking, landscaping, trash enclosures, drainage, etc.
46. The applicant shall be responsible for notifying the Development Services Department in writing of any change in ownership, designation of a new engineer, or a change in the status of the developer, within thirty (30) days of said change.

EXHIBIT "A"

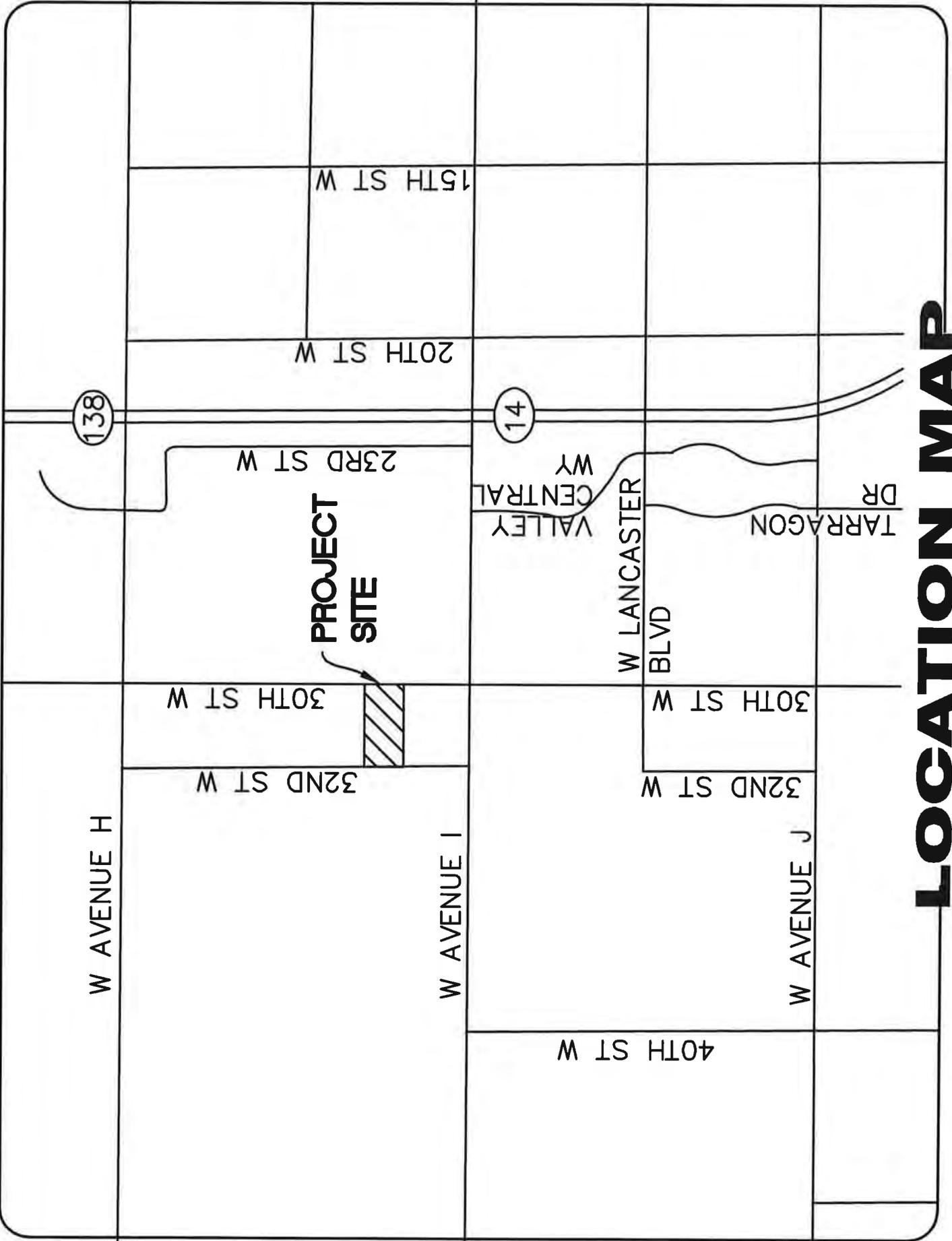
Site Plan Review No. 05-23 Amended
Conditions List
September 24, 2015
Page 7

47. The Development Services Director shall execute the necessary documents to ensure the recording of this permit with the County Recorder's Office.
48. This site plan review will not be effective until ten (10) working days after the date upon which it is granted by the Development Services Department and until the applicant has executed and returned to the Planning Section an authorized acceptance of the conditions of approval applicable to said site plan review.
49. Expansion or intensification of the use beyond the approval specified herein would require subsequent review and possible application for amendment. The Development Services Director is authorized to approve modifications to the site plan provided such modifications do not substantially change the intent of the approved use, avoid issues raised at the public meeting, or raise new issues not previously addressed.
50. Pursuant to Section 65089.6 of the Government Code, the project will be subject to the Congestion Management Plan (CMP) mitigation requirements, including mitigation fees.

ENVIRONMENTAL

51. A burrowing owl survey shall be conducted within 30 days prior to the start of construction and/or ground disturbing activities. If burrowing owls or signs thereof are discovered during the survey, the applicant shall contact California Department of Fish and Wildlife to determine the appropriate mitigation and/or management requirements for the species.
52. A nesting bird survey shall be conducted within 30 days prior to the start of construction and/or ground disturbing activities. If nesting birds are encountered, all work in the area shall cease until either the young birds have fledged or the appropriate permits are obtained from California Department of Fish and Wildlife.
53. Per the direction of the Development Services Director, a Phase I Cultural Resource Study is required for any off-site area which will be disturbed by the development, such as staging areas and turn-arounds not covered by the Cultural Resource Study, or all work shall be conducted on the site by installation of a fence to determine limits of development.
54. The applicant shall, prior to or concurrent with the approval of a grading permit, pay a fee to the City of Lancaster in the sum of \$770.00 per gross acre, to be held in the biological mitigation fund as established by the City Council. Additionally, should the applicant be required to pay mitigation fees under the California Department of Fish and Game, these fees can be deducted from the amount collected by the City of Lancaster.

SPR 05-23a



LOCATION MAP

STAFF REPORT
City of Lancaster

CC 4
05/09/17
MVB

Date: May 9, 2017

To: Mayor Parris and City Council Members

From: Jeff Hogan, Development Services Director

Subject: **Tax Sharing Resolution for Proposed Annexation No. 14-426 into Los Angeles County Sanitation District No. 14**

Recommendation:

Adopt the Tax Sharing Resolution for proposed Annexation No. 14-426, located on the southeast corner of 70th Street West and Avenue K, into Los Angeles County Sanitation District No. 14.

Fiscal Impact:

None.

Background:

The property owners within Annexation No. 14-426 are requesting sewer service for their property. Before sewer service can be provided, the property must first be annexed into Los Angeles County Sanitation District No. 14. Additionally, before the annexation may be approved, the agencies already providing services to the site must negotiate reallocation of the ad valorem taxes for the property being annexed.

Los Angeles County Sanitation District No. 14 submitted a written request that the City of Lancaster consider a joint resolution which will reallocate the ad valorem tax revenues generated by the property within the proposed annexation. This tax sharing resolution will provide Los Angeles County Sanitation District No. 14 with property tax revenues from the property proposed for annexation into the District.

JM:pjp

Attachment:

Joint Resolution of the Board of Supervisors

JOINT RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES
ACTING IN BEHALF OF

Los Angeles County General Fund

Los Angeles County Library

Los Angeles County Consolidated Fire Protection District

Los Angeles County Waterworks #40 - Antelope Valley

THE BOARD OF DIRECTORS OF COUNTY SANITATION DISTRICT NO. 14 OF LOS ANGELES
COUNTY, AND THE GOVERNING BODIES OF

Lancaster Cemetery District

Antelope Valley Mosquito & Vector Control District

Antelope Valley Resource Conservation District

City of Lancaster

Antelope Valley - East Kern Water Agency

APPROVING AND ACCEPTING NEGOTIATED EXCHANGE OF PROPERTY TAX REVENUES
RESULTING FROM ANNEXATION TO COUNTY SANITATION DISTRICT NO. 14.

"ANNEXATION NO. 426"

WHEREAS, pursuant to Section 99 and 99.01 of the Revenue and Taxation Code, prior to the effective date of any jurisdictional change which will result in a special district providing a new service, the governing bodies of all local agencies that receive an apportionment of the property tax from the area must determine the amount of property tax revenues from the annual tax increment to be exchanged between the affected agencies and approve and accept the negotiated exchange of property tax revenues by resolution; and

WHEREAS, the governing bodies of the agencies signatory hereto have made determinations of the amount of property tax revenues from the annual tax increments to be exchanged as a result of the annexation to County Sanitation District No. 14 entitled *Annexation No. 426*;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The negotiated exchange of property tax revenues resulting from the annexation of territory to County Sanitation District No. 14 in the annexation entitled *Annexation No. 426* is approved and accepted.

2. For each fiscal year commencing on and after July 1, 2016 or after the effective date of this jurisdictional change, whichever is later, the County Auditor shall transfer to County Sanitation District No. 14 a total of 0.3437593 percent of the annual tax increment attributable to the land area encompassed within *Annexation No. 426* as shown on the attached Worksheet.

3. No additional transfer of property tax revenues shall be made from any other tax agencies to County Sanitation District No. 14 as a result of annexation entitled *Annexation No. 426*.

4. No transfer of property tax increments from properties within a community redevelopment project, which are legally committed to a Community Redevelopment Agency, shall be made during the period that such tax increment is legally committed for repayment of the redevelopment project costs.

5. If at any time after the effective date of this resolution, the calculations used herein to determine initial property tax transfers or the data used to perform those calculations are found to be incorrect thus producing an improper or inaccurate property tax transfer, the property tax transfer shall be recalculated and the corrected transfer shall be implemented for the next fiscal year, and any amounts of property tax received in excess of that which is proper shall be refunded to the appropriate agency.

The foregoing resolution was adopted by the Board of Supervisors of the County of Los Angeles, the Board of Directors of County Sanitation District No. 14 of Los Angeles County, and the governing bodies of Lancaster Cemetery District, Antelope Valley Mosquito & Vector Control District, Antelope Valley Resource Conservation District, City of Lancaster, and Antelope Valley - East Kern Water Agency, signatory hereto.

CITY OF LANCASTER

SIGNATURE

PRINT NAME AND TITLE

ATTEST:

Secretary

Date

(SIGNED IN COUNTERPART)

ANNEXATION TO: CO. SANITATION DIST. NO 14 DEBT S.
 ACCOUNT NUMBER: 066.45
 TRA: 02417
 EFFECTIVE DATE: 07/01/2016
 ANNEXATION NUMBER: 426 PROJECT NAME: A-14-426
 DISTRICT SHARE: 0.006400104

ACCOUNT #	TAXING AGENCY	CURRENT TAX SHARE	PERCENT	PROPOSED DIST SHARE	ALLOCATED SHARE	ADJUSTMENTS	NET SHARE
001.05	LOS ANGELES COUNTY GENERAL	0.235088312	23.5100 %	0.006400104	0.001504602	-0.001545066	0.233543246
001.20	L.A. COUNTY ACCUM CAP OUTLAY	0.000141586	0.0141 %	0.006400104	0.000000906	0.000000000	0.000141586
003.01	L A COUNTY LIBRARY	0.025710347	2.5710 %	0.006400104	0.000164548	-0.000164548	0.025545799
007.30	CONSOL. FIRE PRO. DIST. OF L.A. CO.	0.170632718	17.0632 %	0.006400104	0.001092067	-0.001092067	0.169540651
007.31	L A C FIRE-FFW	0.006180950	0.6180 %	0.006400104	0.000039558	0.000000000	0.006180950
047.04	LA CO WATERWORKS #40 ANTELOPE VY	0.007399360	0.7399 %	0.006400104	0.000047356	-0.000047356	0.007352004
051.75	L A CO WATER WKS NO 40 ACO FUND	0.005656935	0.5656 %	0.006400104	0.000036204	-0.000036204	0.005620731
053.30	LANCASTER CEMETERY DISTRICT	0.001191946	0.1191 %	0.006400104	0.000007628	-0.000007628	0.001184318
061.05	ANTELOPE VLY MOSQ & VECTOR CONTR	0.001483408	0.1483 %	0.006400104	0.000009493	-0.000009493	0.001473915
068.05	ANTELOPE VY RESOURCE CONSER DIST	0.000815499	0.0815 %	0.006400104	0.000005219	-0.000005219	0.000810280
186.01	CITY-LANCASTER TD #1	0.066107188	6.6107 %	0.006400104	0.000423092	-0.000423092	0.065684096
300.10	ANTELOPE VY.-EAST KERN WATER AGY	0.016706040	1.6706 %	0.006400104	0.000106920	-0.000106920	0.016599120
400.00	EDUCATIONAL REV AUGMENTATION FD	0.065302683	6.5302 %	0.006400104	0.000417943	EXEMPT	0.065302683
400.01	EDUCATIONAL AUG FD IMPOUND	0.132634057	13.2634 %	0.006400104	0.000848871	EXEMPT	0.132634057
400.15	COUNTY SCHOOL SERVICES	0.001522548	0.1522 %	0.006400104	0.000009744	EXEMPT	0.001522548
400.21	CHILDREN'S INSTIL TUITION FUND	0.003026361	0.3026 %	0.006400104	0.000019369	EXEMPT	0.003026361
689.01	WESTSIDE UNION SCHOOL DISTRICT	0.094806698	9.4806 %	0.006400104	0.000606772	EXEMPT	0.094806698
689.06	CO. SCH. SERV. FD. - WESTSIDE UNION	0.008819562	0.8819 %	0.006400104	0.000056446	EXEMPT	0.008819562
689.07	DEV CTR HDCPD MINOR WESTSIDE UN	0.000915439	0.0915 %	0.006400104	0.000005858	EXEMPT	0.000915439

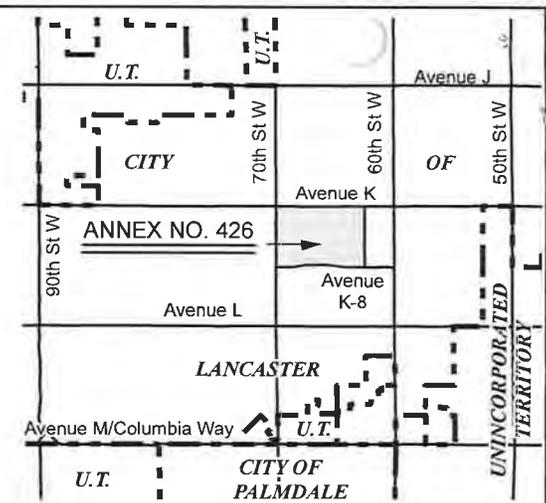
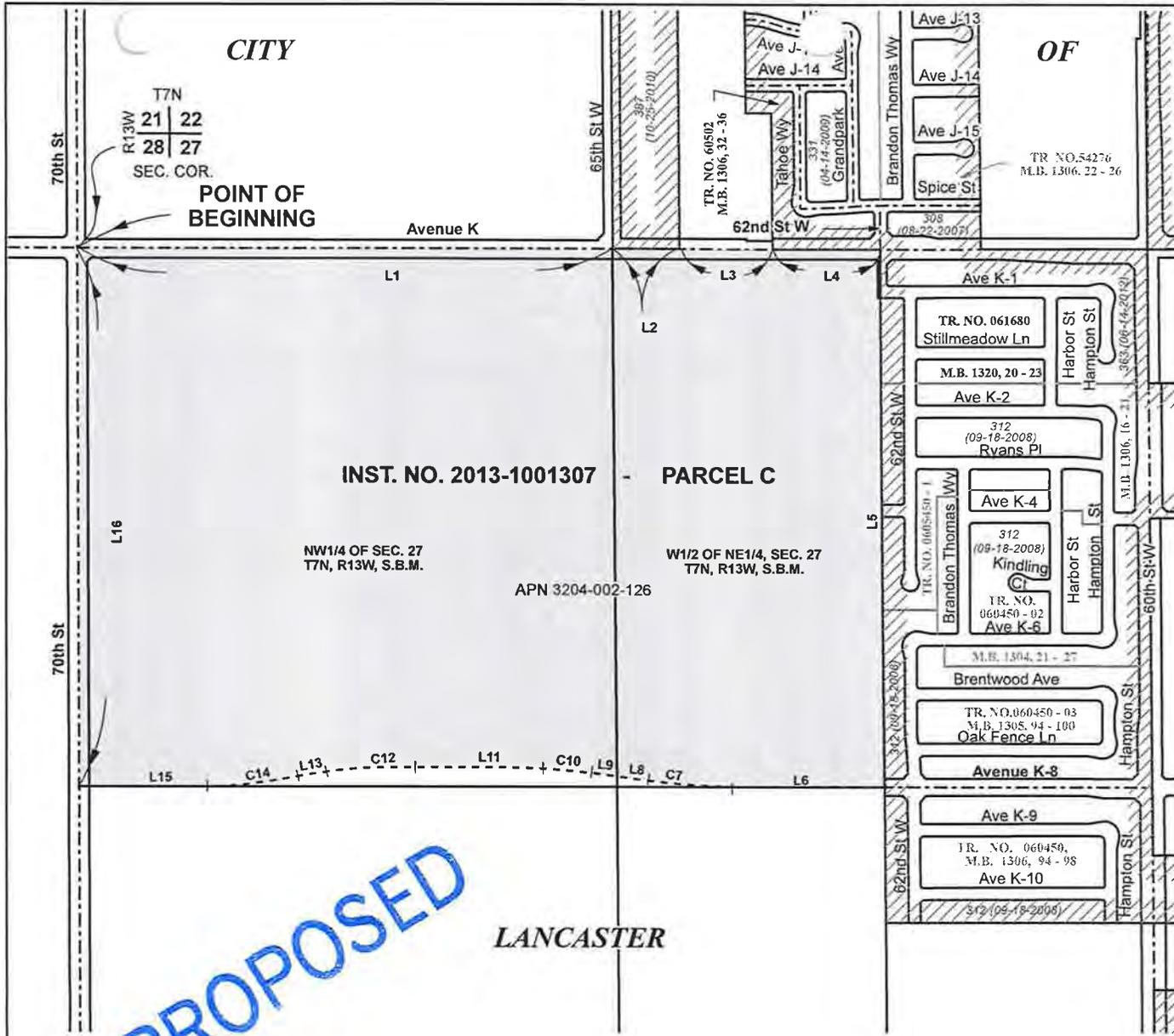
PROPERTY TAX TRANSFER RESOLUTION WORKSHEET
FISCAL YEAR 2016-2017

ANNEXATION NUMBER: 426

PROJECT NAME: A-14-426

TRA: 02417

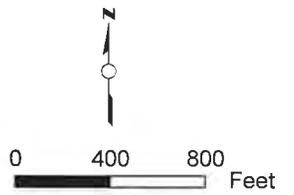
ACCOUNT #	TAXING AGENCY	CURRENT TAX SHARE	PERCENT	PROPOSED DIST SHARE	ALLOCATED SHARE	ADJUSTMENTS	NET SHARE
717.02	ANTELOPE VALLEY UNION HIGH SCH.	0.084241687	8.4241 %	0.006400104	0.000539155	EXEMPT	0.084241687
717.06	CO.SCH.SERV.FD.- ANTELOPE VALLEY	0.000352665	0.0352 %	0.006400104	0.000002257	EXEMPT	0.000352665
717.07	ANTELOPE VY.UN.HI.-ELEM SCH FD.	0.041271637	4.1271 %	0.006400104	0.000264142	EXEMPT	0.041271637
792.04	ANTELOPE VY.JT. COMMUNITY COLL.	0.029992374	2.9992 %	0.006400104	0.000191954	EXEMPT	0.029992374
***066.45	CO.SANITATION DIST.NO 14 DEBT S.	0.000000000	0.0000 %	0.006400104	0.000000000	-0.000000000	0.003437593
TOTAL:		1.000000000	100.0000 %		0.006400104	-0.003437593	1.000000000



LANCASTER
VICINITY MAP
NO SCALE

COURSE DATA

L1	N 89°51'33" E	2,635.17'	
L2	N 89°51'24" E	329.00'	
L3	N 89°51'24" E	454.89'	
L4	N 89°51'24" E	533.81'	
L5	S 00°31'49" E	2,651.73'	
L6	S 89°51'30" W	699.51'	
C7	R= 3,500'	L= 488.25'	D= 07°59'34"
L8	N 82°08'56" W	133.62'	
L9	N 82°08'56" W	96.52'	
C10	R= 3,500'	L= 488.25'	D= 07°59'34"
L11	S 89°51'30" W	514.24'	
C12	R= 2,500'	L= 443.82'	D= 10°10'18"
L13	S 79°41'12" W	156.86'	
C14	R= 2,000'	L= 349.84'	D= 10°01'20"
L15	S 89°42'32" W	605.26'	
L16	N 00°17'14" W	2,651.68'	



PROPOSED

- Annexation No. 426 shown thus
- Boundary of Sanitation District No. 14 prior to Annexation No. 426 shown thus
- City Boundary
- Prior Annexations shown thus
- Area of Annexation 237.252 Acres

COUNTY SANITATION DISTRICT NO. 14
OF LOS ANGELES COUNTY, CA
OFFICE OF CHIEF ENGINEER
GRACE ROBINSON HYDE
CHIEF ENGINEER & GENERAL MANAGER
ANNEXATION NO. 426
TO
COUNTY SANITATION DISTRICT NO. 14
Recorded

LA County Assessor Landbase 2016, CAMS Centerline, DPW City boundary LA County Sanitation Districts: AnnexationLayer and District Layer

STAFF REPORT
City of Lancaster

CC 5
05/09/17
MVB

Date: May 9, 2017

To: Mayor Parris and City Council Members

From: Jeff Hogan, Development Services Director

Subject: **Award of Bid No. 661-17 – Reclaimed Asphalt Pavement Screening Materials**

Recommendation:

Award Bid No. 661-17, Reclaimed Asphalt Pavement Screening Materials, to Reclaimed Aggregates Inc., for the REVIVE 25 Pavement Management Program.

Fiscal Impact:

\$161,975.00; sufficient funds are available in Capital Improvement Budget Account No. 209-12ST035-924.

Background:

As part of the REVIVE 25 Pavement Management Program, City staff plans to treat over 26 lane miles of roads utilizing Chip Seals. Chip Seals are one of the most versatile and widely used pavement preservation processes, which are used to maintain, protect and prolong the life of roads in good condition. The City is entering the third year of utilizing Chip Seals as a major pavement preservation tool, having previously treated over 100 lane miles using this type of treatment.

On April 11, 2017, at 11:00 AM, the City held a bid opening for Bid No. 661-17. One sealed bid envelope was received, opened and read aloud. The results are provided in Exhibit “A” attached hereto. The City plans to purchase approximately 6,770 tons of Recycled Asphalt Pavement (RAP) in order to complete this year’s pavement preservation efforts. RAP is considered to be a high-quality, cost effective and environmentally friendly alternative to virgin aggregate.

JH:jw

Attachment:

Exhibit “A” – Bid Response

EXHIBIT "A"

RESPONSE FORM

**BID NO. 661-17
RECLAIMED ASPHALT PAVEMENT (RAP) SCREENINGS**

Bidders are requested to complete this proposal response form and bid schedule and return it in a sealed envelope to the City Clerk, Lancaster City Hall, 44933 Fern Avenue, Lancaster, California, by no later than 11:00 a.m. on April 11, 2017. The envelope should be sealed and clearly marked "BID 661-17, RECLAIMED ASPHALT PAVEMENT (RAP) SCREENINGS".

TO: CITY OF LANCASTER
FROM:

Reclaimed Aggregates
Company Name

46205 Division St Lancaster, CA 93535
Address

(951) 453-4971
Phone Number

(951) 787-8995
Fax Number


Authorized Signature

Operations Manager
Title

Robert Erault
Print Name

4/6/17
Date

robert@pavementrecycling.com
Email Address

The above-signed agrees to furnish to the City of Lancaster with the material set forth in the proposal **BID NO. 661-17** in detail and without exceptions other than by mutual agreement.

For questions, contact:

Richard Long
Maintenance Services Manager
rlong@cityoflanasterca.org
(661) 723-6225

BID SHEET

BID NO. 661-17

RECLAIMED ASPHALT PAVEMENT (RAP) SCREENINGS

In accordance with the Instruction to Bidders, the undersigned offers to furnish, deliver, and apply **RECLAIMED ASPHALT PAVEMENT (RAP) SCREENINGS** and related services as specified in the City of Lancaster Specifications at the unit bid prices below:

Plant Pick Up		
RAP	Gradation	Price Per Ton
Type II	No.4 and minus	\$ 20.00 plus tax
Fine	1/4" x No. 10	\$20.00 plus tax
Medium Fine	5/16" x No. 8	\$20.00 plus tax
Medium	3/8" x No. 6	\$20.00 plus tax
Course	1/2" x No. 4	\$20.00 plus tax
Fine (Pre-Heated)	1/4" x No. 10	\$
Medium Fine (Pre-Heated)	5/16" x No. 8	\$
Medium (Pre-Heated)	3/8" x No. 6	\$
Course (Pre-Heated)	1/2" x No. 4	\$
Delivery		
RAP	Gradation	Price Per Ton
Type II	No.4 and minus	\$
Fine	1/4" x No. 10	\$
Medium Fine	5/16" x No. 8	\$
Medium	3/8" x No. 6	\$
Course	1/2" x No. 4	\$
Fine (Pre-Heated)	1/4" x No. 10	\$
Medium Fine (Pre-Heated)	5/16" x No. 8	\$
Medium (Pre-Heated)	3/8" x No. 6	\$
Course (Pre-Heated)	1/2" x No. 4	\$
Freight (\$/mile)		
Schedule	Units	Cost
Weekdays	6am – 5pm	\$ 103.50 an hour 6 hour min
Weekdays	5pm – 6am	\$
Saturday	7am – 4pm	\$
Sunday/Holidays	7am – 4pm	\$
Short Load	\$/Ton	\$
Stand-by Time	\$/Hour	\$

PROPOSAL

Page 1 of 2

Revised March 22, 2017

***City of Lancaster is located in Los Angeles County. Current sales tax rate in Los Angeles County is 8.75%. Indicate applicable tax rate and amount.**

This PROPOSAL can be used by other governmental agencies: Yes



Any liability created by Purchase Orders issued against any agreement that results from this solicitation shall be the sole responsibility of the agencies placing the orders.

STAFF REPORT

City of Lancaster

CC 6
05/09/17
MVB

Date: May 9, 2017

To: Mayor Parris and City Council Members

From: Jeff Hogan, Development Services Director

Subject: **Professional Services Agreement – Design Base Mapping, Final Pavement Recommendations, Traffic Engineering Services and Preparation of Plans, Specifications and Estimates (PS&E) for Public Works Construction Project No. 17-003 - 2017 REVIVE 25 Pavement Management Program**

Recommendation:

Approve Task Order No. 1 in accordance with the 2016-2018 Multi-Year Professional Services Agreement with Michael Baker International, of Irvine, California, in the amount of \$213,040.00 for Design Base Mapping, Final Pavement Recommendations, Traffic Engineering Services, and Preparation of Plans, Specifications and Estimates (PS&E) for Public Works Construction Project No. 17-003 - 2017 REVIVE 25 Pavement Management Program and authorize the City Manager, or his designee, to sign all documents. The consultant selection process was made in accordance with Government Codes 4526 and 53060.

Fiscal Impact:

\$213,040.00; sufficient funds are available in Capital Improvements Budget Account No.'s 206-12ST036 and 209-12ST036.

Background:

In 2015, the City of Lancaster launched the REVIVE 25 Program, the City's innovative and cost effective road maintenance program, aimed to treat every road in Lancaster by 2025. The program maximizes the life of every road by investing more in preventing road issues before they occur. This preventative approach will enable the City to postpone or completely avoid much more expensive treatment, saving tax payers more than 280 million dollars over the next 10 years.

Under the 2017 REVIVE 25 Pavement Management Program, the City will treat 105 lane miles of City streets. Some of the streets to be treated as part of the 2017 Pavement Management Program include: Avenue L, from 15th Street West to 30th Street West; Sierra Highway, from Avenue K to Avenue L; and 10th Street West, from Avenue K to Avenue L. To assist with the mapping and design of these road projects, the City intends to award a contract to Michael Baker

International to handle design responsibilities, including mapping, preparing traffic striping and traffic control plans, and preparation of plans, specifications and estimates (PS&E) for construction. The design of the 105 lane miles of streets project is expected to be completed by November 2017, with road construction beginning in spring 2018.

Design responsibilities completed under this task order are being conducted using the 2016-2018 Multi-Year Professional Services Agreement. Michael Baker International was selected from the pre-qualified list of consultants under Service Group Category 1, Roadway and Structures Engineering.

LG:pjp

Attachment:
Task Order No. 1

TASK ORDER NO. 1
UNDER

AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES
SERVICE GROUP CATEGORY 1 – ROADWAY AND STRUCTURES ENGINEERING
DATED SEPTEMBER 29, 2016

BETWEEN

THE CITY OF LANCASTER, "OWNER"
AND
MICHAEL BAKER INTERNATIONAL "CONSULTANT"

PROJECT TITLE: PWCP 17-003 – 2017 Revive 25 Pavement Management Program

DESCRIPTION OF SERVICES: Design Base Mapping, Final Pavement Recommendations, Traffic Engineering Services And Preparation Of Plans, Specifications And Estimates

SCOPE OF WORK: Per Attached Exhibit "A", Scope of Services

PERIOD OF SERVICES: To Be Completed On or Before October 13, 2017

COMPENSATION FOR SERVICES: Per Fee Schedule - Not to Exceed \$213,040.00

PROJECT MANAGER: Marissa Diaz

"OWNER"

"CONSULTANT"

CITY OF LANCASTER

MICHAEL BAKER INTERNATIONAL

By _____
Jeff Hogan
Development Services Director

By _____
Gary Warkentin
Vice President

Date _____

Date _____



March 27, 2017

Mr. Luis Garibay
City of Lancaster
lgaribay@cityoflanaster.org

**Subject: Proposal to Provide Professional Consultant Services for
2017 Pavement Management Program**

Dear Mr. Garibay:

Michael Baker International, (Michael Baker) is pleased to submit our proposal for the 2017 Pavement Management Program. Our proposal is based on the City's RFP dated February 13, 2017, informal General Addendum No. 1 dated March 2, 2017 and revised project list dated March 27, 2017. We are committed to supporting the City of Lancaster's Revive 25 Program objectives of **"Preserving our Neighborhoods"**. To support the Michael Baker Team, we have included the services of G3 Quality, Inc. (G3) to provide final pavement recommendations and technical specifications support. G3 is a full service pavement engineering company that specializes in providing innovative pavement preservation, pavement design, materials design, inspection, and testing quality assurance services. We have included, as part of our proposal, references for similar projects and resumes of their key staff that would be assigned to this project.

The Michael Baker / G3 Team is staffed to complete the annual PMP's for 2017 and 2018. The milestone schedule of services has been established to illustrate concurrent development of two PMP's. Following is our project staffing, scope of services, milestone schedule and task/hour breakdown and fee.

Thank you for considering Michael Baker for this assignment. We are here to serve and are dedicated to the City of Lancaster's success. Please feel free to contact me with any questions on the information provided. I may be reached at 949/855-3625, or garyw@mbakerintl.com.

Sincerely,

A handwritten signature in blue ink that reads "Gary Warkentin".

Gary Warkentin
Vice President

PROJECT STAFFING

Name	Classification	Role
Civil / Traffic Studies – Michael Baker International		
Gary Warkentin	Project Manager	Project Manager
Randy Ratzlaff, PE	Senior Engineer	QA/QC, Specifications
Octavio Hernandez, PE	Project Engineer	Traffic
Tony Salas	Project Engineer	Traffic
Jerusalem Verano, PE	Project Engineer	Civil
Hector Salcedo	Assistant Engineer	Civil / Traffic
Pavement Design Services – G3 Quality, Inc.		
Chris Gerber	Technical Advisor	Pavement Design Oversight
Larry Clark	Principal Engineer	Pavement Design
Nick Schaefer	Field Engineer	Pavement Design

SCOPE OF SERVICES

ITEMS TO BE PROVIDED BY THE CITY

The City will provide aerial photography files or available GIS information that will assist in developing an accurate basemap for the drawings. This information will include surface utilities, street centerlines and concrete improvements.

2017 Pavement Management Program

1. Avenue L, 15th Street West to 30th Street West (11 LM)
2. 60th Street West, Avenue J to Avenue K (7 LM)
3. 60th Street West, Avenue K to L (6 LM)
4. 60th Street West, Avenue L to Avenue L-4 (1 LM)
5. Avenue H, 25th Street West to 40th Street West (7 LM)
6. Avenue K, 32th Street West to 40th Street West (6 LM)
7. Neighborhood, 25th Street West to 30th Street West, Ave J-8 to Ave K (18 LM)
8. Neighborhood, 62nd Street West to 65th Street West, Avenue L-4 to Avenue L-8 (5 LM)
9. Neighborhood, Avenue J-8 to Avenue K, 15th St East to Rembrandt St (6.5 LM)
10. Neighborhood, Avenue H-8 to Avenue I, Division St to 5th St East (11 LM)
11. Sierra Highway, Ave K to Ave L (5.5 LM)
12. Avenue L, 52nd St West to 60th St West (2.5 LM)
13. Neighborhood, Division St to Challenger Way (10th St East), Ave J-8 to Ave K (23 LM)
14. 10th Street West, Avenue L to Ave K (7.7 LM)

TASK 1 PROJECT MANAGEMENT AND COORDINATION

Perform all project management, scheduling, quality control, and quality assurance tasks necessary to maintain the project schedule, budget, and a high quality set of deliverables to the City.

Coordination of meetings necessary for the work. For purposes of this proposal, it was assumed that we will have a project kick-off meeting, and one meeting to assure a quality base mapped project, one meeting to discuss final pavement recommendations, one meeting for traffic engineering.

Continued coordination throughout the project with the City.

Deliverables

Cost of the following deliverables will include reimbursable costs including but not limited to shipping, supplies, etc.:

- a. Kick-off Meeting (Agenda and Minutes)
- b. Copies of all project management communication (correspondence, meeting minutes, telephone conversation records, etc.)

TASK 2 BASEMAP PREPARATION

Develop an aerial photographic basemap of the selected street areas at a scale of 1"=100'. No topographic survey or elevation information will be provided. GIS information and aerial photography will be provided by the City.

Michael Baker will use readily available aerial photogrammetry (i.e. google earth) and readily available assessor's parcel map drawings for the delineation of approximate property boundaries. Label land uses on basemap according to the City of Lancaster Striping and Signing Plan requirements.

Base mapping will be field verified to ensure base mapping is reflective of existing conditions.

Deliverables

Cost of the following deliverables will include reimbursable costs including but not limited to shipping, supplies, etc.:

- a. Base Map
- b. Copies of all relevant investigation information and communication (correspondence, meeting minutes, telephone conversation records, etc.)

TASK 3 PAVEMENT RECOMMENDATIONS (CIVIL PLANS)

G3 will be responsible for pavement evaluations and final pavement rehabilitation recommendations. Pavement design services will include visual surface pavement inspections, subsurface boring, subgrade sampling, pavement coring and pavement deflection testing if needed. The collected data will be evaluated and pavement preservation, rehabilitation or reconstruction recommendations will be provided to the City for their review and input. A minimum of three strategies will be provided to the City with options based on life cycle cost analysis. Our focus is to utilize a strategy that the City has had previous success with as well as presenting the City with additional pavement preservation strategies that may be applicable for the specific roads to be addressed.

G3 utilizes high resolution imaging technology to perform pavement condition surveys. This technology can collect the following information:

- 1) Existing Pavement Smoothness per AASHTO r57
- 2) Pavement Defect Report
- 3) Survey Quality Elevations ever 1-inch
- 4) Right-of-Way (ROW) camera images
- 5) Downfacing camera images to collect distresses
- 6) Rutting across both wheel paths
- 7) Cross Slope measurement

This technology provides a highly efficient pavement condition validation strategy for the City of Lancaster. By collecting the pavement distress images, G3 Engineers will evaluate all the pavement both from the images and from site visits focusing on specific locations collected by the imaging.



Michael Baker will prepare all Civil Engineering documents, including plans, specifications and estimates (PS&E), for construction. The City will prepare the main body of the specifications; specifications provided by Michael Baker will be limited to details, cut sheets and specifications for items beyond the Greenbook. An itemized cost estimate for construction will be included with the 90% and 100% submittal packages.

In addition, Michael Baker will coordinate and work with the following City Divisions during design: Capital Engineering Division (primary), Community Development Division (City Engineering/Traffic Engineering Section), and Public Works Division (Utility Services and Maintenance Services Sections).

Deliverables

Cost of the following deliverables will include reimbursable costs including but not limited to shipping, supplies, etc.:

- a. 60% Plans
- b. 90% PS&E
- c. 100% PS&E
- d. Copies of all relevant investigation information and communication (correspondence, meeting minutes, telephone conversation records, etc.)

TASK 4 TRAFFIC ENGINEERING PLANS

Michael Baker Traffic Engineers will review Civil plans and develop construction phasing approach.

Michael Baker will prepare traffic control plans for arterial streets, according to California MUTCD and City of Lancaster requirements. It is assumed that 15 sheets of traffic control plans are in our scope of services.

Michael Baker will prepare signing and striping plans for arterial streets, according to CAMUTCD and City of Lancaster requirements. It is assumed that up to 15 sheets of signing and striping plans are in our scope of services.

Michael Baker will prepare all Traffic Engineering documents, including plans, specifications and estimates (PS&E), for construction. The City will prepare the main body of the specifications; specifications provided by Michael Baker will be limited to details, cut sheets and specifications for items beyond the Greenbook. An itemized cost estimate for construction will be included with the 90% and 100% submittal packages.

In addition, Michael Baker will coordinate and work with the following City Divisions during design: Capital Engineering Division (primary), Community Development Division (City Engineering/Traffic Engineering Section), and Public Works Division (Utility Services and Maintenance Services Sections).

Deliverables

Cost of the following deliverables shall include reimbursable costs including but not limited to shipping, supplies, etc.:

- a. 60% Plans
- b. 90% PS&E
- c. 100% PS&E
- d. Copies of all relevant investigation information and communication (correspondence, meeting minutes, telephone conversation records, etc.)

2017 MILESTONE SCHEDULE

Task	Complete By
1. Notice to Proceed	May 10, 2017
2. Base Maps Completed	June 2, 2017
3. Pavement Recommendations	June 14, 2017
4. 60% Plans	July 21, 2017
5. 90% PS&E	September 15, 2017
6. 100% PS&E	October 13, 2017



Lancaster 2017 Pavement Management Program

DATE: 3/27/2017

TASK/HOUR BREAKDOWN

Task Description		Project Manager		Senior Engineer		Project Engineer		Assistant Engineer		G3-Quality		Total	
		Hours	\$208	Hours	\$178	Hours	\$155	Hours	\$104	Hours	Fee	Hours	Fee
1.0	Project Management & Coordination	40	\$8,320	40	\$7,120	0	\$0	0	\$0	24	\$4,048	104	\$19,488
1.1	Project Meetings	16	\$3,328	0	\$0	0	\$0	0	\$0	12	\$1,988	28	\$5,316
1.2	Project Schedule	4	\$832	0	\$0	0	\$0	0	\$0	0	\$0	4	\$832
1.3	Quality Assurance/Quality Control	4	\$832	40	\$7,120	0	\$0	0	\$0	12	\$2,060	56	\$10,012
1.4	Monthly Progress Report	16	\$3,328	0	\$0	0	\$0	0	\$0	0	\$0	16	\$3,328
2.0	Base Map Preparation	4	\$832	0	\$0	18	\$2,790	228	\$23,712	0	\$0	250	\$27,334
2.1	Aerial Photographic Base Maps (1"=100')	4	\$832	0	\$0	18	\$2,790	184	\$19,136	0	\$0	206	\$22,758
2.2	Field Review/Existing Conditions Verification Pavement Delineation	0	\$0	0	\$0	0	\$0	44	\$4,576	0	\$0	44	\$4,576
3.0	Pavement Recommendations	20	\$4,160	20	\$3,560	92	\$14,260	246	\$25,584	168	\$25,200	546	\$72,764
3.1	Field Review / Pavement Condition Assessment	4	\$832	0	\$0	0	\$0	0	\$0	106	\$15,900	110	\$16,732
3.2	Pavement Evaluation / Final Pavement Rehabilitation Recommendations	4	\$832	0	\$0	0	\$0	0	\$0	30	\$4,500	34	\$5,332
3.3	Pavement Rehabilitation Plans (60% / 90% / 100%)	4	\$832	0	\$0	62	\$9,610	184	\$19,136	12	\$1,800	262	\$31,378
3.4	Construction Quantities/ Cost Estimate (90% / 100%)	4	\$832	0	\$0	30	\$4,650	62	\$6,448	0	\$0	96	\$11,930
3.5	Specifications	4	\$832	20	\$3,560	0	\$0	0	\$0	20	\$3,000	44	\$7,392
4.0	Traffic Engineering Plans	20	\$4,160	20	\$3,560	234	\$36,270	466	\$48,464	0	\$0	740	\$92,454
4.1	Construction Phasing Approach	4	\$832	0	\$0	36	\$5,580	70	\$7,280	0	\$0	110	\$13,692
4.2	Traffic Control Plans (15 sheets) (60% / 90% / 100%)	4	\$832	0	\$0	88	\$13,640	176	\$18,304	0	\$0	268	\$32,776
4.3	Signing and Striping Plans (15 sheets) (60% / 90% / 100%)	4	\$832	0	\$0	88	\$13,640	176	\$18,304	0	\$0	268	\$32,776
4.4	Construction Quantities / Cost Estimate (90% / 100%)	4	\$832	0	\$0	22	\$3,410	44	\$4,576	0	\$0	70	\$8,818
4.5	Specifications	4	\$832	20	\$3,560	0	\$0	0	\$0	0	\$0	24	\$4,392
Direct Costs/Expenses													\$1,000
Total		84	\$17,472	80	\$14,240	344	\$53,320	940	\$97,760	192	\$29,248	1640	\$213,040

STAFF REPORT

City of Lancaster

CC 7
05/09/17
MVB

Date: May 9, 2017

To: Mayor Parris and City Council Members

From: Jeff Hogan, Development Services Director

Subject: **Professional Services Agreement – Design Base Mapping, Final Pavement Recommendations, Traffic Engineering Services and Preparation of Plans, Specifications and Estimates (PS&E) for Public Works Construction Project No. 18-001 - 2018 REVIVE 25 Pavement Management Program**

Recommendation:

Approve Task Order No. 2 in accordance with the 2016-2018 Multi-Year Professional Services Agreement with Michael Baker International, of Irvine, California, in the amount of \$196,106.00 for Design Base Mapping, Final Pavement Recommendations, Traffic Engineering Services, and Preparation of Plans, Specifications and Estimates (PS&E) for Public Works Construction Project No. 18-001 - 2018 REVIVE 25 Pavement Management Program and authorize the City Manager, or his designee, to sign all documents. The consultant selection process was made in accordance with Government Codes 4526 and 53060.

Fiscal Impact:

\$196,106.00; sufficient funds are available in Capital Improvements Budget Account No.'s 206-12ST036 and 209-12ST036.

Background:

In 2015, the City of Lancaster launched the REVIVE 25 Program, the City's innovative and cost effective road maintenance program, aimed to treat every road in Lancaster by 2025. The program maximizes the life of every road by investing more in preventing road issues before they occur. This preventative approach will enable the City to postpone or completely avoid much more expensive treatment, saving tax payers more than 280 million dollars over the next 10 years.

Under the 2018 REVIVE 25 Pavement Management Program, the City will treat 90 lane miles of City streets. Some of the streets to be treated as part of the 2018 Pavement Management Program include: Division Street, from Avenue J to Avenue K; 30th Street East, from Avenue K to Avenue L; and 20th Street West, from Avenue I to Lancaster Blvd. To assist with the mapping and design of these road projects, the City intends to award a contract to Michael Baker International to handle design responsibilities, including mapping, preparing traffic striping and traffic control plans, and preparation of plans, specifications and estimates (PS&E) for construction. The design of the 90 lane miles of streets project is expected to be completed by November 2017, with road construction beginning in spring 2018.

Design responsibilities completed under this task order are being conducted using the 2016-2018 Multi-Year Professional Services Agreement. Michael Baker International was selected from the pre-qualified list of consultants under Service Group Category 1, Roadway and Structures Engineering.

LG:pjp

Attachment:
Task Order No. 2

TASK ORDER NO. 2
UNDER

AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES
SERVICE GROUP CATEGORY 1 – ROADWAY AND STRUCTURES ENGINEERING
DATED SEPTEMBER 29, 2016

BETWEEN

THE CITY OF LANCASTER, "OWNER"
AND
MICHAEL BAKER INTERNATIONAL "CONSULTANT"

PROJECT TITLE: PWCP 18-001 – 2018 Revive 25 Pavement Management Program

DESCRIPTION OF SERVICES: Design Base Mapping, Final Pavement Recommendations, Traffic Engineering Services And Preparation Of Plans, Specifications And Estimates

SCOPE OF WORK: Per Attached Exhibit "A", Scope of Services

PERIOD OF SERVICES: To Be Completed On or Before November 10, 2017

COMPENSATION FOR SERVICES: Per Fee Schedule - Not to Exceed \$196,106.00

PROJECT MANAGER: Marissa Diaz

"OWNER"

"CONSULTANT"

CITY OF LANCASTER

MICHAEL BAKER INTERNATIONAL

By _____
Jeff Hogan
Development Services Director

By _____
Gary Warkentin
Vice President

Date _____

Date _____



March 27, 2017

Mr. Luis Garibay
City of Lancaster
lgaribay@cityoflanaster.org

**Subject: Proposal to Provide Professional Consultant Services for
2018 Pavement Management Program**

Dear Mr. Garibay:

Michael Baker International, (Michael Baker) is pleased to submit our proposal for the 2018 Pavement Management Program. Our proposal is based on the City's RFP dated February 13, 2017, informal General Addendum No. 1 dated March 2, 2017 and revised project list dated March 27, 2017. We are committed to supporting the City of Lancaster's Revive 25 Program objectives of **"Preserving our Neighborhoods"**. To support the Michael Baker Team, we have included the services of G3 Quality, Inc. (G3) to provide final pavement recommendations and technical specifications support. G3 is a full service pavement engineering company that specializes in providing innovative pavement preservation, pavement design, materials design, inspection, and testing quality assurance services. We have included, as part of our proposal, references for similar projects and resumes of their key staff that would be assigned to this project.

The Michael Baker / G3 Team is staffed to complete the annual PMP's for 2017 and 2018. The milestone schedule of services has been established to illustrate concurrent development of two PMP's. Following is our project staffing, scope of services, milestone schedule and task/hour breakdown and fee.

Thank you for considering Michael Baker for this assignment. We are here to serve and are dedicated to the City of Lancaster's success. Please feel free to contact me with any questions on the information provided. I may be reached at 949/855-3625, or garyw@mbakerintl.com.

Sincerely,

A handwritten signature in blue ink that reads "Gary Warkentin".

Gary Warkentin
Vice President

PROJECT STAFFING

Name	Classification	Role
Civil / Traffic Studies – Michael Baker International		
Gary Warkentin	Project Manager	Project Manager
Randy Ratzlaff, PE	Senior Engineer	QA/QC, Specifications
Octavio Hernandez, PE	Project Engineer	Traffic
Tony Salas	Project Engineer	Traffic
Jerusalem Verano, PE	Project Engineer	Civil
Hector Salcedo	Assistant Engineer	Civil / Traffic
Pavement Design Services – G3 Quality, Inc.		
Chris Gerber	Technical Advisor	Pavement Design Oversight
Larry Clark	Principal Engineer	Pavement Design
Nick Schaefer	Field Engineer	Pavement Design

SCOPE OF SERVICES

ITEMS TO BE PROVIDED BY THE CITY

The City has selected approximately 90.8 lane miles (approximately 20 centerline miles) of roadways to be included in the 2018 REVIVE 25 pavement management program.

2018 Pavement Management Program

1. 10th Street West, Lancaster Blvd to Avenue J (1.5 LM)
2. 20th Street West, Avenue I to Lancaster Blvd (7.5 LM)
3. 30th Street East, Avenue K to Avenue L; Ave K-8, 30th St. East to 35th St East (7 LM)
4. Avenue J-8, 30th Street West to 35nd Street West (1 LM)
5. 30th Street West, Avenue M to Avenue N (2.5 LM)
6. 6th Street East & 7th Street East, Avenue K to Avenue K-12 (7 LM)
7. Neighborhood, 20th Street West to 10th St. West, Avenue I to Lancaster Blvd (23 LM)
8. Division St, Avenue J to Avenue K (6.5 LM)
9. Neighborhood, Ave J-8 to Ave K, 10th St W to Adler Ave (15.5)
10. Neighborhood, 10th St W to 15th St W, Lancaster Blvd to Ave J (9.5 LM)
11. Neighborhood, Glenraven to Ave J-8, Division to Raysack (5.2 LM)
12. Neighborhood, Lancaster Blvd to Ave J, 2nd St E, 3rd St E (4.6 LM)

TASK 1 PROJECT MANAGEMENT AND COORDINATION

Perform all project management, scheduling, quality control, and quality assurance tasks necessary to maintain the project schedule, budget, and a high quality set of deliverables to the City.

Coordination of meetings necessary for the work. For purposes of this proposal, it was assumed that we will have a project kick-off meeting, and one meeting to assure a quality base mapped project, one meeting to discuss final pavement recommendations, one meeting for traffic engineering.

Continued coordination throughout the project with the City.

Deliverables

Cost of the following deliverables will include reimbursable costs including but not limited to shipping, supplies, etc.:

- a. Kick-off Meeting (Agenda and Minutes)
- b. Copies of all project management communication (correspondence, meeting minutes, telephone conversation records, etc.)

TASK 2 BASEMAP PREPARATION

Develop an aerial photographic basemap of the selected street areas at a scale of 1"=100'. No topographic survey or elevation information will be provided. GIS information and aerial photography will be provided by the City.

Michael Baker will use readily available aerial photogrammetry (i.e. google earth) and readily available assessor's parcel map drawings for the delineation of approximate property boundaries. Label land uses on basemap according to the City of Lancaster Striping and Signing Plan requirements.

Base mapping will be field verified to ensure base mapping is reflective of existing conditions.

Deliverables

Cost of the following deliverables will include reimbursable costs including but not limited to shipping, supplies, etc.:

- a. Base Map
- b. Copies of all relevant investigation information and communication (correspondence, meeting minutes, telephone conversation records, etc.)

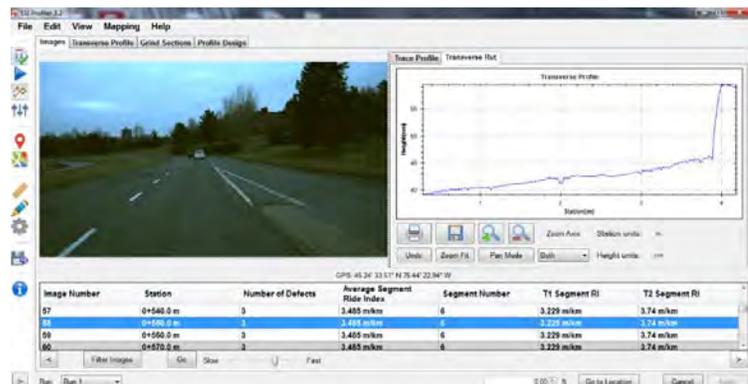
TASK 3 PAVEMENT RECOMMENDATIONS (CIVIL PLANS)

G3 will be responsible for pavement evaluations and final pavement rehabilitation recommendations. Pavement design services will include visual surface pavement inspections, subsurface boring, subgrade sampling, pavement coring and pavement deflection testing if needed. The collected data will be evaluated and pavement preservation, rehabilitation or reconstruction recommendations will be provided to the City for their review and input. A minimum of three strategies will be provided to the City with options based on life cycle cost analysis. Our focus is to utilize a strategy that the City has had previous success with as well as presenting the City with additional pavement preservation strategies that may be applicable for the specific roads to be addressed.

G3 utilizes high resolution imaging technology to perform pavement condition surveys. This technology can collect the following information:

- 1) Existing Pavement Smoothness per AASHTO r57
- 2) Pavement Defect Report
- 3) Survey Quality Elevations every 1-inch
- 4) Right-of-Way (ROW) camera images
- 5) Downfacing camera images to collect distresses
- 6) Rutting across both wheel paths
- 7) Cross Slope measurement

This technology provides a highly efficient pavement condition validation strategy for the City of Lancaster. By collecting the pavement distress images, G3 Engineers will evaluate all the pavement both from the images and from site visits focusing on specific locations collected by the imaging.



Michael Baker will prepare all Civil Engineering documents, including plans, specifications and estimates (PS&E), for construction. The City will prepare the main body of the specifications; specifications provided by Michael Baker will be limited to details, cut sheets and specifications for items beyond the Greenbook. An itemized cost estimate for construction will be included with the 90% and 100% submittal packages.

In addition, Michael Baker will coordinate and work with the following City Divisions during design: Capital Engineering Division (primary), Community Development Division (City Engineering/Traffic Engineering Section), and Public Works Division (Utility Services and Maintenance Services Sections).

Deliverables

Cost of the following deliverables will include reimbursable costs including but not limited to shipping, supplies, etc.:

- a. 60% Plans
- b. 90% PS&E
- c. 100% PS&E
- d. Copies of all relevant investigation information and communication (correspondence, meeting minutes, telephone conversation records, etc.)

TASK 4 TRAFFIC ENGINEERING PLANS

Michael Baker Traffic Engineers will review Civil plans and develop construction phasing approach.

Michael Baker will prepare traffic control plans for arterial streets, according to California MUTCD and City of Lancaster requirements. It is assumed that 15 sheets of traffic control plans are in our scope of services.

Michael Baker will prepare signing and striping plans for arterial streets, according to CAMUTCD and City of Lancaster requirements. It is assumed that up to 15 sheets of signing and striping plans are in our scope of services.

Michael Baker will prepare all Traffic Engineering documents, including plans, specifications and estimates (PS&E), for construction. The City will prepare the main body of the specifications; specifications provided by Michael Baker will be limited to details, cut sheets and specifications for items beyond the Greenbook. An itemized cost estimate for construction will be included with the 90% and 100% submittal packages.

In addition, Michael Baker will coordinate and work with the following City Divisions during design: Capital Engineering Division (primary), Community Development Division (City Engineering/Traffic Engineering Section), and Public Works Division (Utility Services and Maintenance Services Sections).

Deliverables

Cost of the following deliverables shall include reimbursable costs including but not limited to shipping, supplies, etc.:

- a. 60% Plans
- b. 90% PS&E
- c. 100% PS&E
- d. Copies of all relevant investigation information and communication (correspondence, meeting minutes, telephone conversation records, etc.)

2018 MILESTONE SCHEDULE

Task	Complete By
1. Notice to Proceed	May 10, 2017
2. Base Maps Completed	June 16, 2017
3. Pavement Recommendations	July 7, 2017
4. 60% Plans	August 11, 2017
5. 90% PS&E	October 13, 2017
6. 100% PS&E	November 10, 2017



Lancaster 2018 Pavement Management Program

DATE: 3/27/2017

TASK/HOUR BREAKDOWN

Task Description		Project Manager		Senior Engineer		Project Engineer		Assistant Engineer		G3-Quality		Total	
		Hours	\$208	Hours	\$178	Hours	\$155	Hours	\$104	Hours	Fee	Hours	Fee
1.0	Project Management & Coordination	40	\$8,320	40	\$7,120	0	\$0	0	\$0	24	\$4,048	104	\$19,488
1.1	Project Meetings	16	\$3,328	0	\$0	0	\$0	0	\$0	12	\$1,988	28	\$5,316
1.2	Project Schedule	4	\$832	0	\$0	0	\$0	0	\$0	0	\$0	4	\$832
1.3	Quality Assurance/Quality Control	4	\$832	40	\$7,120	0	\$0	0	\$0	12	\$2,060	56	\$10,012
1.4	Monthly Progress Report	16	\$3,328	0	\$0	0	\$0	0	\$0	0	\$0	16	\$3,328
2.0	Base Map Preparation	4	\$832	0	\$0	16	\$2,480	208	\$21,632	0	\$0	228	\$24,944
2.1	Aerial Photographic Base Maps (1"=100')	4	\$832	0	\$0	16	\$2,480	168	\$17,472	0	\$0	188	\$20,784
2.2	Field Review/Existing Conditions Verification Pavement Delineation	0	\$0	0	\$0	0	\$0	40	\$4,160	0	\$0	40	\$4,160
3.0	Pavement Recommendations	20	\$4,160	20	\$3,560	84	\$13,020	224	\$23,296	150	\$21,962	498	\$65,998
3.1	Field Review / Pavement Condition Assessment	4	\$832	0	\$0	0	\$0	0	\$0	96	\$13,856	100	\$14,688
3.2	Pavement Evaluation / Final Pavement Rehabilitation Recommendations	4	\$832	0	\$0	0	\$0	0	\$0	26	\$3,784	30	\$4,616
3.3	Pavement Rehabilitation Plans (60% / 90% / 100%)	4	\$832	0	\$0	56	\$8,680	168	\$17,472	10	\$1,450	238	\$28,434
3.4	Construction Quantities/ Cost Estimate (90% / 100%)	4	\$832	0	\$0	28	\$4,340	56	\$5,824	0	\$0	88	\$10,996
3.5	Specifications	4	\$832	20	\$3,560	0	\$0	0	\$0	18	\$2,872	42	\$7,264
4.0	Traffic Engineering Plans	20	\$4,160	20	\$3,560	212	\$32,860	424	\$44,096	0	\$0	676	\$84,676
4.1	Construction Phasing Approach	4	\$832	0	\$0	32	\$4,960	64	\$6,656	0	\$0	100	\$12,448
4.2	Traffic Control Plans (15 sheets) (60% / 90% / 100%)	4	\$832	0	\$0	80	\$12,400	160	\$16,640	0	\$0	244	\$29,872
4.3	Signing and Striping Plans (15 sheets) (60% / 90% / 100%)	4	\$832	0	\$0	80	\$12,400	160	\$16,640	0	\$0	244	\$29,872
4.4	Construction Quantities / Cost Estimate (90% / 100%)	4	\$832	0	\$0	20	\$3,100	40	\$4,160	0	\$0	64	\$8,092
4.5	Specifications	4	\$832	20	\$3,560	0	\$0	0	\$0	0	\$0	24	\$4,392
Direct Costs/Expenses													\$1,000
Total		84	\$17,472	80	\$14,240	312	\$48,360	856	\$89,024	174	\$26,010	1506	\$196,106

STAFF REPORT
City of Lancaster

CC 8
05/09/17
MVB

Date: May 9, 2017

To: Mayor Parris and City Council Members

From: Jeff Hogan, Development Services Director

Subject: **Professional Services Agreement – Design Base Mapping, Final Pavement Recommendations, Traffic Engineering Services, and Preparation of Plans, Specifications and Estimates (PS&E) for Public Works Construction Project No. 19-001 - 2019 REVIVE 25 Pavement Management Program**

Recommendation:

Approve Task Order No. 1 in accordance with the 2016-2018 Multi-Year Professional Services Agreement with Antelope Valley Engineering, of Lancaster, California, in the amount of \$239,850.00 for Design Base Mapping, Final Pavement Recommendations, Traffic Engineering Services, and Preparation of Plans, Specifications and Estimates (PS&E) for Public Works Construction Project No. 19-001 - 2019 REVIVE 25 Pavement Management Program and authorize the City Manager, or his designee, to sign all documents. The consultant selection process was made in accordance with Government Codes 4526 and 53060.

Fiscal Impact:

\$239,850.00; sufficient funds are available in Capital Improvements Budget Account No.'s 206-12ST036 and 209-12ST036.

Background:

In 2015, the City of Lancaster launched the REVIVE 25 Program, the City's innovative and cost effective road maintenance program, aimed to treat every road in Lancaster by 2025. The program maximizes the life of every road by investing more in preventing road issues before they occur. This preventative approach will enable the City to postpone or completely avoid much more expensive treatment, saving tax payers more than 280 million dollars over the next 10 years.

Under the 2019 REVIVE 25 Pavement Management Program, the City will treat 54 lane miles of City streets. Some of the streets to be treated as part of the 2019 Pavement Management Program include: Avenue L, 10th Street West to Sierra Highway; Sierra Highway, from Avenue J to Avenue K; and Avenue J, from 10th Street West to 20th Street West. To assist with the mapping and design of these road projects, the City intends to award a contract to Antelope Valley Engineering to handle design responsibilities, including mapping, preparing traffic striping and

traffic control plans, and preparation of plans, specifications and estimates (PS&E) for construction. The design of the 54 lane miles of streets project is expected to be completed by November 2017, with road construction beginning in summer 2018.

Design responsibilities completed under this task order are being conducted using the 2016-2018 Multi-Year Professional Services Agreement. Antelope Valley Engineering was selected from the pre-qualified list of consultants under Service Group Category 1, Roadway and Structures Engineering.

LG:pjp

Attachment:

Task Order No. 1

TASK ORDER NO. 1
UNDER

AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES
SERVICE GROUP CATEGORY 1 – ROADWAY AND STRUCTURES ENGINEERING
DATED SEPTEMBER 29, 2016

BETWEEN

THE CITY OF LANCASTER, "OWNER"
AND
ANTELOPE VALLEY ENGINEERING "CONSULTANT"

PROJECT TITLE: PWCP 19-001 – 2019 Revive 25 Pavement Management Program

DESCRIPTION OF SERVICES: Design Base Mapping, Final Pavement Recommendations, Traffic Engineering Services And Preparation Of Plans, Specifications And Estimates

SCOPE OF WORK: Per Attached Exhibit "A", Scope of Services

PERIOD OF SERVICES: To Be Completed On or Before November 27, 2017

COMPENSATION FOR SERVICES: Per Fee Schedule - Not to Exceed \$239,850.00

PROJECT MANAGER: Marissa Diaz

"OWNER"

CITY OF LANCASTER

By _____
Jeff Hogan
Development Services Director

Date _____

"CONSULTANT"

ANTELOPE VALLEY ENGINEERING

By _____
Barry Munz, P.E.
Vice President

Date _____

Exhibit A



REVISED APRIL 7, 2017

REF. NO. L17-038

CITY OF LANCASTER
DEPARTMENT OF DEVELOPMENT SERVICES
CAPITAL PROGRAM DIVISION
615 W. AVENUE H
LANCASTER, CA 93534

ATTN: MARISSA DIAZ, P.E.
CAPITAL PROGRAM MANAGER

RE: 2019 REVIVE 25 PAVEMENT MANAGEMENT PROGRAM

DEAR MS. DIAZ,

ANTELOPE VALLEY ENGINEERING INC. IS HONORED TO PRESENT THIS REVISED PROPOSAL FOR THE 2018 REVIVE 25 PAVEMENT MANAGEMENT PROGRAM. WE WOULD LIKE TO THANK YOU FOR THIS OPPORTUNITY TO PROVIDE THIS PROPOSAL.

WE WILL ENGAGE OUR SUBCONSULTANTS, DAVID EVANS AND ASSOCIATES, EARTH SYSTEMS SOUTHERN CALIFORNIA AND QUALITY SURVEYING FOR THIS PROJECT AS NEEDED. THE PRIMARY CONTACT FOR THIS PROJECT, IF AWARDED TO ANTELOPE VALLEY ENGINEERING, INC. WILL BE BARRY S. MUNZ.

OUR TEAM WILL CONSIST OF THE FOLLOWING PRIMARY STAFF MEMBERS

ANTELOPE VALLEY ENGINEERING

- BARRY S. MUNZ, RCE
- RANDY GORMAN, L.S.
- JOHN ARNOLD

DAVID EVANS AND ASSOCIATES

- ROBERT KILPATRICK, PE/TE
- MINH PHAN, TE
- ANTHONY TY, EIT

EARTH SYSTEMS CONSULTANT

- TIM THOMSON, P.E.
- ROB FERGUSON
- JIM TOMKINS, P.E.

QUALITY SURVEYING

- KENT MAEVERS, PLS
- EDWARD MOUTHROUP, PLS

ANTELOPE VALLEY ENGINEERING, INC. AND OUR SUBCONSULTANTS HAVE REVIEWED AND UNDERSTANDS THE SCOPE OF SERVICES FOR THE FOLLOWING STREET SEGMENTS:

1. AVENUE L, 10TH STREET WEST TO SIERRA HIGHWAY (4.5 LM)
2. AVENUE K, 20TH STREET WEST TO 32ND STREET WEST (8 LM)
3. 10TH STREET WEST, AVENUE H TO LANCASTER BLVD (9LM)
4. SIERRA HIGHWAY, AVENUE J TO AVENUE K (6.5 LM)
5. AVENUE J, 10TH STREET WEST TO 20TH STREET WEST (6 LM)
6. AVENUE I, SIERRA HIGHWAY TO 10TH STREET WEST (4 LM)
7. 15TH STREET WEST, AVENUE H TO JENNER STREET; NORBERRY STREET TO AVENUE J (6 LM)
8. NEIGHBORHOOD, 10TH STREET WEST TO SIERRA HIGHWAY, AVENUE I TO LANCASTER BLVD (9 LM)
9. AVENUE J-12, 20TH ST WEST TO AVENUE K (1.1 LM)

ANTELOPE VALLEY ENGINEERING, INC. AND OUR SUB CONSULTANTS ARE COMMITTED TO MEETING OR EXCEEDING THE CITY'S TENTATIVE SCHEDULE OF:

TASKS	COMPLETE BY
PROPOSALS SUBMITTED PRIOR TO 2:00 PM (1:59:59)	MARCH 17, 2017
NOTIFY CONSULTANT OF THEIR SELECTION	MARCH 27, 2017
DESIGN NOTICE TO PROCEED	MAY 10, 2017
BASE MAPS COMPLETED	JUNE 20, 2017
60% PLANS	AUGUST 18, 2017
90% PS&E	OCTOBER 13, 2017
100% PS&E	NOVEMBER 27, 2017

ATTACHED PLEASE FIND THE FOLLOWING

- A. SCOPE OF SERVICES
- B. EXHIBIT 2 -- TASK ORDER COSTS ESTIMATE

RESPECTFULLY SUBMITTED,



BARRY S. MUNZ, P.E.
VICE PRESIDENT



Scope of Services – 2019 PMP Project

City of Lancaster – Multi-year SGC1 – PMP Projects

Task 1.0 - Project Management and Coordination

Task 1.1 - Project Management

Project Administration

Consultant shall prepare monthly progress reports that describe the work accomplished during the reporting period, provide an updated progress schedule, and summarize tasks to be reported during the next period. The progress reports shall correspond to the City's accounting cycles.

Project Schedule

Consultant shall prepare a project schedule in Microsoft Project using the critical path method of analysis. After the schedule is approved by the City, the schedule shall be updated monthly to reflect progress and facilitate early identification of problem areas.

Quality Assurance and Quality Control (QA/QC)

Consultant shall develop a project QA/QC plan, including our Sub-Consultants that are specific to this project. The QA/QC plan shall provide direction and guidance to the team for the completion of the project by outlining the checking and review processes for every project deliverable. The Consultant shall provide independent peer reviews prior to each milestone submittal.

Project Management Plan (PMP)

Consultant shall prepare a PMP for the project which shall identify how the project will be executed in accordance with the scope of work as described in the contract, and it will be the primary communication document for the project team. The work plan shall consist of the team organization and responsibilities, communication plan, the design standards to which the project will adhere, QA/QC Plan, the list of deliverables including the project schedule, and contract administration procedures. Prior to implementation, the PMP shall be submitted to the City for its review and concurrence.

Deliverables: Monthly progress report and schedule, QA/QC plan, and PMP.

Task 1.2 - Project Coordination and Meetings

Consultant's Project Manager and Traffic Engineer shall coordinate and attend meetings with the City of Lancaster to facilitate the completion of the preliminary and final design. The work effort will be coordinated with the City Capital Engineering Division, Community Development Division, and Public Work Division. Meetings include a kick-off meeting and three (3) plan review meetings with the City. The Consultant will prepare meeting minutes and shall distribute them to the overall project team within 2 business days.

Deliverables: Meeting agenda and minutes to be distributed via e-mail.

Task 2.0 – Base Mapping

Task 2.1 - Record Research/Investigations

Consultant shall conducted research of existing improvement plans and reports in preparation of the design of the pavement section, intersection improvements, and traffic signal modifications.

Deliverables: Copies of all relevant research and correspondence.

Task 2.2 – Base Maps

The Consultant design team will prepare an electronic base map of the identified streets. The base maps will include plan view locations of existing asphalt improvements, curb and gutter, sidewalk and ADA ramps, surface utilities, power poles, street lights, traffic signals, striping, and signing. The base maps will be prepared from field survey and available City provided aerial photography and GIS information, and will be supplemented from information from Google Earth and Utility As-Built plans.

Proposed Field Survey for base mapping will include:

Locate monuments of record within the project areas; locate existing pavement angle points within project areas (where curb & gutter does not exist); locate existing edge of gutter as required within project areas (angle points, beginning & ending of curves, cross gutters); locate existing observed surface utilities within pavement areas; locate existing sidewalk as required within project areas (angle points, beginning & ending of curves); locate existing power poles, street lights & traffic signals within project areas; random shots at existing striping to be used in conjunction with city provided plans and/or aerial photography (Google Maps/Google Earth).

Not included is any full topographic surveying. If the City requests that topographic surveys be performed, the work as outlined in the Optional Tasks section below, will be performed as extra work as authorized in writing by the City.

Deliverables: Base Maps.

Task 3.0 – Pavement Recommendations/Civil Plans

Task 3.1 - Pavement Engineering Investigation/Report

Structural Investigation

Pavement Review

The existing pavement will be reviewed by walking/driving the proposed streets to assess the stability of the pavement. Areas of excessive rutting or alligator cracking will be noted for possible additional testing.

Pavement Coring and Soil Boring:

Pavement coring of the in-situ roadway materials shall be performed in areas of distressed pavement to determine pavement thicknesses and to obtain samples of the asphalt concrete, aggregate base (if present), and subgrade materials for further analysis. Subgrade soil samples may be obtained from the shoulder where available. A coring location plan and a tabulated log will be included within the final report.

- a. A total of twenty-seven (27) pavement/shoulder borings and subsurface sampling will be performed at pre-selected locations to obtain soil samples for pavement recommendations. Where borings are performed in the existing asphalt roadway, the thickness of the existing structural section will be recorded including but not limited to asphalt concrete layer(s), buried Portland cement concrete layer(s) if any, and aggregate base layer, if any. Borings will extend to a maximum four (4') foot depth from finish surface. It is anticipated that the city will waive the permit fees.
- b. Underground Service Alert will be notified and a meeting held, if requested, with concerned utilities to relocate test sites as necessary. Sample locations will be backfilled and patched with asphalt concrete.

Laboratory Testing:

Subgrade soil samples taken in the field will be identified, labeled and measured during the sampling process. Samples shall be transported back to our Caltrans certified soils and asphalt laboratory.

- a. Subgrade soil samples taken in the field will be visually classified and the in-situ moisture content (CA 226) will be determined per location.
- b. Representative sample(s) will be selected and tested for R-Value (soil strength) determinations (CA 301) on the subgrade.
- c. Data developed during R-value testing will be utilized to project probable field support conditions during construction and highlight where appropriate special care may be required during roadway preparation.
- d. Evaluation of the present pavement thicknesses utilizing component analysis with R-value strength data will be combined with future traffic estimates (Traffic Index provided by Client) for design and development of suitable, alternative replacement sections.

Site Evaluations:

Visual Site Evaluations:

The Registered Civil Engineer shall perform a site evaluation of all asphalt concrete segments within the project limits listed above. Pavement conditions shall be

recorded for the purposes of compiling the recommendation plan(s) and report. Compare field conditions with thickness data obtained during core sampling. Compare field conditions with component analysis based on laboratory subgrade strength testing.

Engineering/Final Report

Structural Design Alternatives:

A Registered Civil Engineer shall supervise all operations and incorporate results of laboratory testing with observed pavement conditions. Engineered recommendations for alternate methods of pavement rehabilitation for the lane(s) studied shall be provided. Structural replacement sections for the existing travel lanes based shall be based upon the California Highway Design Manual for Flexible Pavement and Roadway Rehabilitation.

Final Report:

A Registered Civil Engineer will prepare the final pavement structural investigation report. The deliverables shall include all data developed during the investigation with design rehabilitation alternatives; structural replacement sections for areas of reconstruction, in-place strength testing data and field and laboratory test data. All services will be supervised by the Civil Engineer specializing in the evaluation and design of pavement systems and Registered in the State of California.

Deliverables: Two (2) hard copies and digital copy of final pavement engineer report.

Task 3.2 - Street and Pavement Improvement Plans

Consultant shall prepare 1"=40' scale preliminary street and pavement improvement plans (approximately xx-sheets) for the identified streets depicting existing base, right-of-way, and utility information, limits of existing pavement and concrete removals, limits of proposed pavement improvements, handicap ramps, and striping limits, and typical street cross sections. The design will be coordinated with the City Capital Engineering Division, Community Development Division, and Public Work Division. The street and pavement improvement plan will be submitted to the City of Lancaster for review and approval.

Plan Sheet Index:

- Cover Sheet (1)
- Typical Sections and Detail Sheet (1)
- Pavement Improvement Plan Sheets, 2,000' per sheet (x)
- Intersection Plans (Curb Returns and Ramps) Sheets (x)

Deliverables: Bond copies on 24" x 36" sheets with City border.

The plans will be submitted for City review for;

- a. 60% Plans
- b. 90% Plans
- c. 100% Plans

Task 3.3 - Construction Cost Estimate

Using the preliminary construction cost estimate as a base, Consultant shall prepare three construction cost estimates during the final design phase in a per unit basis of all proposed improvements (90% and final completion). The format will directly match the

contractor bid schedule for ease of comparison. The estimates will be in tabular form for each construction item showing quantity, unit, unit price, and total cost.

Deliverables: Two (2) hard copies and digital copy for each percent complete.

The Cost Estimates will be submitted for City review for;

- a. 90% Plan Submittal
- b. 100% Plan Submittal

Task 3.4 - Project Specifications

Consultant shall prepare final technical specifications for the project. The specifications will reference Greenbook and City of Lancaster Specifications for methods and materials. Consultant shall incorporate the technical specifications, bid schedule and pay item descriptions into the City's boiler plate general and special provisions. The project specifications will be submitted to the City for review and approval.

Deliverables: Two (2) hard copies and digital copy of the project specifications.

The Project Specifications will be submitted for City review for;

- a. 90% Plan Submittal
- b. 100% Plan Submittal

Task 4.0 – Traffic Engineering Plans

Task 4.1 – Traffic Control Plans

Consultant shall prepare a final construction staging/phasing plan at 1"=40' scale (assumed 15 sheets) for each phase depicting the limits of each phase and order of the construction activities in each phase. The plans will be prepared in accordance with the CA MUTCD and City of Lancaster requirements.

Deliverables: Bond copies on 24" x 36" sheets with City border.

The plans will be submitted for City review for;

- a. 60% Plans
- b. 90% Plans
- c. 100% Plans

Task 4.2 - Signing and Striping Plans

Consultant shall prepare 1"=40' scale signing and striping plans (assumed 15 Sheets) for the identified streets depicting existing signs and striping along the project limits to remain, existing signs and striping to be removed, new signage and striping to be installed, and necessary signing and striping details. All signing and striping will be designed in conformance with the CA MUTCD and City of Lancaster requirements.

Deliverables: Bond copies on 24" x 36" sheets with City border.

The plans will be submitted for City review for;

- a. 60% Plans
- b. 90% Plans
- c. 100% Plans

**TASK ORDER COST ESTIMATE
REVIVE 25 PAVEMENT MANAGEMENT PROGRAM
2019 PMP PROJECTS**

TASK NO.	DESCRIPTION	PRICE
1.0	PROJECT ADMINISTRATION/MANAGEMENT	
1.1	PROJECT MANAGEMENT	\$ 11,500.00
1.2	PROJECT COORDINATION & MEETINGS	\$ 6,900.00
2.0	BASE MAP	
2.1	RECORD RESEARCH / INVESTIGATION	\$ 2,600.00
2.2	BASE MAPS	\$ 64,200.00
3.0	PAVEMENT RECOMMENDATION / CIVIL PLANS	
3.1	PAVEMENT ENGINEERING INVESTIGATION / REPORT	\$ 39,975.00
3.2	STREET PAVEMENT AND IMPROVEMENT PLANS	\$ 32,150.00
3.3	CONSTRUCTION COSTS	\$ 4,825.00
3.4	PROJECT SPECIFICATIONS	\$ 5,250.00
4.0	TRAFFIC ENGINEERING PLANS	
4.1	TRAFFIC CONTROL PLANS	\$ 38,950.00
4.2	SIGNING AND STRIPING PLANS	\$ 34,500.00
	TOTAL COST:	\$ 239,850.00

TOTAL COST WRITTEN IN WORDS:

TWO HUNDRED THIRTY NINE THOUSAND EIGHT HUNDRED FIFTY DOLLARS

STAFF REPORT
City of Lancaster

CC 9
05/09/17
MVB

Date: May 9, 2017

To: Mayor Parris and City Council Members

From: Jeff Hogan, Development Services Director

Subject: **Award of Bid – Public Works Construction Project No. 16-009
2016 Pavement Management Program**

Recommendation:

Award Public Works Construction Project No. 16-009, 2016 Pavement Management Program, to Granite Construction Company of Lancaster, California, in the amount of \$4,032,923.92 Base Bid, plus Additive Alternates A1 and A2 in the amount of \$732,643.08, for a Total Bid of \$4,765,567.00, plus a 10% contingency, to repair and resurface approximately 35 lane-miles of City streets; construct curb and gutter improvements; install ADA improvements and traffic striping, with the construction of new bike lanes and authorize the City Manager, or his designee, to sign all documents. This contract is awarded to the lowest responsible bidder per California Public Code Section 22038 (b).

Fiscal Impact:

\$5,242,123.70 (including 10% contingency) to be awarded; sufficient funds are available in Capital Improvements Budget Account No.'s 203-12ST034-924, 206-12ST034-924, 209-12ST034-924, 210-12ST034-924, 232-12ST034-924, 206-12ST035-924, and 209-12ST035-924. There are no additional maintenance costs associated with this project.

Background:

As part of the Pavement Management Program, this project is designed to repair and resurface approximately 35 lane-miles of City streets. The streets to be resurfaced include 20th Street East (Avenue K-8 to Avenue L), 20th Street East (Avenue J to Avenue K), East Avenue J-8 (Rodin Avenue to Challenger Way), East Avenue J-8 (Challenger Way to 20th Street East), East Avenue J-8 (20th Street East to 22nd Street East), East Avenue K (Division Street to Challenger Way), neighborhood streets bounded by West Avenue K-4 to West Avenue K-8, 25th Street West to 30th Street West, and neighborhood streets bounded by Norberry to West Avenue J, 12th Street West to 15th Street West. New traffic striping will be installed that will allow for the construction of new bike lanes, conforming to the Master Plan of Trails and Bikeways.

Work will be performed in compliance with the City's 2014 ADA Transition Plan, which will include reconstruction of 125 curb ramps, reconstruction of 14,585 square feet of sidewalk and installation of surface applied detectable warning panels on 14 existing curb ramps at an approximate cost of \$468,200.00, \$71,450.00 and \$14,000.00, respectively.

On April 19, 2017, at 11:00 a.m., the City conducted a bid opening for Public Works Construction Project No. 16-009. Three (3) sealed bid envelopes were received, opened, and read aloud.

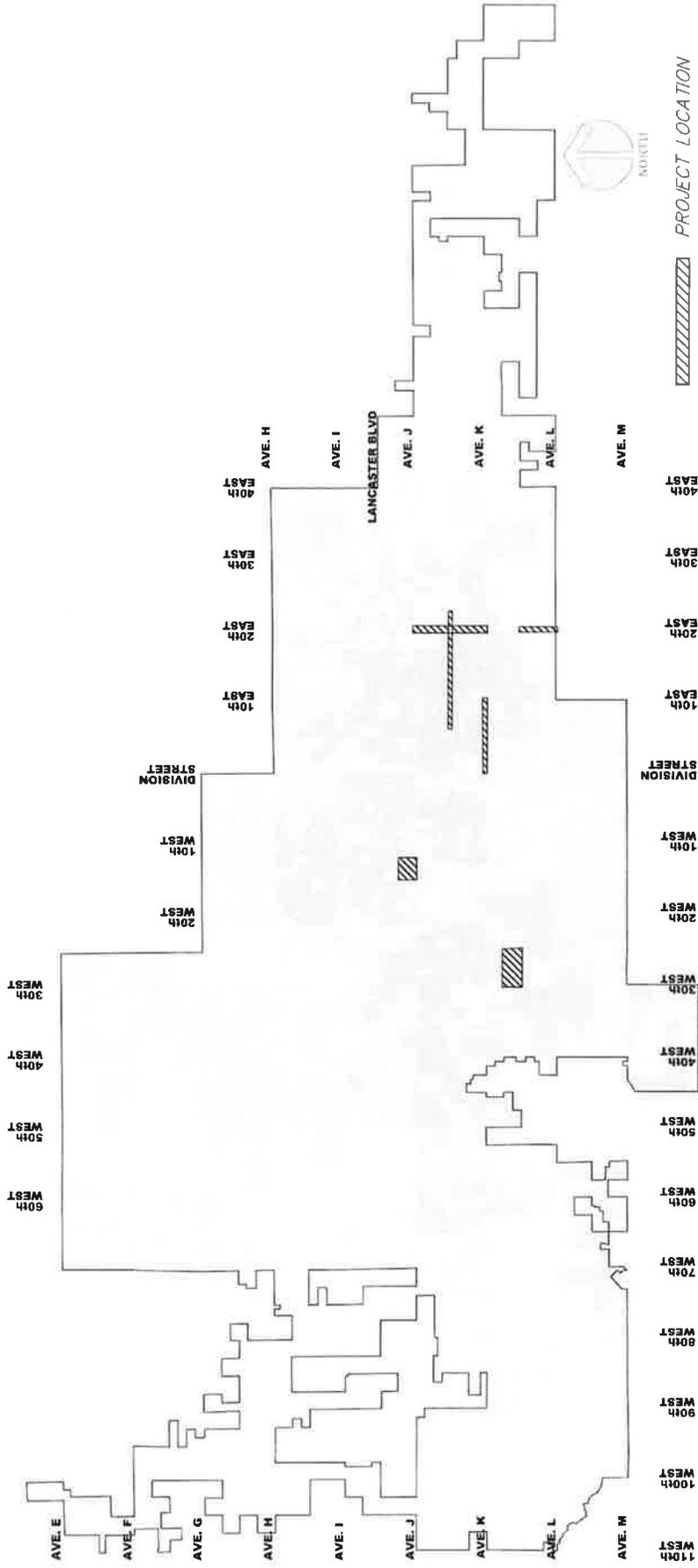
The bids were as follows:

<u>Contractor</u>	<u>City</u>	<u>Base Bid Plus Additive Alternates</u>
1. Granite Construction Co.	Lancaster	\$4,765,567.00
2. Hardy & Harper, Inc.	Santa Ana	\$4,884,000.00
3. Toro Enterprises, Inc.	Oxnard	\$5,707,360.40
Engineer's Estimate		\$4,893,651.00

MD:tl

Attachment:
Vicinity Map

PWCP 16-009
2016 PAVEMENT MANAGEMENT PROGRAM



Vicinity Map

STAFF REPORT
City of Lancaster

CC 10
05/09/17
MVB

Date: May 09, 2017

To: Mayor Parris and City Council Members

From: Elizabeth Brubaker, Director of Housing & Neighborhood Revitalization

Subject: **Approval of a Sub-Recipient Agreement with the Housing Rights Center for Fair Housing Services**

Recommendations:

Approve the Sub-Recipient Agreement between the City of Lancaster and the Housing Rights Center to provide fair housing services to the residents of Lancaster for the 2017 Community Development Block Grant (CDBG) Program Year.

Fiscal Impact:

The amount of \$35,000 is to be allocated from 2017 CDBG entitlement funds.

Background:

All municipalities receiving CDBG funding are required to maintain fair housing programs in order to affirmatively further fair housing pursuant to the Code of Federal Regulations as outlined in § 570.601 Public Law 88-352 and Public Law 90-284; affirmatively furthering fair housing; Executive Order 11063.

The City has engaged the Housing Rights Center to provide the fair housing services in the 2016-2017 CDBG Program Year and in prior years. A letter was received from the Executive Director of the Housing Rights Center, dated April 17, 2017, stating their desire to continue to provide fair housing services to the City of Lancaster.

In compliance with Federal Regulations Title 24, Part 570, Section 570.503, HUD requires that the City of Lancaster (the “Recipient”) enter into a written agreement with the Housing Rights Center (the “Sub-Recipient”) in order for the City to grant its entitlement funds to the sub-recipient for providing fair housing services.

Attachment:

CDBG Subrecipient Agreement (Fair Housing Services)

**CDBG SUBRECIPIENT AGREEMENT
(Fair Housing Services)**

This **CDBG SUBRECIPIENT AGREEMENT (Fair Housing Services)** (“Agreement”) is made and entered into as of May 09, 2017, by and between the **CITY OF LANCASTER**, a municipal corporation and charter city (“City”), and **SOUTHERN CALIFORNIA HOUSING RIGHTS CENTER dba HOUSING RIGHTS CENTER**, a California nonprofit public benefit corporation (“Subrecipient”).

RECITALS

A. City has applied for and received funds (“CDBG Funds”) from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383, 42 U.S.C. Section 5301, *et seq.*, (as amended, the “HCD Act”), and the regulations promulgated thereunder at 24 CFR part 570 (“CDBG Regulations”; and, together with the HCD Act, the “CDBG Program”).

B. Pursuant to 42 U.S.C. 5304(b), City has certified to the U.S. Department of Housing and Urban Development (“HUD”), among other things, that City will affirmatively further fair housing.

C. The CDBG Regulations, in particular 24 CFR 570.601(a)(2) and 24 CFR 91.225(a)(1), describe the City’s obligation to affirmatively further fair housing (AFFH) as follows: City must (1) undertake fair housing planning by conducting an analysis to identify impediments to fair housing choice within its jurisdiction, (2) take appropriate actions to overcome the effects of any impediments identified through that analysis, and (3) maintain records reflecting the analysis and actions in this regard (collectively, “AFFH Obligations”).

D. City’s fair housing obligations additionally include compliance with Section 109 of the Housing and Community Development Act of 1974, as amended, Title VI of the Civil Rights Act of 1964, as amended, the Section 504 of the Rehabilitation Act of 1973, as amended, and Title VIII of the Civil Rights Act of 1968 (collectively, “Fair Housing Laws”).

E. City wishes to engage the Subrecipient to assist the City by providing fair housing counseling services to residents of the City of Lancaster, in order to satisfy City’s AFFH Obligations and assist City in its compliance with Fair Housing Laws. City will compensate Subrecipient for the Services (defined below) using CDBG Funds in accordance with the CDBG Program.

F. Pursuant to 24 CFR 570.201(e), CDBG Funds may be used to provide fair housing counseling services, provided that such activities meet the national objective to benefit low- and moderate-income families, pursuant to 24 CFR 570.200(a)(2), which may be demonstrated by ensuring that not fewer than 51% of the persons served by such housing counseling services are persons whose family income does not exceed the low and moderate income limit, or otherwise in accordance with 24 CFR 570.208(a)(2).

G. City has engaged Subrecipient to provide the Services described herein, or similar services, in the 2016/17 CDBG Program Year and prior years.

H. City and Subrecipient now desire to enter into this Agreement to provide for City to transfer CDBG Funds to Subrecipient to enable Subrecipient to perform the Services required by this Agreement, all in accordance with the CDBG Program.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

ARTICLE 1 SCOPE OF SERVICES

1.1 Statement of Work. Subrecipient shall provide fair housing counseling services to implement and satisfy City's AFFH Obligations and assist City in its compliance with the Fair Housing Laws as described below in this Section 1.1 and as further described in the "Proposal" submitted by Subrecipient to City, dated April 17, 2017, a copy of which is attached hereto as Attachment No. 2 and incorporated herein (collectively, the "Services"). In connection with the Services, Subrecipient shall comply with the Subrecipient Handbook for CDBG Funding ("Subrecipient Handbook") prepared by the Agency, which Subrecipient acknowledges it has received from City.

(a) Maintenance of a telephone hotline and to provide fair housing counseling to City residents by telephone and in-person. Walk-ins must be welcome at City Hall and maintained by Subrecipient during designated hours. Subrecipient shall maintain an 800 number and a TTY number. The telephone hotline and walk-in service shall be staffed by trained, bilingual fair housing counselors that will determine whether discrimination is a factor in the client's concerns and, in any event, provide guidance appropriate to respond to the client's inquiry or concerns.

(b) Hold monthly clinics at Lancaster City Hall or such other location as may be approved by City for the purpose of conducting outreach and training activities.

(c) Investigation of complaints received through the telephone hotline maintained by Subrecipient and/or from walk-in clients and provision of counseling services regarding such complaints, based on the results of the investigation. Case investigations may include testing, surveys, on-site visits, witness statements and document requests and reviews, as described in more detail in the Proposal.

(d) Outreach services to provide information, training and counseling to tenants and landlords, including press releases, fair housing newsletters, workshops, other media, development of informational materials regarding fair housing issues, property management and landlord training events, booths at community festivals and other events, special events, and collaborations with other organizations including the Los Angeles Times Fair Housing Advertising Task Force and Call to Action.

(e) Monitoring of landlord compliance with laws and fair housing practices based on the results of mediation and/or other legal actions resulting from prior discriminatory or noncompliant activities.

(f) Legal services including transactional and advisory services and litigation of housing discrimination cases on behalf of low and moderate income households. Mediation of disputes between landlords and tenants, prospective housing purchasers and sellers and/or lenders,

and regarding other housing-related disputes, regardless of whether discrimination is a factor in the dispute.

(g) Prepare and disseminate printed materials in English, Armenian, Cantonese, Korean, Mandarin, Russian, Spanish and American Sign Language to provide low and moderate income households with information regarding housing availability, counseling services and training events.

(h) Subrecipient shall employ or contract with staff proficient in the following languages: English, Armenian, Cantonese, Korean, Mandarin, Russian, Spanish and American Sign Language.

(i) Subrecipient acknowledges that City is negotiating an Agreement for Voluntary Compliance (“VCA”) with HUD relating to City’s compliance with various requirements of the Fair Housing Laws. Pursuant to the terms of the VCA, when executed by City and HUD, City may be required to comply with certain outreach, monitoring, reporting and/or recordkeeping or other requirements to implement the Fair Housing Laws. Subrecipient hereby agrees to take all reasonable efforts, within the scope of the Budget, to assist City in its compliance with such requirements of the Fair Housing Laws as set forth in the VCA. Specifically, Subrecipient agrees to collect and report data on the race (American Indian/Alaskan Native, Asian, Black, Native Hawaiian/Pacific Islander and/or White) and ethnicity/national origin (Hispanic/Latino or Non Hispanic/Latino) characteristics of participants or beneficiaries using a method consistent with “OMB Standards for Federal Data on Race and Ethnicity: HUD Policy Statement and Implementing Guidelines” (dated August 13, 2002). City shall provide Subrecipient with a copy of the executed VCA, when available, if City desires Subrecipient to modify any Services and/or add Services to assist in City’s compliance with the VCA.

1.2 Performance Goals.

(a) Counseling Services. Subrecipient shall maintain physical, open office hours and telephone hotline hours from at least 8:30 a.m. to 5:00 p.m. Monday through Friday. Counseling services shall additionally be provided at monthly walk-in clinics to be held at Lancaster City Hall or other locations in the City approved by City.

(b) Investigation. Subrecipient shall investigate every complaint received by Subrecipient that Subrecipient determines may involve discrimination of any kind prohibited by federal laws.

(c) Outreach and Education. Subrecipient shall present not fewer than one annual workshop, hold not fewer than one walk-in clinic per month, disseminate not fewer than one annual newsletter, hold not fewer than one annual landlord training event, and participate in not fewer than one annual fair housing fair and/or other special event at which trainings, outreach efforts, and/or counseling services are conducted, all within the City and during the Term of this Agreement.

(d) Legal Services. Continue to retain not fewer than three staff attorneys available to litigate housing discrimination cases determined to be meritorious by Subrecipient, provide legal advice and guidance to City residents, evaluate legal compliance of landlords in connection with investigations of complaints, and train Subrecipient staff members regarding fair housing laws and other housing and anti-discrimination laws.

1.3 National Objectives. Subrecipient certifies that the Services meet the National Objectives of the CDBG Program by benefiting low- and moderate-income persons. In the performance of the Services, Subrecipient shall require information on family size and income of all households assisted by Subrecipient to verify that at least 51% of the clientele served by Subrecipient under this Agreement are persons whose family income does not exceed the low and moderate income limit, in accordance with 24 CFR 570.208(a)(2)(B).

1.4 Performance Monitoring. City will monitor the performance of the Subrecipient against the goals and performance standards set forth in Section 1.2 above. From time to time, City shall be entitled to audit and review Subrecipient's performance of the Services to verify adequate performance of the Services and compliance with the HCD Act and this Agreement. Substandard performance as determined by the City will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the City, termination procedures will be initiated in accordance with Section 4.10.

ARTICLE 2 TIME OF PERFORMANCE

2.1 Term. Services of the Subrecipient shall start on the 1st day of July, 2017 and end on the 30th day of June, 2018 ("Term"). The Term of this Agreement and the provisions herein shall be extended to cover any additional time period during which the Subrecipient remains in control of CDBG Funds or other CDBG assets, including program income.

ARTICLE 3 BUDGET AND PAYMENTS

3.1 Budget. Subrecipient has submitted a budget to City for approval; a copy of the Subrecipient's fiscal year 2017-18 budget for the Services is attached as Attachment No. 1 and incorporated herein. Any amendments to the approved budget for the Services must be approved by the City's Director of Housing & Neighborhood Revitalization or her authorized designee ("Housing Director"). In the event this Agreement is extended past the initial one-year Term, Subrecipient shall prepare and submit to the Housing Director for approval annual budgets for each year during which this Agreement remains in effect. The City may require a more detailed budget breakdown than the one contained herein, and the Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the City.

3.2 Payments. It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed \$35,000.00. Drawdowns for the payment of eligible expenses for Services, including general administrative expenses, shall be made based on the line item budget specified in Section 3.1 herein and in accordance with Subrecipient's performance of the Services. Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in 24 CFR 84.21.

3.3 Requests for Payments. To receive each payment under this Agreement, Subrecipient shall submit to the City a Subrecipient Reimbursement Request in substantially the form included in the Subrecipient Handbook and such other and supporting documentation as may be requested by the City to verify Subrecipient's performance of the Services for which the payment is requested.

3.4 Accounting. Subrecipient shall, upon request, provide City with an accounting report, in form and content reasonably satisfactory to City, of any funds disbursed by City pursuant to Section 3.2.

ARTICLE 4 GENERAL CONDITIONS

4.1 General Compliance. The Subrecipient agrees to comply with all CDBG Regulations, including subpart K thereof, except that (1) the Subrecipient does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Subrecipient does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Subrecipient also agrees to comply with all other applicable federal, state and local laws, regulations, and policies governing the funds provided under this Agreement. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

4.2 Independent Contractor. In performing under this Agreement, Subrecipient is and shall at all times be acting and performing as an independent contractor to City, performing its duties in accordance with its own judgment. City shall neither have nor exercise any control or direction over the methods by which Subrecipient performs its work and function nor shall City have the right to interfere with such freedom or action or prescribe rules or otherwise control or direct the manner in which such services are performed. The sole interest of the City in the Services performed by the Subrecipient is that such Services be performed in a legal, competent, efficient, and satisfactory manner. Nothing contained herein shall cause the relationship between the parties to this Agreement to be that of employer and employee. Subrecipient shall not have the authority to obligate City to any contract, obligation, or undertaking whatsoever and shall make no representation, either oral or in writing, except those expressly set forth in the materials provided by City.

4.3 Hold Harmless. The Subrecipient shall hold harmless, defend and indemnify the City from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or subject matter called for in this Agreement.

4.4 Insurance. Without limiting City's right to indemnification set forth in Section 4.3, Subrecipient shall secure prior to commencing the performance of any Services under this Agreement, and maintain during the Term of this Agreement, insurance coverage as set forth in this Section.

(a) Required Insurance. Subrecipient shall secure and maintain the following coverage:

- (i) Workers' Compensation Insurance as required by California statutes;
- (ii) Comprehensive General Liability Insurance, or Commercial General Liability Insurance, including coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Products/Completed Operations Liability, Broad-Form Property Damage, Independent Contractor's Liability and Fire Damage Legal Liability, in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, combined single limit, written on an occurrence form; and

(iii) Comprehensive Automobile Liability coverage, including - as applicable - owned, non-owned and hired autos, in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, combined single limit, written on an occurrence form.

The Director, with the consent of City's Risk Manager, is hereby authorized to modify the requirements set forth above in the event he determines that a modification, whether an increase or decrease, is in City's best interest.

(b) Required Clauses in Policies. Each insurance policy required by this Agreement shall contain the following clauses:

"This insurance shall not be canceled or allowed to lapse without at least ten (10) days' prior written notice given to the City Clerk of the City of Lancaster, 44933 Fern Avenue, Lancaster, CA 93534."

"It is agreed that any insurance maintained by the City of Lancaster shall apply in excess of and not contribute with insurance provided by this policy."

Each insurance policy required by this Agreement, excepting policies for workers' compensation, shall contain the following clause:

"The City of Lancaster, its officials, agents, employees, representative, and volunteers are added as additional insureds as respects operations and activities of, or on behalf of the named insured, performed under contract with the City of Lancaster."

Subrecipient hereby agrees to waive subrogation which any insurer of the Subrecipient may acquire from the Subrecipient by virtue of the payment of any loss. If requested by City, Subrecipient agrees to obtain and deliver to City an endorsement from Subrecipient's general liability and automobile insurance insurer to effect this waiver of subrogation.

(c) Property Insurance. Subrecipient shall further comply with the insurance requirements of 24 CFR 84.31. In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

(d) Required Certificates and Endorsements. Prior to commencement of any Services under this Agreement, the Subrecipient shall deliver to City (i) insurance certificates confirming the existence of the insurance required by this Agreement, and including the applicable clauses referenced above, and (ii) endorsements to the above-required policies, which add to these policies the applicable clauses referenced above. Such endorsements shall be signed by an authorized representative of the insurance company and shall include the signator's company affiliation and title. Should it be deemed necessary by City, it shall be the Subrecipient's responsibility to see that City receives documentation, acceptable to City, which sustains that the individual signing such endorsements is indeed authorized to do so by the insurance company. Also, City reserves the right at any time to demand, and to receive within a reasonable time period, certified copies of any insurance policies required under this Agreement, including endorsements effecting the coverage required by these specifications.

(e) Remedies for Defaults Re: Insurance. In addition to any other remedies City may have if the Subrecipient fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option:

(i) Obtain such insurance and deduct and retain the amount of the premium for such insurance from any sums due under the Agreement;

(ii) Order the Subrecipient to stop work under this Agreement and/or withhold any payment(s) which become due to the Subrecipient hereunder until the Subrecipient demonstrates compliance with the requirements hereof; or

(iii) Terminate this Agreement.

Exercise of any of the above remedies, however, is an alternative to other remedies City may have and is not the exclusive remedy for the Subrecipient's failure to maintain insurance or secure appropriate endorsements.

Nothing herein contained shall be construed as limiting in any way the extent to which the Subrecipient may be held responsible for payment of damages to persons or property resulting from the Subrecipient's or its subcontractor's performance of the Services covered under this Agreement.

4.5 City Recognition. The Subrecipient shall insure recognition of the role of the City in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

4.6 Notices. Any approval, disapproval, demand, document or other notice ("Notice") which any party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by reputable document delivery service such as Federal Express that provides a receipt showing date and time of delivery, (iii) facsimile transmission, or (vi) mailing in the United States mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below, or at any other address as that party may later designate by Notice. Service shall be deemed conclusively made at the time of service if personally served; upon confirmation of receipt if sent by facsimile transmission; the next business day if sent by overnight courier and receipt is confirmed by the signature of an agent or employee of the party served; the next business day after deposit in the United States mail, properly addressed and postage prepaid, return receipt requested, if served by express mail; and three (3) days after deposit in the United States mail, properly addressed and postage prepaid, return receipt requested, if served by certified mail.

Subrecipient: Housing Rights Center
 3255 Wilshire Boulevard, Suite 1150
 Los Angeles, California 90010
 Attn: Chancela Al-Mansour, Executive Director
 Fax No.: (213) 381-8555

City: City of Lancaster
44933 North Fern Avenue
Lancaster, California 93534
Attn: Elizabeth Brubaker
Fax No.: (661) 723-6274

Such addresses may be changed by Notice to the other party(ies) given in the same manner as provided above.

4.7 Amendment and Waiver. This Agreement may be amended, modified, or supplemented only by a writing executed by each of the parties. Any party may in writing waive any provision of this Agreement to the extent such provision is for the benefit of the waiving party. No action taken pursuant to this Agreement, including any investigation by or on behalf of any party, shall be deemed to constitute a waiver by that party of its or any other party's compliance with any representations or warranties or with any provision of this Agreement. No waiver by any party of any provision of this Agreement shall be construed as a waiver of any subsequent or different breach, and no forbearance by a party to seek a remedy for non-compliance or breach by another party shall be construed as a waiver of any right or remedy with respect to such compliance or breach.

4.8 Entire Agreement. This Agreement (including all Attachments attached hereto) embodies the entire agreement and understanding between the parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, understandings, negotiations, representations, and discussions, whether verbal or written, of the parties pertaining to the subject matter.

4.9 Governing Law. The validity, construction, and performance of this Agreement shall be governed by the laws of the State of California.

4.10 Termination.

(a) Termination for Cause. In accordance with 24 CFR 85.43, the City may suspend or terminate this Agreement if the Subrecipient materially fails to comply with any terms of this Agreement, which include (but are not limited to) the following:

(i) Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;

(ii) Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement;

(iii) Ineffective or improper use of funds provided under this Agreement;
or

(iv) Submission by the Subrecipient to the City reports that are incorrect or incomplete in any material respect.

(b) Termination for Convenience. In accordance with 24 CFR 85.44, this Agreement may also be terminated for convenience by either the City or the Subrecipient, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of

partial termination, the portion to be terminated. However, if in the case of a partial termination, the City determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the City may terminate the award in its entirety.

ARTICLE 5 ADMINISTRATIVE REQUIREMENTS

5.1 Financial Management.

(a) Accounting Standards. Subrecipient agrees to comply with 24 CFR 84.21 through 84.28 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

(b) Cost Principles. Subrecipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations." These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

5.2 Documentation and Recordkeeping.

(a) Records to be maintained. Subrecipient shall maintain all records required by the federal regulations specified in 24 CFR 570.506, that are pertinent to the Services to be funded under this Agreement. Such records shall include but not be limited to:

- (i) Records providing a full description of each activity undertaken;
- (ii) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program, specifically including records documenting that at least 51% of the clientele served by Subrecipient under this Agreement are persons whose family income does not exceed the low and moderate income limit;
- (iii) Records required to determine the eligibility of activities;
- (iv) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- (v) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- (vi) Financial records as required by 24 CFR 570.502 and 24 CFR 84.21–28; and
- (vii) Other records necessary to document compliance with the CDBG Program.

(b) Retention. The Subrecipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of four (4) years. The retention period begins on the date of the submission of the City's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or

other actions that involve any of the records cited and that have started before the expiration of the four-year period, then all pertinent records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

(c) Client Data. The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to City monitors or their designees for review upon request.

(d) Disclosure. The Subrecipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to Services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

(e) Close Outs. The Subrecipient's obligation to the City shall not end until all close-out requirements are completed. Activities during the close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Subrecipient has control over CDBG Funds, including program income.

(f) Audits and Inspections. All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the City and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Subrecipient audits and OMB Circular A-133.

5.3 Reporting and Payment Procedures.

(a) Program Income. The Subrecipient shall prepare and deliver to City monthly reports declaring all program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with CDBG Funds made available under this Agreement. The use of program income by the Subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, the Subrecipient may use such income during the Term of this Agreement for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unexpended program income shall be returned to the City at the end of the Term of this Agreement. Any interest earned on cash advances from the U.S. Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the City.

(b) Payment Procedures. The City will pay to the Subrecipient funds available under this Agreement based upon information submitted by the Subrecipient, including the Subrecipient Reimbursement Request form required by the Subrecipient Handbook, and consistent

with the approved budget and other pertinent City policies concerning payments. All payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund and program income balances available in Subrecipient accounts. In addition, the City reserves the right to liquidate funds available under this Agreement for costs incurred by the City on behalf of the Subrecipient.

(c) Quarterly Progress Reports. Subrecipient shall submit quarterly progress reports to the City on or before each April 15 (for January through March), July 15 (for April through June), October 15 (for July through September), and January 15 (for October through December) in the form, content, and frequency as required by the Subrecipient Handbook or as otherwise directed by City. Such reports shall include information regarding the income of individuals served by Subrecipient to satisfy the requirements of 24 CFR 570.208(a)(2)(B) and evidence satisfaction of the national objective set forth at 24 CFR 570.200(a)(2). Such reports shall describe Subrecipient's activities during the prior quarter.

5.4 Procurement.

(a) Compliance. The Subrecipient shall comply with current City policy (including as stated in the Subrecipient Handbook) concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All CDBG program assets (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this Agreement.

(b) OMB Standards. Unless specified otherwise within this agreement, the Subrecipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84.40–48 and the Subrecipient Handbook.

(c) Travel. The Subrecipient shall obtain written approval from the City for any travel outside the metropolitan area with CDBG Funds provided under this Agreement.

5.5 Use and Reversion of Assets. The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

(a) The Subrecipient shall transfer to the City any CDBG Funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

(b) In all cases in which equipment acquired, in whole or in part, with CDBG Funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Subrecipient for activities under this Agreement shall be (a) transferred to City for the CDBG Program or (b) retained after compensating the City an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment.

ARTICLE 6
PERSONNEL & PARTICIPANT CONDITIONS

6.1 Civil Rights.

(a) Compliance. The Subrecipient agrees to comply with the Lancaster Municipal Code, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, the Unruh Civil Rights Act, Civil Code Section 51, *et seq.*, Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

(b) Nondiscrimination. The Subrecipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279 and the applicable non-discrimination provisions in Section 109 of the HCDA Act.

(c) Land Covenants. This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and 24 CFR 570.601 and 570.602.

(d) Section 504. The Subrecipient agrees to comply with all federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any federally assisted program.

6.2 Affirmative Action.

(a) Executive Order 11246. The Subrecipient agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1966.

(b) Women- and Minority-Owned Businesses (W/MBE). The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

(c) Notifications. The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or

worker's representative of the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement. The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

(e) Subcontract Provisions. The Subrecipient will include the provisions of Sections 6.1, Civil Rights, and 6.2, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

6.3 Employment Restrictions.

(a) Prohibited Activity. The Subrecipient is prohibited from using CDBG Funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

(b) Labor Standard. The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Subrecipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

(c) Prevailing Wage. The Subrecipient agrees that, to the extent applicable, all contractors engaged under contracts for construction, renovation or repair work financed in whole or in part with assistance provided under this Agreement shall comply with the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 and California Labor Code Section 1720, *et seq.* governing the payment of wages and ratio of apprentices and trainees to journey workers. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

(d) Section 3 Clause. The Subrecipient agrees, to the extent applicable, to comply with Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135. The Subrecipient further agrees to include the following language in all subcontracts for construction, demolition or rehabilitation work executed under this Agreement:

“The work to be performed under this Agreement is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located.”

6.4 Conduct.

(a) Assignment. The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Subrecipient from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

(b) Subcontracts.

(i) Approvals. The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the City prior to the execution of such agreement.

(ii) Monitoring. The Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

(iii) Content. The Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

(iv) Selection Process. The Subrecipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

(c) Hatch Act. The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

(d) Conflict of Interest. The Subrecipient agrees to abide by the provisions of 24 CFR 84.42 and 570.611, which include (but are not limited to) the following:

(i) The Subrecipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by CDBG Funds.

(ii) No employee, officer or agent of the Subrecipient shall participate in the selection, or in the award, or administration of, a contract supported by CDBG Funds if a conflict of interest, real or apparent, would be involved.

(iii) No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the

CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a “covered person” includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the City, the Subrecipient, or any designated public agency.

(e) Lobbying. The Subrecipient hereby certifies that:

(i) No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;

(ii) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions; and

(iii) It will require that the language of paragraph (iv) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly:

(iv) Lobbying Certification. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(f) Religious Activities. The Subrecipient agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

ARTICLE 7 DISPUTE RESOLUTION

7.1 Mediation and Conciliation. Any controversy between City and Subrecipient arising out of or relating to this Agreement, or involving the construction or application of any of the terms, provisions, or conditions of this Agreement shall, on the written request of either City or Subrecipient served on the other, be submitted to a nonbinding mediation by a mediation or conciliation service mutually agreeable to Subrecipient and City, prior to submitting such controversy to arbitration pursuant to Section 7.2. The decision of the mediator or conciliator shall not be binding on either party, and exercising the provisions of this Section 7.1 shall not prevent either party to this Agreement from subsequently pursuing arbitration of the dispute or controversy as provided in Section 7.2.

7.2 Arbitration. Except as provided in Section 7.1, any controversy between City and Subrecipient arising out of or relating to this Agreement, or involving the construction or application of any of the terms, provisions, or conditions of this Agreement, shall, on the written request of either City or Subrecipient served on the other, be submitted to arbitration; any such arbitration shall comply with and be governed by the provisions of the California Arbitration Act (Cal. Civil Proc. Code §§ 1280 – 1294.2). City and Subrecipient shall mutually agree upon one person to hear and determine the dispute and, if the parties are unable to agree, then a judge’s decision shall be final and conclusive upon both parties. The cost of arbitration shall be divided equally among the parties. Any arbitral award, where appropriate, may be enforced by a court of competent jurisdiction through injunctive or other equitable relief, as well as relief at law (*e.g.*, damages). City and Subrecipient shall each be entitled, as a matter of right, to apply to a court of competent jurisdiction for temporary, interim, provisional, or partial injunctive relief (*e.g.*, temporary restraining order or preliminary injunction) during or prior to any arbitration proceedings. Neither this provision nor the exercise by either City or Subrecipient of its rights hereunder shall constitute a waiver by either City or Subrecipient of any other rights hereunder which it may have to damages or otherwise.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year above first written.

CITY:

CITY OF LANCASTER,
a municipal corporation and charter city

By: _____
Mark V. Bozigian
City Manager

ATTEST:

By: _____
Britt Avrit, MMC
City Clerk

APPROVED AS TO FORM:

By: _____
Allison E. Burns, Esq.
City Attorney

APPROVED BY DIRECTOR:

By: _____
Elizabeth Brubaker
Director, Housing &
Neighborhood Revitalization

SUBRECIPIENT:

**SOUTHERN CALIFORNIA HOUSING RIGHTS
CENTER dba HOUSING RIGHTS CENTER**,
a California nonprofit public benefit corporation

By: _____
Chancela Al-Mansour,
Executive Director

ATTACHMENT NO. 1

BUDGET

[To be inserted]

ATTACHMENT NO. 2

SUBRECIPIENT'S PROPOSAL TO PROVIDE FAIR HOUSING SERVICES

[Attached on Following Pages]

STAFF REPORT
City of Lancaster

CC 11
05/09/17
MVB

Date: May 9, 2017

To: Mayor Parris and City Council Members

From: Jason Caudle, Deputy City Manager

Subject: Acceptance of Reimbursement from Antelope Valley Air Quality Management District and Appropriation of Funds – Green Commuter EV Vanpool Project

Recommendations:

- a. Approve an Agreement with Antelope Valley Air Quality Management District (AVAQMD) for a Plug-in Infrastructure Incentive Program Grant. The project total is \$218,280, of which 28% (\$61,925) will be reimbursed by AVAQMD, 23% (\$50,000) will be matched by Lancaster Choice Energy, and the remaining 49% (\$106,355) will be secured by Green Commuter.
- b. Appropriate \$111,925 to Lancaster Choice Energy expenditure Account No. 490-4370-755 for the purchase of equipment, installation, and networking costs.
- c. Recognize revenue in the amount of \$61,925 to Account No. 204-3750-100; appropriate a transfer of these funds from Account No. 204-4999-490 to Account No. 490-3990-204 for the purpose of reimbursing Lancaster Choice Energy for 28% of the purchase and installation costs of the equipment.

Fiscal Impact:

The project amount is \$218,280. Under this agreement, AVAQMD Plug-in Infrastructure Incentive Program will provide \$61,925, Lancaster Choice Energy will contribute \$50,000, and Green Commuter will fund the remaining project costs of \$106,355. Lancaster Choice Energy will be fully reimbursed by Green Commuter per Memorandum of Understanding.

Background:

In October 2016, Antelope Valley Transit Authority (AVTA), in partnership with AVAQMD was selected to receive grant funding from the California State Transportation Agency (CalSTA). The funding includes an allowance for AVTA to work with Green Commuter to procure and operate an all-electric vanpool and car sharing program. AVTA, working with Green Commuter, plans to activate ten vanpool vehicles that will be made available to residents of AVTA's service area who commute to jobs throughout the Antelope Valley and LA Basin.

In addition to the procurement of the all-electric fleet, AVTA desires to partner with the City of Lancaster to provide electrical vehicle charging stations infrastructure in support of this pilot program.

Approval of this grant will enable the City of Lancaster to join Antelope Valley Transit Authority and Green Commuter in introducing this innovative all-electric vanpool and car sharing/fleet replacement program to the Antelope Valley. Through this partnership, the City will allow the installation of new electric vehicle charging stations (EV Stations) on city-owned property for the all-electric fleet and for public use at certain locations in Lancaster.

This project will install infrastructure to support a total of 15 (fifteen) Level II charging EV Stations and 2 (two) Level II DC Fast Charge EV Stations. The initial equipment installed will be four (4) level II dual-port charging stations, and two (2) level III DC Fast Charging EV Stations for the fleet and public use.

Green Commuter, along with industry professionals EVGO and Clean Fuel Connection, will provide 49% of project costs to procure EV Station equipment and provide installation materials and services. Additionally, the City will contribute funds toward the project, and AVAQMD will reimburse the City a portion of the equipment costs as part of their Plug-in infrastructure incentive program. The City will own, maintain, and network these charging stations with all future EV Station infrastructure. The total value of the infrastructure and equipment is \$218,280, which includes a two-year maintenance and networking agreement for the Level III EV Charging stations, and one-year maintenance and networking agreement for the Level II EV Charging stations.

This project supports the City's goal of expanding the electrical vehicle charging station infrastructure in our community to align with the Governors Executive Order "to encourage the development and success of zero-emission vehicles" and the state's goal toward the long-term target of 1.5 million zero-emission vehicles on California roadways by 2025. In addition, this project supports the Transportation Initiative as part of Lancaster's Climate Action Plan. Higher electric vehicle adoption by residents will result in fewer carbon emissions and help the City reach our Net Zero Goals.

JC:kw

Attachments:

License and Memorandum of Agreement

Grant Agreement

Memorandum of Understanding

LICENSE AND MEMORANDUM OF AGREEMENT

This MEMORANDUM OF AGREEMENT ("Agreement") is entered into as of March ____, 2017, by and between the CITY OF LANCASTER, a municipal corporation and charter city ("City") and GREEN COMMUTER ("Green Commuter") (the City and Green Commuter are sometimes referred to herein individually as a "Party" and collectively as the "Parties").

RECITALS

A. Antelope Valley Transit Authority is partnering with Green Commuter to introduce an innovative all-electric vanpool and car sharing/fleet replacement program.

B. The City supports Antelope Valley Transit Authority and Green Commuter in their deployment of the first all-electric vanpool and car sharing/fleet replacement program in the state.

C. The City desires to partner with the Green Commuter on this pilot project by allowing the installation of new electric vehicle charging stations ("EV Stations") on city-owned property for the fleet and for public use at certain locations in Lancaster ("Project").

D. The Antelope Valley Air Quality Management District (AVAQMD) has approved a grant proposal submitted by the City that would fund a pilot project to install EV Stations at sites as determined by the City in its sole discretion.

D. It is the parties' intent that Green Commuter will work with its project partners EVGO and Clean Fuel Connection (CFC) to provide installation materials and services for the project at no cost to the City. It is further the parties' intent that Green Commuter will procure EV Station equipment for the project as stated in project scope attached hereto as Exhibit "A" and incorporated herein by reference.

E. It is further the Parties' intent that the City will utilize Antelope Valley Air Quality Management District (AVAQMD) grant funding in the amount of \$61,925, which provides up to twenty-eight percent (28%) of the total Project costs. In addition, the City is committed to contributing \$50,000 supplemental funding toward the Project, which represents twenty-three percent (23%) of the total Project Costs. Green Commuter shall be responsible for securing the funding for the remaining forty-nine percent (49%) Project costs.

F. It is the Parties' understanding and belief that the installation and maintenance of the EV Stations will confer a benefit to the City and will further enhance the City's goals of creating a distributed network of publicly-accessible EV Stations that are convenient, affordable, and environmentally sound.

G. It is further the Parties' understanding and belief that the Project will confer a financial benefit to the City in the form of permanent infrastructure, valued at approximately two hundred and eighteen thousand, two hundred and eighty dollars (\$218,280.00), and in the potential revenue generated by the public's metered payment for the use of the EV Stations. Further, it will confer a benefit to the City providing an alternative energy solution with respect to achieving the City's goal of becoming a Net Zero Community.

NOW, THEREFORE, the Parties agree as follows:

1. **License.** The City hereby grants to the Green Commuter, its employees, vendors, contractors and/or subcontractors a non-exclusive license to enter City premises as necessary to undertake those

actions associated with the Project that are within Green Commuter's responsibilities, specifically to install four (4) Level II dual-port charger EV Stations (including the associated payment meters), and two (2) Level III DC Fast Charge EV Stations (including the associated payment meters), and to thereafter regularly maintain the EV Stations during the parts and labor warranty period of one-year for the Level II equipment and two-years for the Level III equipment. The locations of the EV Stations have been determined and agreed to by the Parties, as depicted in the Site Plan attached hereto as Exhibit "B" and incorporated herein by reference.

2. **Ownership and Maintenance Responsibilities.**

A. . Upon completion of the project and Site Commercial Operation Date, the City shall be the sole owner of the EV Stations. The commercial operation of the EV Stations with respect to each Site will commence on the date specified in the Interconnection Notice for such Site (each, a "Site Commercial Operation Date").

B. . All Blink equipment procured through Green Commuter will include a two-year parts and labor warranty and a two-year networking fee waiver

C. . All Chargepoint equipment procured through Green Commuter will include a one-year parts and labor warranty and a one-year networking fee waiver.

D. . The City will be responsible for obtaining extended warranty and networking contracts upon the expiration of the warranty periods.

3. **Responsibilities of City.**

A. The City will enter into a Grant Agreement with the AVAQMD, and will timely submit invoices and any other claims for reimbursement to AVAQMD in accordance with said Grant Agreement. The City shall further timely and adequately undertake all other obligations set forth in the Grant Agreement, attached hereto as Exhibit C and incorporated herein by reference.

B. Upon completion of the project, the City will reimburse Green Commuter the sum of one-hundred eleven thousand and nine-hundred twenty five dollars (\$111,925) toward total Project costs to supplement funding of the project. It is expressly understood by the Parties that any payment(s) made to Green Commuter shall not constitute City's acceptance of full performance of the Project by Green Commuter. Such acceptance/acknowledgement of full performance shall be made by the City, in writing, upon the completion of the term of the Grant Agreement.

C. The City shall organize, coordinate, and oversee media events, press/photo opportunities and other promotional events and marketing materials to promote the Project and AVAQMD's support for the Project.

4. **Responsibilities of Green Commuter.**

A. Green Commuter will coordinate make-ready construction, and procurement, delivery installation, activation, monitoring, maintenance, and replacement of EV Station equipment.

B. Green Commuter shall perform all aspects of the project in full accordance with the Grant Agreement, as well as the project scope attached hereto as Exhibit "A" and the Revenue Sharing Agreement attached hereto as Exhibit "D."

C. Green Commuter agrees to indemnify, defend and hold harmless the City, its elected officials, officers, employees, and volunteers (collectively for the purposes of this Section, "City") 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 the Project, except where caused by the sole, active negligence or willful misconduct of the City.

5. **Payment of Prevailing Wage**

A. The State of California, Department of Industrial Relations, has ascertained the general prevailing rate of wages and employer payments for health and welfare, vacation, pension, and similar purposes applicable to the work to be done. These rates shall be the minimum wage rates for this project. These rates are on file with the City and copies will be made available to any interested party upon request.

Attention is directed to the provisions of Section 1777.5 (Chapter 1411, Statutes of 1968) and Section 1777.6 of the Labor Code concerning the employment of apprentices by Green Commuter or any subcontractor him.

Section 1777.5, as amended, requires the Green Commuter or subcontractor employing tradesmen in any apprenticeable occupation to apply to the joint apprenticeship program in that trade for a certificate of approval. The certificate will also fix the ration of apprentices to journeymen that will be used in the performance of the contract. The ration of apprentices to journeymen in such cases shall not be less than one to five except:

- a. When unemployment in the area of coverage by the joint apprenticeship committee has exceeded an average of 15% in the 90 days prior to the request for certificate; or
- b. When the number of apprentices in training in the area exceeds a ratio of one to five; or
- c. When the trade can show that it is replacing at least 1/30 of its membership through apprenticeship training on an annual basis statewide or locally; or
- d. When Green Commuter or subcontractor provides evidence that he employs registered apprentices on all of his contracts on an annual average of not less than one apprentice to eight journeymen.

Green Commuter or subcontractor is required to make contributions to funds established for the administration of apprenticeship programs if he employs registered apprentices or journeymen in an apprenticeable trade on such contracts and if other Contractors on the public works site are making such contributions.

Green Commuter and any subcontractor under them shall comply with the requirements of Section 1777.5 and 1777.6 in the employment of apprentices.

Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

- B. The provisions of subsection A above shall be included in all solicitations of advertisements placed by or on behalf of Green Commuter for personnel to perform any services under this AGREEMENT. The city shall have access t all documents, data, and records of Green Commuter and its subcontractors for purposes of determining compliance with the Prevailing Wage provisions of this Section.

6. **Public Contract Code Compliance.** It is understood by the Parties that the provisions of the Public Contract Code, Section 9204, attached hereto and incorporated by reference as Exhibit "E", shall be applicable to the construction work to be performed pursuant to this agreement.

7. **Notices.** Any notice, demand, request, consent, approval, or communication either party desires or is required to give to the other party or any person shall be in email to the contacts set forth below, with "delivered" receipt requests, and/or in writing and either served personally or sent by prepaid, first-class mail to the address set forth below. Notice shall be deemed communicated twenty-four (24) hours from receipt of confirmation of email delivery or forty-eight (48) hours from the time of mailing if mailed as provided in this section.

To City: City of Lancaster
c/o Kathy Wells, Energy Projects Assistant
kwells@cityoflanasterca.org

City of Lancaster
Attn: Mark V. Bozigian, City Manager
44933 North Fern Avenue
Lancaster, California 93534

To Green Commuter: Green Commuter
c/o: Gustavo Occhiuzzo, Chief Executive Officer
email: Gustavo@greencommuter.org

Green Commuter
LA Cleantech Incubator
Attn: Gustavo Occhiuzzo, CEO
525 S. Hewitt Street
Los Angeles, California 90013

8. **Agreement Documents.** This agreement is comprised of:
- Green Commuter EVSE Proposal (Exhibit "A")
 - Site Map/Locations (Exhibit "B")
 - Grant Agreement between AVAQMD and the City (Exhibit "C")
 - Public Contract Code-PCC, Chapter 9, Section 9204 (Exhibit "E")
 - Revenue Sharing Agreement between Green Commuter and AVAQMD (Exhibit "D")

9. **Precedence of Agreement Documents.** If there is a conflict between AGREEMENT documents, the document highest in precedence shall control. The precedence shall be:

First: This Document consisting of 6 pages
Second: AVAQMD Grant Agreement
Third: Green Commuter's Proposal (Exhibit "A")

10. **Assignment of Agreement.** The Parties hereto may not assign their obligations hereunder to any assignee without the knowledge and prior written consent of the other party, which other party shall not unreasonably withhold. Assignment may be made only to an assignee willing, financially capable and competent to carry out the assignor's obligations.

11. **General Provisions.**

A. Except as otherwise provided herein, the terms, conditions, covenants and agreements set forth herein shall apply to and bind the heirs, executors, administrators, assigns and successors of the Parties hereto.

B. The Parties to this Agreement do not rely upon any warranty or representation not contained in this Agreement and all exhibits attached thereto and incorporated by referenced therein.

C. This Agreement shall be governed by and interpreted with respect to the laws of the State of California.

D. Any failure or delay by any party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any rights or remedies provided for herein.

12. **Term; Termination.**

A. This Agreement shall be effective upon execution of the Agreement by both Parties, and shall remain in full force and effect for a period of one (1) year from execution date or until the service turn-on date. This Agreement will terminate immediately and be of no further force and effect on the earliest of (i) completion and acceptance of project and service turn-on date; or (ii) upon notice to the City by Green Commuter that it has been unable to secure funding for the remaining 49% of Project costs not covered by the AVAQMD grant and/or the City contribution.

B. In the event of termination prior to the expiration of the term of the Grant Agreement, Green Commuter shall, within thirty (30) calendar days, reimburse the City the full amount of all Project funds paid to Green Commuter as of the date of termination. Upon reimbursement of Project funds, the City shall grant Green Commuter a non-exclusive license, in writing, to re-enter the Premises and for the sole purpose of removing the EV Stations and restoring the City's property as set forth in Section 4B of this Agreement.

13. **Amendments.** Any amendment, modification, or variation from the terms of this Agreement shall be effective only upon the mutual written approval of the Parties.

14. **Severability.** In the event that any provision or provisions of this Agreement are held unenforceable, all provisions not so held shall remain in full force and effect.

15. **Authority of Signatories.** The persons executing this Agreement on behalf of the Parties hereto warrant that they are duly authorized to execute this agreement on behalf of said Parties and that by so executing this Agreement, the Parties are formally bound to the provisions of this Agreement.

[Signatures begin on next page.]

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed and attested by their respective officers thereunto duly authorized.

GREEN COMMUTER

By: _____
Gustavo Occhiuzzo

Dated: _____

CITY OF LANCASTER:

By: _____
Mark V. Bozigian, City Manager

Dated: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit "A"

Project/Scope of Work



City of Lancaster EVSE Proposal

Executive Summary

Green Commuter is pleased to provide The City of Lancaster a comprehensive electric vehicle supply equipment (EVSE) solution. Working with our partners at EVGO, Clean Fuel Connection and Charge Point, Green Commuter aims to provide the city with infrastructure that will best facilitate its strategic transition to support an electric transportation sector.

Sites

- City of Lancaster Park-n-Ride, 10th Street West
- City of Lancaster Sierra Highway Metrolink

Scope of Work

Green Commuter shall be responsible for performing the following scope of work:

1) Green Commuter will obtain an agreement with EVGO to provide \$77,993 to partially cover installation costs including, without limitation; conduit, wire, circuit breakers, and junction boxes, as applicable, to support one circuit capable of supporting electric vehicle service equipment. This program funding will be allocated entirely to EVSE installation.

2) Green Commuter will obtain an agreement from Clean Fuel Connection (CFC) - a qualified, EVGO-approved sub-contractor to provide all EVSE installation and installation materials at the designated sites.

3) Green Commuter will supply all EVSE to The City of Lancaster as follows:

Site	EVSE	Quantity	Connectors
Park-n-Ride, 10 th Street West	Charge Point Level II	2	4
Park-n-Ride, 10 th Street West	Blink DC Fast Charger	1	2
Sierra Highway Metrolink	Charge Point Level II	2	4
Sierra Highway Metrolink	Blink DC Fast Charger	1	2

- All Blink equipment procured through Green Commuter comes with a two-year parts and labor warranty and two-year networking fee waiver.
- All Charge Point equipment procured through Green Commuter comes with a one-year warranty and includes one-year of networking fees.

4) Green Commuter will work with AVAQMD to secure \$61,925 for the balance of the project costs.

- **PROJECT DETAILS:** Installation of all infrastructure to support 10 Level 2 Chargepoint dual port and 1 Level 3 Blink charger and the procurement and installation of 2 Level 2 chargepoint dual port and 1 Level 3 Blink charger at the Lancaster City Park and the infrastructure needed to support 5 Level 2 Chargepoint dual port and 1 Level 3



Blink charger and the procurement and installation of 2 Level 2 chargepoint dual port and 1 Level 3 Blink charger at the Lancaster Metrolink Station

5) Green Commuter will contribute funds from an agreement with AVTA to provide \$28,362.

Implementation Process:

- Green Commuter will coordinate with EVgo and CFC to conduct site assessments and procure installation estimates. - **COMPLETE**
- EVgo will review results of site assessments, provide final approval for the number and location of make-ready stubs and associated make-ready construction costs. - **COMPLETE**
- Green Commuter will present the City of Lancaster with a EVSE proposal. - **COMPLETE**
- The city of Lancaster will review and revise and / or approve the provided proposal - **PENDING**
- Submit AVAQMD application and procure project funding - **PENDING**

Description

Park-n-Ride, 10th Street West

- Blink DC Fast Charger Installation (not including EVSE) - \$25,020
- Blink DC Fast Charger EVSE (1) - \$27,250
- Charge Point Level II Installation (10) (not including EVSE) - \$49,656
- Charge Point Level II EVSE (2) - \$18,910
- Connection and Commissioning - \$2,000

Site Total	\$122,836
-------------------	------------------

Sierra Highway Metrolink

- Charge Point Level II EVSE Installation (5) (not including EVSE) - \$22,205
- Charge Point Level II EVSE (2)- \$18,910
- Blink DC Fast Charger Installation (not including EVSE) - \$25,079
- Blink DC Fast Charger EVSE (1) - \$27,250
- Connection and Commissioning - \$2,000

Site Total	\$95,444
-------------------	-----------------

Site Inclusions

- Prevailing wage
- 3-sets site specific drawings
- City Permit (no charge for city project)
- Supply and install 200' conduit & wire



It's how we roll

- Supply and install 100' conduit & wire
- Supply and install (4) bolt-on, cement filled safety bollard
- Supply and install (2) direct burial, cement filled safety bollard
- Asphalt trench
- Build rebar reinforced housekeeping pad
- Private radar scan
- Rental equipment as-needed

Exclusions and Conditions

- No overtime or after-hours work
- It is assumed adequate power exists
- Not responsible for concealed or unforeseen items
- Price excludes charger, wheel stops, stripping & signage

Cost Share

Total Cost	Cost to EVGO	Refundable Cost to City of Lancaster	Cost to AVTA/Green Commuter	Refundable Cost to AVAQMD
\$218,280	\$77,993	\$50,000	\$28,362	\$61,925
100%	*35.7%	22.9%	13%	28.4%

*EVGO will provide installation costs up to \$3,000 per designated parking space in the electrical make-ready infrastructure of each site, defined as the service panels, junction boxes, electrical wiring and conduit needed to support EV charging. Any cost share by the City of Lancaster will be agreed to and confirmed in writing in a formal Construction Services Agreement.

Repayment of funds to City of Lancaster and AVAQMD:

Green Commuter will reimburse 100% of the funding allocated to the project by the City of Lancaster and AVAQMD according to the Revenue Sharing Agreement between Green Commuter and AVAQMD.

Terms

1. The term of this Agreement shall commence on the Agreement Date. Either party may terminate this Agreement upon thirty (30) days' prior written notice to the other party, provided that Green Commuter shall not terminate following commencement of the Installation Activities and prior to completion. In addition, if Host terminates the Agreement (other than for cause) prior to completion of Installation Activities, Host shall reimburse Green Commuter for all costs incurred by relating to the Installation Activities within thirty (30) days of presentation of an invoice and supporting documentation.
2. Before beginning the Installation Activities, Green Commuter shall provide the construction schedule and installation plans to the host for approval, which approval shall not be unreasonably delayed or withheld. No work will begin until the Host has approved plans and all applicable permits and certifications have been obtained.



3. Green Commuter will make every effort to provide low or no-cost EVSE solutions for the site host, but cannot guarantee a no-cost EVSE installation project.
 - a. Where applicable, Green Commuter will suggest the project rebate or grant application budget allocate funds dedicated to parking lot striping and signage, as is required for some rebate or grant programs, but cannot guarantee the approval or allocation of such funds.
 - b. Green Commuter is not responsible for site host's ADA compliance of any additional costs to meet compliance as a result of this project.
4. With respect to the Installation Activities, Green Commuter shall:
 - a. Designate the contractors or other service providers;
 - b. Ensure its designated contractors and service providers to obtain from governmental authorities all licenses, permits, or other approvals (collectively, "Approvals") required to conduct such installations. Host will reasonably cooperate with the designated contractors and service providers as required to obtain such Approvals;
 - c. Bring on the Premises and permitted adjacent areas of the Host Property only those materials and equipment that are being used directly in the Installation Activities;
 - d. Perform Installation Activities only during times and days acceptable to Host and in a manner so as to not unreasonably interfere with Host's business operations;
5. The Host shall reasonably cooperate to facilitate Installation Activities, including the provision of electricity to the Make-Ready Stub.
6. The assigned electrical sub-contractor is responsible for pulling electricity to the site locations and pulling all applicable permits for the intended work.
7. All electric infrastructure installed as part of the Installation Activities shall become fixtures of the Host Property upon completion of such installation and the full payment of any applicable costs described above.
8. Warranties:
 - a. EVgo shall pass on to Host the warranties of its subcontractors, which shall be no less than twelve (12) months.
 - b. Charge Point EVSE shall pass on to the Host the parts and labor warranty, which shall be no less than one (1) year.
9. Networking:
 - a. Charge Point EVSE shall include the networking fees, for no less than one (1) year. Charge Point networking offers open charge point protocols (OCPP).



It's how we roll

Signature

Date 3/14/2017

Date _____

X Gustavo Occhiuzzo
Green Commuter: Name of Signing Authority

X _____
Site Host: Name of Signing Authority

X _____
Green Commuter: Signing Authority Signature

X _____
Site Host: Signing Authority Signature

Exhibit "B"

Site Maps

PROJECT SITE

SHEET 1 OF 1

Big 6 Serial Console

AREA OF WORK

VICINITY MAP

SCALE: NOT TO SCALE

NOT TO SCALE



(10) DUAL

**PROPOSED AREA OF WORK
FOR FUTURE EV CHARGING 20 STALLS - 1 JBOXES W WIRES FOR FUTURE EV**

SITE MAP

SCALE: NOT TO SCALE

NOT TO SCALE

CITY OF LANCASTER PARK-N-RIDE

43063 10th STREET WEST &
43104 CITY PARKWAY
LANCASTER, CA 93534



www.cleanfuelconnection.com

11800 CLARK ST
ARCADIA, CA 91006
951-445-1445

SCALE: NOT TO SCALE

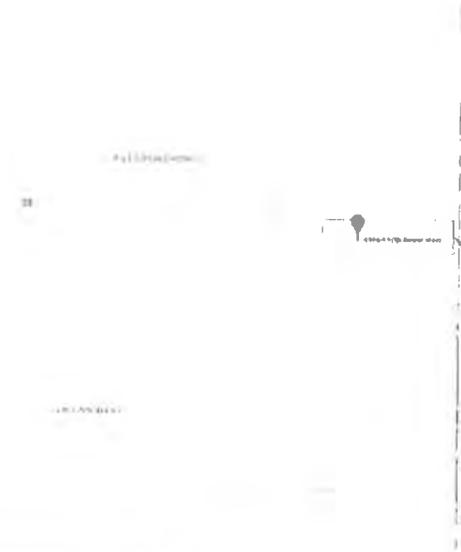
DRAWN BY: CLEAN FUEL CONNECTION, INC.

TEL NO: 626-445-1445

DATE: 08/30/16

PROJECT SITE

SHEET 1 OF 1



AREA OF WORK

VICINITY MAP

SCALE: NOT TO SCALE

NOT TO SCALE



PROPOSED AREA OF WORK
FOR FUTURE EV CHARGING 2 STALLS - 1 JBOXES W WIRES FOR FUTURE EV

SITE MAP

SCALE: NOT TO SCALE

NOT TO SCALE



CITY OF LANCASTER PARK-N-RIDE

43063 10th STREET WEST
LANCASTER, CA 93534



www.cleanfuelconnection.com

1100 CLARK ST
ARCADIA, CA 91006
626-445-1445

SCALE: NOT TO SCALE

DRAWN BY: CLEAN FUEL CONNECTION, INC.

TEL NO: 626-445-1445

DATE: 07/28/16

PROJECT SITE

SHEET 1 OF 1



AREA OF WORK

VICINITY MAP

NOT TO SCALE



PROPOSED AREA OF WORK
FOR FUTURE EV CHARGING 6 STALLS - 1 JBOXES W WIRES FOR FUTURE EV

SITE MAP

NOT TO SCALE



METROLINK

44812 SIERRA HIGHWAY
LANCASTER, CA 93534



www.cleanfuelconnection.com
11000 CLARK ST
ARCADIA, CA 91006
(626) 445-1445

SCALE: NOT TO SCALE

DRAWN BY: CLEAN FUEL CONNECTION, INC.

TEL NO: 626-445-1445

DATE: 07/28/16

Exhibit "C"

AVAQMD Grant Agreement

1 **GRANT AGREEMENT BETWEEN CITY OF LANCASTER AND**
2 **ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT**

3 This Agreement AV0217#12 is made this 19th day of April 2017 between the Antelope Valley Air
4 Quality Management District (hereinafter "AVAQMD") and City of Lancaster (hereinafter "Grantee"),
5 Grantee and AVAQMD are hereafter collectively referred to as "the Parties".

6 **WITNESSETH:**

7 WHEREAS, on April 19, 2005 the AVAQMD established the Mobile Emissions Reduction
8 Program pursuant to the authority granted by H & S Code §44223 and §44225, which authorizes air
9 districts to collect an additional two-dollar registration surcharge fee on vehicles registered within the
10 district; and

11 WHEREAS, pursuant to H & S Code §44229, the additional two dollar surcharge/motor vehicle
12 fees per vehicle is to be used towards specific clean air mobile source emission reduction projects; and

13 WHEREAS, pursuant to Senate Bill (SB) 513 motor vehicle fees authorized under Assembly Bill
14 (AB) 923 can be used to fund alternative fuel and electric infrastructure projects; and

15 WHEREAS, Grantee is partnered with Antelope Valley Transit Authority and Green Commuter
16 in a pilot program to implement the first all-electric vanpool fleet/car sharing program with the Tesla
17 Model X also referred to as "Project"; and

18 WHEREAS, Green Commuter submitted a written proposal to Grantee to provide for the
19 installation of electric vehicle charging stations and related infrastructure that includes a plan for
20 repayment of funds as specified in "Exhibit B"; and

21 WHEREAS, Grantee submitted a written request along with the Proposal to the AVAQMD for
22 grant funding to support the first all-electric vanpool fleet/car sharing program that will provide electric
23 vehicle charging for the all-electric vanpool fleet as well as additional solutions that benefit the public;
24 and

25 WHEREAS, throughout this Project Grantee and Green Commuter are responsible for the
26 installation and maintenance of the electric vehicle charging stations, equipment and related
27 infrastructure as, to the extent and at the locations set forth in the Proposal; and

28 WHEREAS, pursuant to H & S Code §44229, the AVAQMD is authorized to award grant funds

1 to projects that reduce air pollution from motor vehicles and to carry out related planning, monitoring
2 and enforcement; and

3 WHEREAS, the AVAQMD Governing Board approved the Project proposed by Grantee; and

4 WHEREAS, The AVAQMD Governing Board's funding approval is contingent upon successful
5 completion of the Project and Grantee signing this Grant Agreement and fulfilling the grant terms and
6 conditions.

7 WHEREAS, Grantee is qualified and experienced in its professional field and is able to perform
8 or cause to be performed the activities described in the Scope of Work "Exhibit A" and MOU "Exhibit
9 B" attached hereto and incorporated herein.

10 NOW THEREFORE, in consideration of mutual covenants and conditions listed below, the
11 Parties agree as follows:

12 **GRANT TERMS AND CONDITIONS**

13 1. **Due Diligence:** Upon the commencement of the term of this Agreement, City of Lancaster agrees
14 to proceed with due diligence to perform or cause to be performed the Project as described in Exhibit A.

15 2. **Purpose:** The purpose of this Agreement is for Grantee to utilize the funds for the costs
16 associated with the purchase and installation of electric vehicle charging stations and related
17 infrastructure as specified in Exhibit A. The Project must be completed, operated and maintained in a
18 manner such that it does not void any warranty for six (6) years of the Project life. Grantee certifies this
19 Project to be in compliance with all applicable federal, state, and local air quality rules and regulations at
20 time of contract execution and shall maintain compliance with such rules and regulations for the full
21 project life.

22 3. **Schedule:** Grantee shall follow the general schedule specified in Exhibit A.

23 4. **Term:** This Agreement shall commence on April 19, 2017 and terminate six (6) years following
24 completion of the Project as specified in Exhibit A, or later date if approved in writing by the
25 AVAQMD. During the project life, either the AVAQMD or CARB or their designee have the authority
26 to inspect the Project, enforce the terms of this Agreement, conduct a fiscal audit, and seek any remedies
27 available under the law for non-compliance with the terms and conditions of this Agreement.

28 5. **Cost:** The total payment to Grantee shall not exceed Sixty-One Thousand Nine Hundred

1 Twenty-Five (\$61,925) towards the purchase and installation of the electric vehicle charging stations,
2 equipment and related infrastructure. Grantee shall obtain through other sources sufficient additional
3 monies to fund the total cost of the Project should additional funds be needed in excess of Sixty-One
4 Thousand Nine Hundred Twenty-Five Dollars (\$61,925). In the Project's Proposal, Grantee has
5 disclosed all other sources of funding to be applied towards this Project. Grantee shall not use this
6 Project to generate credits or compliance extensions, and must be excluded when determining regulatory
7 compliance. Grantee shall provide written evidence of commitment for such funding to AVAQMD and
8 AVAQMD may not release any funds under this Agreement until it finds such evidence satisfactory.

9 If an existing contract is amended to increase the total grant funding of the Project, AVAQMD must
10 reevaluate eligibility and consider all applicable regulations.

11 a. Payments.

12 i. AVAQMD shall not make any advance payment under this Agreement and all
13 payments to Grantee by AVAQMD as provided herein shall be paid out upon receipt of a
14 final itemized invoice along with all documentation as specific in the Exhibit A. Claims
15 for payment must be submitted to AVAQMD, Attention: Julie McKeehan.

16 ii. The amount to be paid to Grantee under this Agreement shall be the lower of the
17 contract amount or the final invoice amount and includes all sales and use taxes incurred
18 pursuant to this Agreement, including but not limited to any taxes due on equipment
19 purchased by Grantee. Grantee shall not receive additional funds for reimbursement of
20 such taxes and shall not decrease work to compensate therefore.

21 iv In the event there are any subcontractors, concurrently with the submission of any
22 claim for payment, Grantee shall certify that complete payment has been made to any
23 and all subcontractors. Grantee shall support such certification by appropriate copies of
24 invoices issued, checks, receipts, and similar documents.

25 b. Close-out Period.

26 i. All final claims shall be submitted by Grantee within sixty (60) days following
27 the final month of activities for which payment is claimed. AVAQMD will have no
28 obligation to pay or take any action on claims submitted after the 60-day close-out period.

1 6. Maintenance: Grantee shall operate and maintain the Projects pursuant to the manufacturer's
2 specifications for the six (6) year project life. If during the project life the Project fails for any reason,
3 the Grantee shall immediately notify the AVAQMD of the failure and must repair or replace the non-
4 operating Project(s) promptly.

5 7. Independent Contractor:

6 a. The relationship of Grantee to AVAQMD under this Agreement is that of an independent
7 contractor. Grantee is to exercise its own discretion as to the method and manner of performing
8 its duties. AVAQMD will not exercise control over Grantee, its employees, agents, or
9 subcontractors, except regarding the result to be obtained and to verify compliance with the terms
10 of this Agreement. Grantee and AVAQMD shall comply with all applicable provisions of law
11 and the rules and regulations, if any, of governmental authorities having jurisdiction over matters
12 the subject thereof.

13 b. Grantee understands that this Agreement does not preclude Grantee from performing
14 services for other projects under the jurisdiction of the AVAQMD as long as such services are
15 not in conflict with this Agreement and as long as such services do not create conflict of interest
16 under applicable laws.

17 c. The Parties further agree that since the status of Grantee is that of an independent contractor,
18 Grantee shall not become entitled to any employment rights or benefits that are available to the
19 employees of AVAQMD. The Parties further agree that Grantee shall be solely responsible for
20 providing to itself, and on behalf of itself, all legally required employment benefits.

21 8. Termination:

22 a. Breach of Agreement: AVAQMD may immediately suspend or terminate this
23 Agreement, in whole or in part, where in the reasonable determination of AVAQMD there is:

24 i. An illegal or improper use of funds;

25 ii. A breach by Grantee of any material term of this Agreement and failure to cure
26 such breach within thirty (30) days following written notice from AVAQMD; or

27 iii. A substantially incorrect or incomplete report submitted to AVAQMD that is not
28 corrected within thirty (30) days following written notice by the AVAQMD of the report

1 deficiencies.

2 iv. A breach by sublet, transfer of any rights or obligations, modification or sale of
3 the Project equipment by Grantee under this Agreement in violation of paragraph 16c or
4 d of this Agreement prior to the fulfillment of all obligations under this Agreement.

5 In no event shall any reimbursement by AVAQMD constitute a waiver by AVAQMD of any
6 breach of this Agreement or any default which may then exist on the part of Grantee. Neither shall such
7 reimbursement impair or prejudice any remedy available to AVAQMD with respect to the breach or
8 default. AVAQMD shall have the right to demand of Grantee the repayment to AVAQMD of any funds
9 disbursed to Grantee under this Agreement which in the judgment of AVAQMD were not expended in
10 accordance with the terms of this Agreement. Grantee shall promptly refund any such funds upon
11 demand.

12 In addition to immediate suspension or termination, AVAQMD may seek any other remedies
13 available at law, in equity, or otherwise specified in this Agreement.

14 b. Without Cause: In the event of unavailability of funds because of fault or no fault of
15 either party, such party may terminate this Agreement upon giving written notice to the other
16 party at least thirty (30) days before the effective date of such termination.

17 c. For Cause: AVAQMD may terminate this Agreement upon the conviction for any
18 criminal act by Grantee, its agents, officers and employees if such act directly relates to this
19 Agreement.

20 9. Indemnification: Grantee agrees to indemnify, defend and hold harmless AVAQMD and its
21 authorized agents, officers, volunteers and employees against any and all claims or actions arising from
22 Grantee's acts, errors or omissions in performing services pursuant to this Agreement. Grantee agrees to
23 indemnify, defend, and hold harmless AVAQMD, its authorized agents, officers, volunteers and
24 employees against any and all losses sustained due to the use of the Project equipment pursuant to this
25 Agreement. AVAQMD agrees to indemnify, defend and hold harmless Grantee and its authorized
26 agents, officers, volunteers and employees against any and all claims or actions arising from
27 AVAQMD's acts, errors or omissions in performing services pursuant to this Agreement.

28 10. Insurance:

1 a. In order to accomplish the indemnification herein provided for, Grantee shall maintain
2 throughout the term of this Agreement, insurance against loss, destruction, vandalism, and breach
3 of warranty on the charging equipment including coverage for personal injury and property
4 damage.

5 11. Audits, Inspections and Reports:

6 a. During the Project life, either or both the AVAQMD and CARB or their designee have
7 the authority to inspect projects, enforce terms of this Agreement, and pursue a refund for any
8 noncompliance with the terms and conditions of this Grant Agreement or applicable state laws or
9 regulations. Grantee shall make available to AVAQMD at any time during regular business
10 hours following reasonable notice from the AVAQMD, and as often as AVAQMD may deem
11 necessary, all of its records and data for examination with respect to the matters covered in this
12 Agreement. Grantee shall allow AVAQMD upon reasonable advance request at AVAQMD's
13 cost, to audit and inspect all of such records and data necessary to ensure Grantee's compliance
14 with the terms of this Agreement. In the event it becomes necessary, Grantee shall be subject to
15 an audit to determine if the funds received by Grantee were spent for the Project equipment and
16 to determine whether said funds were spent as provided by law and this Agreement. If after audit
17 AVAQMD makes a determination that funds provided to Grantee pursuant to this Agreement
18 were not spent in conformance with this Agreement or any other applicable provisions of law,
19 and following resolution of any appeal of such determination by Grantee to the Board of the
20 AVAQMD, Grantee agrees to immediately reimburse AVAQMD all funds determined to have
21 been expended not in conformance with said provisions.

22 b. Grantee shall deliver usage reports commencing twelve (12) months after the Electric
23 Charging Stations have been placed into service and annually thereafter for the Project life as
24 specified in Exhibit A. Failure to submit a report will result in on-site monitoring or
25 inspection(s).

26 c. Grantee shall retain all records and data for activities performed under this Agreement for
27 at least three (3) years beyond the performance of the final obligation pursuant to this Agreement
28 or until all state and federal audits are completed, whichever is later.

1 12. Notices: The persons and their addresses having authority to give and receive notices under this
2 Agreement are as follows:

3 City of Lancaster	AVAQMD	AVAQMD
4 Mark V. Bozigian	Julie McKeehan	Bret Banks
5 City Manager	Grants Program Coordinator	Executive Director
6 44933 Fern Avenue	14306 Park Avenue	43301 Division Street
Lancaster, CA 93534	Victorville, CA 92392	Lancaster, CA 93535

7 Any and all notices to AVAQMD and Grantee provided for or permitted under this Agreement
8 or by law shall be in writing and shall be deemed duly served when personally delivered, or in lieu of
9 such personal service, when actually received or when deposited in the United States mail, postage
10 prepaid, addressed to such party.

11 13. Political Activity Prohibited: None of the funds, materials, property, or services provided under
12 this Agreement shall be used for any political activity, or to further the election or defeat
13 of any candidate for public office contrary to federal or state laws, statutes, regulations, rules, or
14 guidelines.

15 14. Lobbying Prohibited: None of the funds provided under this Agreement shall be used for
16 publicity, lobbying, or propaganda purposes designed to support or defeat legislation before the
17 Congress of the United States of America or the Legislature of the State of California.

18 15. Conflict Of Interest: No officer, employee or agent of AVAQMD who exercises any function or
19 responsibility for planning and carrying out the services provided under this Agreement shall have any
20 direct or indirect personal financial interest in this Agreement. Grantee shall comply with all federal,
21 state and local conflict of interest laws, statutes, and regulations.

22 16. Succession:

23 a. Each party and the partners, successors, and legal representatives of each party, and to the
24 extent permitted herein the assigns of each party, are hereby bound to the other party and to the
25 partners, successors, legal representatives and assigns, of such other party, in respect to all
26 covenants, Agreements and obligations of this Agreement.

27 b. Neither Party will assign, sublet or transfer any rights or obligations under this
28 Agreement without the written consent of the other. However, Grantee is authorized to use

1 employees of or assign this Agreement to an affiliate as it may deem appropriate to assist in the
2 performance of services or as a result of an internal reorganization.

3 c. Grantee shall not sublet, transfer any rights or obligations, pertaining to the equipment
4 under this Agreement, for the full term of the Agreement without prior written authorization
5 from the AVAQMD.

6 d. Grantee shall not sell or otherwise modify the equipment under this Agreement, for the
7 full term of the Agreement without prior written authorization from the AVAQMD.

8 17. Time is of Essence: Time is of the essence in completion of the services in this Agreement.

9 18. Benefit to Parties: Nothing contained in this Agreement will be construed to give any rights or
10 benefits to any person other than the Parties, and all duties and responsibilities undertaken pursuant to
11 this Agreement will be for the sole and exclusive benefit of the Parties and not for the benefit of any
12 other person.

13 19. Change in Scope of Work: Changes or amendments to the Project application as it exists at the
14 time the Governing Board makes the grant award and or Scope of Work contained in this Agreement,
15 including any increase or decrease in the amount of program funds awarded, and changes in the terms of
16 this Agreement, shall be mutually agreed upon in writing by and between AVAQMD and Grantee, and
17 shall only be effective by duly-executed written amendments to this Agreement.

18 20. Severability: In the event that any word, phrase, clause, sentence, paragraph, section, article or
19 provision contained in this Agreement is held to be unenforceable for any reason by a court of
20 competent jurisdiction, such holding shall not affect the remaining portions of this Agreement, and the
21 Agreement shall then be construed as if such unenforceable provisions are not a part hereof.

22 21. Captions: The paragraph captions of this Agreement shall have no effect on its interpretations.

23 22. Entire Agreement: This Agreement, together with the Grantee's written request for grant
24 funding, Green Commuter's written Project Proposal, Exhibit A and Exhibit B together with
25 attachments thereto, constitutes the entire Agreement between the Parties and will supersede all prior
26 written or oral understandings. This Agreement and its Exhibits may only be amended, supplemented,
27 modified or canceled by a duly-executed written instrument signed by the Parties.

28 //

1 23. Rights to Emission Reductions: Grant funded projects cannot generate Emission Reduction
2 Credits (ERCs) pursuant to AVAQMD Regulation XIV or be used for offsets pursuant to Regulation
3 XIII.

4 24. Governing Law: This Agreement shall be interpreted under the laws of the State of California.
5 Venue for any action arising out of this Agreement shall only be in Los Angeles County, California.
6 This Agreement was entered into in Lancaster, California.

7 ANTELOPE VALLEY AIR QUALITY
8 MANAGEMENT DISTRICT

CITY OF LANCASTER

9
10 _____
11 BRET BANKS
12 Executive Director

10 _____
11 MARK V. BOZIGIAN
12 City Manager

13 Dated: _____

13 Dated: _____

14
15 Approved as to Legal Form:

15 Approved as to Legal Form:

16
17 _____
18 KAREN K. NOWAK
19 District Counsel

17 _____
18 JOCELYN CORBETT
19 Asst. City Attorney

20 Dated: _____

20 Dated: _____

21
22
23 Attest:

24
25 _____
26 BRITT AVRIT
27 Lancaster City Clerk

28 END OF CONTRACT

**CITY OF LANCASTER AGREEMENT
WITH ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
SCOPE OF WORK APRIL 19, 2017**

Task I: Equipment Procurement and Installation

The City of Lancaster in partnership with Antelope Valley Transit Authority and Green Commuter to implement the first all-electric vanpool fleet/car sharing program with the Tesla Model X. The Project shall install two (2) Charge Point Level II Chargers and one (1) Blink DC Fast Charger including infrastructure with the installation of expanded infrastructure for the addition of eight (8) Charge Point Level II Chargers as needed for future expansion located at Park-n-Ride, 10th Street W., and two (2) Charge Point Level II Chargers and one (1) Blink DC Fast Charger including infrastructure with the installation of expanded infrastructure for the addition of three (3) Charge Point Level II Chargers as needed for future expansion located at Sierra Highway Metrolink.

Total Equipment and Installation \$218,280

Project to be completed by: October 31, 2017

Task II: Project Implementation

Provide AVAQMD with copies of agreements and/or purchase orders for the purchase of equipment and installation.

Provide AVAQMD with copies of outreach materials such as ads, flyers and/or website links promoting the all-electric vanpool fleet/car sharing program and public access charging stations.

Provide AVAQMD Electric Charging Units Operation and Access details:

- Public access to the charging units (i.e. access cards, credit cards, etc.)
- Minimum and/or maximum charging time
- Enforcement methods (i.e. signage, penalty, tow away, etc.)

Provide warranty and maintenance documentation for the Charging Stations.

Grantee shall procure and maintain throughout the term of this Agreement, insurance against loss, destruction, vandalism, and breach of warranty on the charging equipment including coverage for personal injury and property damage.

Notify AVAQMD when the Charging Stations installations are complete and placed into service to arrange for an on-site overview of the stations and obtain photos for the project file.

Submit reimbursement request along with a copy of the final invoice and grantee's receipt showing full payment to the vendor.

**CITY OF LANCASTER AGREEMENT
WITH ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
SCOPE OF WORK APRIL 19, 2017**

City of Lancaster will organize a media event to help promote the Project and the AVAQMD's clean air efforts and support. City of Lancaster will organize a photo opportunity announcing the Project. City of Lancaster will issue a press release, invite the Press, invite City officials, invite the AVAQMD, key officials they recommend, and provide a photo opportunity of the Project. City of Lancaster also consents to the AVAQMD to display photos and project information as needed.

Task III: Maintain Equipment and Monitor usage of the charging stations

Maintain and operate the infrastructure and charging station in accordance with manufacturer's recommendations.

Monitor usage level and operational experience.

Deliver operation and maintenance reports commencing twelve (12) months after the Charging Stations have been placed into service and annually thereafter for the six (6) year project life providing:
1) monthly or annual kilowatt usage; 2) number of transactions; and 3) any operational or maintenance performance problems and how they were resolved.

Exhibit "D"

Public Contract Code, Chapter 9., Section 9204



PUBLIC CONTRACT CODE - PCC

DIVISION 2. GENERAL PROVISIONS [1100 - 22355] (*Division 2 enacted by Stats. 1981, Ch. 306.*)

PART 1. ADMINISTRATIVE PROVISIONS [1100 - 9203] (*Heading of Part 1 added by Stats. 1982, Ch. 1120, Sec. 2.*)

CHAPTER 9. Claims and Disputes [9201 - 9204] (*Chapter 9 added by Stats. 1982, Ch. 1120, Sec. 5.*)

9204. (a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(2) "Contractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.

(3) (A) "Public entity" means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(B) "Public entity" shall not include the following:

(i) The Department of Water Resources as to any project under the jurisdiction of that department.

(ii) The Department of Transportation as to any project under the jurisdiction of that department.

(iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.

(iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(v) The Military Department as to any project under the jurisdiction of that department.

(vi) The Department of General Services as to all other projects.

(vii) The High-Speed Rail Authority.

(4) "Public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) "Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

(d) (1) (A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.

(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2) (A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

(Added by Stats. 2016, Ch. 810, Sec. 1. Effective January 1, 2017. Repealed as of January 1, 2020, by its own provisions.)

Exhibit "E"

Revenue Sharing Agreement (AVAQMD & Green Commuter)

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (this “MOU”) is entered into this 19th day of April, 2017, by and among the **ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT**, a California special district (the “AVAQMD”), **CITY OF LANCASTER**, a California charter city and municipal corporation (the “City”), and **GREEN COMMUTER, INC.**, a California corporation (“Green Commuter”) (the AVAQMD, City and Green Commuter are sometimes referred to herein individually as a “Party” and collectively as the “Parties”).

RECITALS

A. Green Commuter submitted a written proposal to the AVAQMD and City, a copy of which is attached hereto as Attachment “A” and incorporated herein (the “Proposal”), that generally provides for Green Commuter’s installation of electric vehicle charging stations and related infrastructure within the City’s jurisdiction. The Proposal also specifies how the cost of installing such improvements is to be allocated and shared among the AVAQMD, City, Green Commuter and EVgo Services LLC, a Delaware limited liability company (“EVgo”).

B. Subject to the terms and conditions of this MOU, as well as any other written agreement(s) entered into by and among the Parties in implementation of the goals and objectives set forth herein and/or the Proposal, the Parties desire to enter into this MOU in furtherance of the Proposal.

NOW, THEREFORE, in consideration of the mutual understandings and agreements set forth herein, the parties hereby agree as follows:

1. Installation of Charging Stations and Infrastructure. Green Commuter shall install or cause installation of the electric vehicle charging stations, equipment and related infrastructure as, to the extent and at the locations set forth in the Proposal (collectively, the “Proposed Project”). Green Commuter shall complete the Proposed Project within the times specified in the Schedule of Performance attached hereto as Attachment “B” and incorporated herein.

2. Proposed Project Financing. The total cost of the Proposed Project shall not exceed the “total cost” (the “Proposed Project Costs”) specified in the Proposal and shall be allocated among the Parties as specified in the Proposal. Green Commuter shall be responsible for obtaining a legally binding written commitment from EVgo with respect to any portion of the Proposed Project Costs to be paid by EVgo, which shall be a condition precedent to the AVAQMD and/or City paying any portion of the Proposed Project Costs. Green Commuter agrees to and shall reimburse the AVAQMD one hundred percent (100%) of Proposed Project Costs actually paid by the AVAQMD and City as provided in the Proposal. Notwithstanding any other provision of this MOU and/or the Proposal, the AVAQMD and City shall pay their respective share of the Proposed Project Costs as indicated in the Proposal within five (5) days following the City unconditionally accepting the Proposed Project or within five (5) days following the City’s written acknowledgement that Green Commuter has satisfied all conditions of the City’s conditional acceptance as provided in Section 6.

3. City’s Grant of License. The City hereby grants to Green Commuter, Green Commuter’s agents, employees, representatives and permittees, a non-exclusive license (the “License”) to enter the public property and/or public rights-of-way identified, depicted and/or described in Attachment “C” (the “License Area”) for the purpose of constructing and/or installing

the electric vehicle charging stations, equipment and related infrastructure described in the Proposal. With respect to Green Commuter's use of the License Area under the License, Green Commuter accepts the License Area in an "as is" condition. The City expressly disclaims any warranty or representation with regard to the condition, safety, security or suitability for Green Commuter's intended use of the License Area.

4. Compliance with Laws. Green Commuter's activities as described in the Proposal, including its use of the License Area pursuant to the License granted herein, shall be in accordance with any and all applicable laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the State of California, the County of Los Angeles, the City or any other political subdivision in which the License Area is located, and of any other political subdivision, agency or instrumentality exercising jurisdiction over Green Commuter, the City or the License Area. Without limiting the generality of the foregoing, Green Commuter shall apply for and obtain all permits required by the City (e.g., encroachment permits, construction permits, etc.) prior and as a condition to beginning any work requiring such permit.

5. Payment of Prevailing Wage. Green Commuter acknowledges that prevailing wages must be paid with respect to the Proposed Project and agrees to and shall complete the Proposed Project in conformity with the provisions of Labor Code Sections 1770, *et seq.* relating to prevailing wages. Without limiting the general indemnity provided in Section 7, Green Commuter agrees to hold the AVAQMD and City harmless and to indemnify and defend the AVAQMD and City from all claims arising under the provisions of Labor Code §§ 1720, *et seq.*, including, but not limited to the provisions of Labor Code Section 1726 and 1781.

6. City's Acceptance and Ownership of Charging Stations and Infrastructure. Upon completion of the Proposed Project, Green Commuter agrees to and shall offer the Proposed Project to the City for dedication. The City shall, in the City's sole and absolute discretion, accept, conditionally accept or reject the Proposed Project. If the City conditionally accepts or rejects the Proposed Project, the City shall provide Green Commuter with an itemized list of changes, repairs or other conditions that must be completed in order for the City to unconditionally accept the Proposed Project. Title to and ownership of the Proposed Project, including all incidental and related improvements, shall automatically vest in the City upon the City's unconditional acceptance or upon the City's written acknowledgement that Green Commuter has satisfied all conditions of the City's conditional acceptance. Green Commuter agrees to and shall cooperate with the City and provide any authorizations, acknowledges and/or other documentation requested by the City to evidence the City's ownership of the Proposed Project and all incidental and related improvements.

7. Release and Indemnification. Green Commuter hereby fully and irrevocably releases the AVAQMD and City, including their respective elected officials, employees, agents and representatives (collectively, the "Released Parties"), from any and all claims that Green Commuter may now have or hereafter acquire against the Released Parties for any action, cause of action, claim, cost, damage, demand, expense (including, without limitation, attorneys' fees and expenses), fine, judgment, liability, lien, loss, or penalty, whether foreseen or unforeseen, direct or indirect, arising from or related to Green Commuter's entry upon or use of the License Area and/or performance of work specified in the Proposal, except to the extent caused by the Released Parties' willful misconduct. Green Commuter further acknowledges and agrees that this release shall be given full force and effect according to each of its expressed terms and provisions, including, but not limited to, those relating to unknown and suspected claims, damages and causes of action. Green Commuter agrees to indemnify, defend and hold the Released Parties harmless from and against any and all

claims, actions, losses, liabilities, damages, costs and expenses (including, but not limited to, attorneys' fees and costs) of any kind or nature which arise or in any way relate to Green Commuter's entry upon or use of the License Area, except to the extent caused by the Released Parties' willful misconduct. The provisions of this Section shall survive the expiration or termination of this MOU.

8. Notices. Any approval, disapproval, demand, document or other notice ("Notice") which any Party may desire to give to the other Party under this MOU must be in writing and may be given either by (i) personal service, (ii) delivery by reputable document delivery service such as Federal Express that provides a receipt showing date and time of delivery, (iii) facsimile transmission, or (vi) mailing in the United States mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the Party as set forth below, or at any other address as that Party may later designate by Notice. Service shall be deemed conclusively made at the time of service if personally served; upon confirmation of receipt if sent by facsimile transmission; the next business day if sent by overnight courier and receipt is confirmed by the signature of an agent or employee of the Party served; the next business day after deposit in the United States mail, properly addressed and postage prepaid, return receipt requested, if served by express mail; and three (3) days after deposit thereof in the United States mail, properly addressed and postage prepaid, return receipt requested, if served by certified mail.

CITY: City of Lancaster
44933 Fern Avenue
Lancaster, CA 93534
Attn: Mark Bozigian
Fax No.: (661) 723-6141

AVAQMD: Antelope Valley Air Quality Management District
43301 Division Street, #206
Lancaster, CA 93534
Attn: Bret Banks
E-mail: bbanks@avaqmd.ca.gov

GREEN COMMUTER: Green Commuter, Inc.
LA Cleantech Incubator
525 S. Hewitt Street
Los Angeles, CA 90013
Attn: Gustavo Occhiuzzo
E-mail: Gustavo@greencommuter.org

Such addresses may be changed by Notice to the other Party(ies) given in the same manner as provided above.

9. Term and Termination. This MOU shall become effective immediately once approved by all Parties and shall terminate upon the earliest to occur of the following: (a) the execution by the Parties of one or more definitive agreements with respect to the subject matter of this MOU; or (b) six (6) months from the date hereof. The term of this MOU can be extended upon the written mutual agreement of the Parties.

10. Incorporation of Proposal. Green Commuter's Proposal is incorporated herein, made a part hereof and shall constitute a substantive part of this MOU; provided, however, that in the

event of a conflict of between the Proposal and MOU, this MOU shall control. The term "Host" as used in the Proposal shall mean the City.

11. Applicable Law. The laws of the State of California shall govern the interpretation and enforcement of this MOU.

12. Assignment. This MOU shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, personal representatives, successors and assigns. No Party shall assign this MOU or any interest or right under this MOU without obtaining the prior written consent of the other Parties. In no event shall any assignment relieve the assigning Party of any of its obligations under this MOU.

13. Titles and Captions. Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of this MOU or of any of its terms. Reference to section numbers are to sections in this MOU, unless expressly stated otherwise.

14. No Waiver. A waiver by any Party of a breach of any of the covenants, conditions or agreements under this MOU to be performed by another Party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions of this MOU.

15. Modifications. Any alteration, change or modification of or to this MOU, in order to become effective, shall be made in writing and in each instance signed on behalf of each Party.

16. Severability. If any term, provision, condition or covenant of this MOU or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this MOU, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

[SIGNATURES BEGIN ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have caused this MOU to be executed by their duly authorized representative as of the date first written above.

CITY:

CITY OF LANCASTER, a California charter city and municipal corporation

By: _____

Its: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

AVAQMD:

ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT, a California special district

By: _____

Its: _____

ATTEST:

Secretary

APPROVED AS TO FORM:

Legal Counsel

GREEN COMMUTER:

GREEN COMMUTER, INC., a California corporation

By: _____

Its: _____

ATTACHMENT "A"
PROPOSAL



City of Lancaster EVSE Proposal

Executive Summary

Green Commuter is pleased to provide The City of Lancaster a comprehensive electric vehicle supply equipment (EVSE) solution. Working with our partners at EVGO, Clean Fuel Connection and Charge Point, Green Commuter aims to provide the city with infrastructure that will best facilitate its strategic transition to support an electric transportation sector.

Sites

- City of Lancaster Park-n-Ride, 10th Street West
- City of Lancaster Sierra Highway Metrolink

Scope of Work

Green Commuter shall be responsible for performing the following scope of work:

1) Green Commuter will obtain an agreement with EVGO to provide \$77,993 to partially cover installation costs including, without limitation; conduit, wire, circuit breakers, and junction boxes, as applicable, to support one circuit capable of supporting electric vehicle service equipment. This program funding will be allocated entirely to EVSE installation.

2) Green Commuter will obtain an agreement from Clean Fuel Connection (CFC) - a qualified, EVGO-approved sub-contractor to provide all EVSE installation and installation materials at the designated sites.

3) Green Commuter will supply all EVSE to The City of Lancaster as follows

Site	EVSE	Quantity	Connectors
Park-n-Ride, 10 th Street West	Charge Point Level II	2	4
Park-n-Ride, 10 th Street West	Blink DC Fast Charger	1	2
Sierra Highway Metrolink	Charge Point Level II	2	4
Sierra Highway Metrolink	Blink DC Fast Charger	1	2

- All Blink equipment procured through Green Commuter comes with a two-year parts and labor warranty and two-year networking fee waiver.
- All Charge Point equipment procured through Green Commuter comes with a one-year warranty and includes one-year of networking fees.

4) Green Commuter will work with AVAQMD to secure \$61,925 for the balance of the project costs.

- **PROJECT DETAILS:** Installation of all infrastructure to support 10 Level 2 Chargepoint dual port and 1 Level 3 Blink charger and the procurement and installation of 2 Level 2 chargepoint dual port and 1 Level 3 Blink charger at the Lancaster City Park and the infrastructure needed to support 5 Level 2 Chargepoint dual port and 1 Level 3



Blink charger and the procurement and installation of 2 Level 2 chargepoint dual port and 1 Level 3 Blink charger at the Lancaster Metrolink Station

5) Green Commuter will contribute funds from an agreement with AVTA to provide \$28,362.

Implementation Process:

- Green Commuter will coordinate with EVgo and CFC to conduct site assessments and procure installation estimates. - **COMPLETE**
- EVgo will review results of site assessments, provide final approval for the number and location of make-ready stubs and associated make-ready construction costs. - **COMPLETE**
- Green Commuter will present the City of Lancaster with a EVSE proposal. - **COMPLETE**
- The city of Lancaster will review and revise and / or approve the provided proposal - **PENDING**
- Submit AVAQMD application and procure project funding - **PENDING**

Description

Park-n-Ride, 10th Street West

- Blink DC Fast Charger Installation (not including EVSE) - \$25,020
- Blink DC Fast Charger EVSE (1) - \$27,250
- Charge Point Level II Installation (10) (not including EVSE) - \$49,656
- Charge Point Level II EVSE (2) - \$18,910
- Connection and Commissioning - \$2,000

Site Total	\$122,836
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Sierra Highway Metrolink

- Charge Point Level II EVSE Installation (5) (not including EVSE) - \$22,205
- Charge Point Level II EVSE (2)- \$18,910
- Blink DC Fast Charger Installation (not including EVSE) - \$25,079
- Blink DC Fast Charger EVSE (1) - \$27,250
- Connection and Commissioning - \$2,000

Site Total	\$95,444
-------------------	-----------------

Site Inclusions

- Prevailing wage
- 3-sets site specific drawings
- City Permit (no charge for city project)
- Supply and install 200' conduit & wire



- Supply and install 100' conduit & wire
- Supply and install (4) bolt-on, cement filled safety bollard
- Supply and install (2) direct burial, cement filled safety bollard
- Asphalt trench
- Build rebar reinforced housekeeping pad
- Private radar scan
- Rental equipment as-needed

Exclusions and Conditions

- No overtime or after-hours work
- It is assumed adequate power exists
- Not responsible for concealed or unforeseen items
- Price excludes charger, wheel stops, stripping & signage

Cost Share

Total Cost	Cost to EVGO	Refundable Cost to City of Lancaster	Cost to AVTA/ Green Commuter	Refundable Cost to AVAQMD
\$218,280	\$77,993	\$50,000	\$28,362	\$61,925
100%	*35.7%	22.9%	13%	28.4%

*EVGO will provide installation costs up to \$3,000 per designated parking space in the electrical make-ready infrastructure of each site, defined as the service panels, junction boxes, electrical wiring and conduit needed to support EV charging. Any cost share by the City of Lancaster will be agreed to and confirmed in writing in a formal Construction Services Agreement.

Repayment of funds to City of Lancaster and AVAQMD:

Green Commuter will reimburse 100% of the funding allocated to the project by the City of Lancaster and AVAQMD according to the Revenue Sharing Agreement between Green Commuter and AVAQMD.

Terms

1. The term of this Agreement shall commence on the Agreement Date. Either party may terminate this Agreement upon thirty (30) days' prior written notice to the other party, provided that Green Commuter shall not terminate following commencement of the Installation Activities and prior to completion. In addition, if Host terminates the Agreement (other than for cause) prior to completion of Installation Activities, Host shall reimburse Green Commuter for all costs incurred by relating to the Installation Activities within thirty (30) days of presentation of an invoice and supporting documentation.
2. Before beginning the Installation Activities, Green Commuter shall provide the construction schedule and installation plans to the host for approval, which approval shall not be unreasonably delayed or withheld. No work will begin until the Host has approved plans and all applicable permits and certifications have been obtained.



3. Green Commuter will make every effort to provide low or no-cost EVSE solutions for the site host, but cannot guarantee a no-cost EVSE installation project.
 - a. Where applicable, Green Commuter will suggest the project rebate or grant application budget allocate funds dedicated to parking lot striping and signage, as is required for some rebate or grant programs, but cannot guarantee the approval or allocation of such funds.
 - b. Green Commuter is not responsible for site host's ADA compliance of any additional costs to meet compliance as a result of this project.
4. With respect to the Installation Activities, Green Commuter shall:
 - a. Designate the contractors or other service providers;
 - b. Ensure its designated contractors and service providers to obtain from governmental authorities all licenses, permits, or other approvals (collectively, "Approvals") required to conduct such installations. Host will reasonably cooperate with the designated contractors and service providers as required to obtain such Approvals;
 - c. Bring on the Premises and permitted adjacent areas of the Host Property only those materials and equipment that are being used directly in the Installation Activities;
 - d. Perform Installation Activities only during times and days acceptable to Host and in a manner so as to not unreasonably interfere with Host's business operations;
5. The Host shall reasonably cooperate to facilitate Installation Activities, including the provision of electricity to the Make-Ready Stub.
6. The assigned electrical sub-contractor is responsible for pulling electricity to the site locations and pulling all applicable permits for the intended work.
7. All electric infrastructure installed as part of the Installation Activities shall become fixtures of the Host Property upon completion of such installation and the full payment of any applicable costs described above.
8. Warranties:
 - a. EVgo shall pass on to Host the warranties of its subcontractors, which shall be no less than twelve (12) months.
 - b. Charge Point EVSE shall pass on to the Host the parts and labor warranty, which shall be no less than one (1) year.
9. Networking:
 - a. Charge Point EVSE shall include the networking fees, for no less than one (1) year. Charge Point networking offers open charge point protocols (OCPP).



115, 116, 117, 118, 119

Signature

Date 3/14/2017

Date _____

X Gustavo Occhiuzzo
Green Commuter: Name of Signing Authority

X _____
Site Host: Name of Signing Authority

X 
Green Commuter: Signing Authority Signature

X _____
Site Host: Signing Authority Signature

ATTACHMENT "B"
SCHEDULE OF PERFORMANCE
[Insert Schedule of Performance]

ATTACHMENT "C"

LICENSE AREA

[Insert Description, Depiction or Identification of License Area]

STAFF REPORT

City of Lancaster

CC 12
05/09/17
MVB

Date: May 9, 2017

To: Mayor Parris and City Council Members

From: Jason Caudle, Deputy City Manager
Cathy DeFalco, Lancaster Choice Energy Manager

Subject: **Approve an Increase in the Contract Amount for Lancaster Choice Energy Legal Representation, Professional Consultant Services**

Recommendation:

Approve an increase in the contract for Lancaster Choice Energy Legal Representation, with Braun, Blaising, McLaughlin & Smith (BBMS), by \$130,000; and authorize the City Manager, or his designee, to sign all documents.

Fiscal Impact:

\$130,000.00, bringing the total contract amount to \$350,000.00; sufficient funds are available in Lancaster Choice Energy's budget. Additionally, revenues will be collected from Administrative Services Agreements between California Choice Energy Authority ("CCEA") and its member cities.

Background:

On July 1, 2016, an Agreement for Legal Representation with BBMS was executed in the amount of \$220,000.00.

BBMS provides legal and regulatory support services to Lancaster Choice Energy ("LCE") and CCEA. These services include representing the City of Lancaster and LCE before the California Public Utilities Commission ("CPUC"). They advise LCE regarding pending and/or anticipated CPUC matters, rate cases, and CPUC rule changes that may affect LCE's interests. They also assist in the preparation and submission of required filings at the CPUC and the California Energy Commission.

The additional costs are associated with Southern California's 2018 General Rate Case, and additional support required for cities joining CCEA. These costs will be offset by revenues collected from Administrative Service Agreements with member cities.

JC:CD:ef

Attachments:

Professional Services Agreement with BBMS
Amendment to Agreement

AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES

THIS AGREEMENT FOR CONSULTING SERVICES (this "AGREEMENT") is made and entered into this 1st day of July, 2016, by and between the CITY OF LANCASTER, a municipal corporation and charter city (the "OWNER"), and Braun Blaising McLaughlin & Smith, PC (the "CONSULTANT").

RECITALS

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

LANCASTER CHOICE ENERGY LEGAL REPRESENTATION

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: Braun Blaising McLaughlin & Smith, PC

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 Barbara Boswell
 Lancaster Choice Energy Director
 City of Lancaster
 44933 North Fern Avenue
 Lancaster, California 93534
 (661) 723-6035

CONSULTANT Scott Blaising
 Braun Blaising McLaughlin & Smith, PC
 915 L Street, Suite 1270
 Sacramento, CA 95814
 (916) 682-9702

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. **No Guarantee of Result.** CONSULTANT does not guarantee any particular result arising out of CONSULTANT's representation of OWNER. OWNER acknowledges and agrees that any comments CONSULTANT makes about potential outcomes, including any timetables, budgets, or fee estimates, are expressions of opinion only, are neither promises nor guarantees, and are not binding.

5. **Description of Work.** OWNER hereby engages CONSULTANT, and CONSULTANT accepts such engagement, to perform professional legal 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 Lancaster Choice Energy Director 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 Lancaster Choice Energy Director, or his or her designee.

6. **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 \$ 220,000. 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.

7. **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.

8. **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.

9. **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. 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.

10. **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 Lancaster Choice Energy Director and CONSULTANT.

11. **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.

12. **Termination for Convenience.** Either party may terminate this AGREEMENT at any time without cause by giving written notice to the other of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents, research and other materials shall, at the option of the OWNER, become the OWNER's property.

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	\$2,000,000
Including Products/Completed Operations	
Including Contractual Liability/Independent Contractors	
Including Broad Form Property Damage	
 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:

LANCASTER CHOICE ENERGY LEGAL REPRESENTATION

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 services of CONSULTANT commence on September 1, 2015 and will terminate, unless amended by mutual agreement of the PARTIES, on June 30, 2016.

16. **Ownership of Documents.** All reports and other documents prepared by CONSULTANT pursuant to this AGREEMENT shall become the property of OWNER. OWNER is entitled to full and unrestricted use of such contracts, drafts, correspondence, pleadings, reports and other documents.

17. **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.

18. **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.

19. **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.

20. **Exhibits.**

The following exhibits to which reference is made in this AGREEMENT are deemed incorporated herein in their entirety:

Exhibit "A" Scope of Services

Exhibit "B" Payment Clause

21. **Governing Law.**

This AGREEMENT shall be governed by the laws of the State of California.

22. **Effective Date.**

This AGREEMENT shall become effective as of the date set forth below on which the last of the parties, whether OWNER or CONSULTANT, executes this AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed and attested by their respective officers thereunto duly authorized.

"OWNER"
CITY OF LANCASTER
LANCASTER, CALIFORNIA

Approved By Department Head:

By: Barbara Boswell
Barbara Boswell, Lancaster Choice Energy Director

Dated: 7/20/16

By: Mark V. Bozigian
Mark V. Bozigian, City Manager

Dated: 7-21-16

"CONSULTANT"
BRAUN BLAISING MCLAUGHLIN & SMITH, PC

By: Scott Blaising
Scott Blaising, Principal

Dated: 7/13/16

ATTEST:

Britt Avrit
Britt Avrit, CMC
City Clerk

APPROVED AS TO FORM:

Janely Carter
City Attorney

EXHIBIT "A"

SCOPE OF SERVICES

The work to be performed under this contract shall include:

- Represent the City of Lancaster and Lancaster Choice Energy (collectively, "LCE") before the California Public Utilities Commission ("CPUC").
- Advise LCE regarding pending and/or anticipated CPUC matters that may affect LCE's interests.
- Advise LCE regarding rate cases that may affect LCE's interests.
- Advise LCE regarding CPUC rule changes that may affect LCE's interests.
- Assist LCE in the preparation and submission of required filings at the CPUC and the California Energy Commission.

EXHIBIT "B"

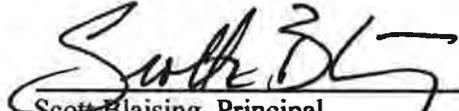
TERM, PAYMENT AND TIME FOR COMMENCEMENT AND COMPLETION CLAUSE

Term. This Agreement shall commence on July 1, 2016. This Agreement shall continue in full force and effect until June 30, 2017 ("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. The OWNER shall compensate the CONSULTANT based upon the following hourly rate schedule:

Senior Partners	\$395
Junior Partners	\$325
Senior Associates	\$295
Junior Associates	\$250
Of Counsel	\$305-\$345
Contract Associate (As Authorized):	\$290
Law Clerk and Associates Not Admitted to Bar:	\$160

Time shall be billed in .10-hour increments.



Scott Blaising, Principal
Braun Blaising McLaughlin & Smith PC

AMENDMENT NO. 1 TO AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES BY AND BETWEEN THE CITY OF LANCASTER AND BRAUN BLAISING MCLAUGHLIN & SMITH, PC (EFFECTIVE MAY 10, 2017)

This Amendment (“Amendment No. 1”) is hereby entered into by and between the City of Lancaster, a Municipal Corporation, in the State of California, and Braun Blaising McLaughlin & Smith, PC (CONSULTANT) with respect to Exhibit “B” of the Agreement for Professional Consultant Services between the parties dated July 1, 2016 (“Agreement”).

The parties agree as follows:

1. Section 6A of the Agreement is hereby replaced as follows:

The total compensation to be paid by OWNER to CONTRACTOR for all work and services described in the Scope of Services is not to exceed \$350,000 for the original base contract

2. All other terms and provisions of the Agreement are hereby reaffirmed.

In witness whereof the parties have executed the Amendment of the date set forth below:

CITY OF LANCASTER

CONSULTANT

Braun Blaising McLaughlin & Smith PC

Mark V. Bozigian, City Manager

Scott Blaising, Principal

Dated: _____

Dated: _____

ATTEST:

Britt Avrit, CMC
City Clerk

Allison E. Burns, Esq.
City Attorney

STAFF REPORT
City of Lancaster

CC 13
05/09/17
MVB

Date: May 9, 2017

To: Mayor Parris and City Council Members

From: Jason Caudle, Deputy City Manager
Cathy DeFalco, Lancaster Choice Energy Manager

Subject: Approve Assignments of Professional Service Agreements with Calpine Energy Solutions and Pacific Energy Advisors to California Choice Energy Authority

Recommendations:

- a. Approve the assignment of Master Professional Services Agreement with Calpine Energy Solutions, LLC (“Calpine”) to California Choice Energy Authority (“CCEA”).
- b. Approve the assignment of Professional Services Agreement with Pacific Energy Advisors (“PEA”) to CCEA; and authorize the City Manager, or his designee, to sign all documents.

Fiscal Impact:

No fiscal impact is associated with this action.

Background:

On October 28, 2014, Lancaster City Council approved a Master Professional Services Agreement between the City of Lancaster and Noble Americas Energy Solutions, LLC, for data management services for Lancaster Choice Energy (“LCE”). On October 9, 2016, Calpine entered into an agreement to acquire Noble Americas Energy Solutions, LLC.

On June 28, 2016, Lancaster City Council approved a Professional Services Agreement between the City of Lancaster and PEA for technical support services related to the operation of LCE.

On March 28, 2017, Lancaster City Council adopted Resolution No. 02-17, adopting the first amendment to the California Clean Energy Authority Joint Exercise of Powers Agreement (“JPA”). The amendment changed the name of the JPA to California Choice Energy Authority to better reflect the authority’s purpose and the administrative support to be provided to member cities for their CCA operational services.

The assignment of the Professional Services Agreements will allow CCEA through existing contracts to manage and support member cities. As cities join the CCEA and enter into Administrative Services Agreements, Lancaster Choice Energy staff will provide operational support and work with data management services and technical support services consultants on behalf of the CCEA.

JC:cd

Attachments:

Professional Services Agreement with Calpine

Professional Services Agreement with PEA

MASTER PROFESSIONAL SERVICES AGREEMENT

This Master Professional Services Agreement (the "Agreement") is entered into effective the 1st day of November 2014 (the "Effective Date"), by and between Noble Americas Energy Solutions LLC ("DM Services Provider") and the City of Lancaster, a municipal corporation and charter city, d/b/a Lancaster Choice Energy ("LCE"). Each party listed above may be referred to individually as a "Party," and collectively as the "Parties."

WITNESSETH

WHEREAS, LCE is scheduled to begin providing Community Choice Aggregation ("CCA") Services through its Lancaster Choice Energy program (the "Program"), on or around May 1, 2015;

WHEREAS, LCE has requested that DM Services Provider perform the Data Manager Services described in the Addendum, attached hereto and incorporated herein by this reference (the "Addendum"); and

WHEREAS, LCE will be purchasing electricity for the CCA Program from one or more electric energy suppliers ("Supplier").

NOW, THEREFORE, for and in consideration of the mutual benefits, obligations, covenants, and consideration, the receipt and sufficiency of which are hereby acknowledged, DM Services Provider and LCE hereby agree as follows:

1. **SERVICES.** Subject to the terms and conditions of this Agreement and during the term of this Agreement, DM Services Provider shall provide to LCE the services described in the Addendum (the "Services"). From time to time the parties may add new addenda, which upon execution by both parties, shall be subject to the terms and conditions of this Agreement.

2. **CONDITIONS TO DM SERVICES PROVIDER'S PERFORMANCE.**

(a) **Information and Assistance.** Upon DM Services Provider's reasonable request, LCE shall provide such information and assistance as is reasonably required for DM Services Provider to provide the Services. If LCE fails to provide DM Services Provider with such requested information or assistance then DM Services Provider shall continue to provide in a timely manner any such portion(s) of the affected Services that DM Service Provider can reasonably provide to the extent possible in the absence of such information or assistance. Notwithstanding any provision to the contrary herein, failure by LCE to provide DM Service Provider with such information or assistance shall not constitute an Event of Default, provided, however, that DM Service Provider's performance or lack of performance under this Agreement shall be excused to the extent that it is

hindered, prevented or impacted as a result of LCE's failure or inability to provide such information or assistance.

- (b) **Notification.** LCE shall notify all other relevant parties, including but not limited to Supplier, the Utility Distribution Company ("UDC"), which is currently Southern California Edison, and LCE's banker(s), as necessary, of the existence of this Agreement and DM Services Provider's role as contemplated in this Agreement.

3. **FEES AND BILLING.**

- (a) **Fees.** LCE shall pay all fees due in accordance with the Addendum.
- (b) **Billing and Payment Terms.** Unless otherwise indicated in the applicable Addendum, DM Services Provider shall invoice LCE monthly for all fees related to Services performed during the previous month. Payment of fees shall be due within thirty (30) days after the date of invoice. All payments must be made in U.S. dollars. Late payments hereunder shall accrue interest at the lower of the rate of one percent (1%) per month, or the highest rate allowed by law.
- (c) **Taxes.** Payments due to DM Services Provider under this Agreement shall be net of all sales, value-added, use or other taxes and obligations.

4. **REPRESENTATIONS AND WARRANTIES.** On the Effective Date and the date of entering into each Addendum, each Party represents and warrants to the other Party that: (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; (ii) it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement and each Addendum; (iii) the execution, delivery and performance of this Agreement and each Addendum are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it; (iv) this Agreement, each Addendum, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; (v) it is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt, and (vi), in the case of DM Services Provider, that it has the qualifications, experience and ability to perform the Data Manager Services described in the applicable Addendum.

5. **INDEMNIFICATION.** Each party to this Agreement (the "Indemnifying Party") agrees to accept all responsibility for loss or damage to any person or entity, and to defend, indemnify, hold harmless and release the other party (the "Indemnified Party"), and the Indemnified Party's supervisors, officers, agents, and employees, from and against any and all liabilities, actions, claims, damages, disabilities, or expenses that may be asserted by any person or entity,

to the extent resulting from the Indemnifying Party's breach of any material term of this Agreement, or the Indemnifying Party's negligence or willful misconduct in connection with the performance of this Agreement, but excluding liabilities, actions, claims, damages, disabilities, or expenses to the extent arising from the Indemnified Party's breach of any material term of this Agreement, or the Indemnified Party's negligence or willful misconduct in connection with the performance of this Agreement. The Indemnified Party shall have the right to select its legal counsel at the Indemnifying Party's expense, subject to the Indemnifying Party's approval, which shall not be unreasonably withheld. The indemnity obligation set forth in this Section 5 shall survive termination of this Agreement.

6. **TERM.** Unless earlier terminated pursuant to the terms of Section 7, the term of this Agreement shall be the Effective Period described in the Addendum.

7. **TERMINATION.**

- (a) **Early Termination Due to Cancellation of LCE's Program.** If LCE determines on or before May 1, 2015, in its sole and absolute discretion, not to proceed with the Program, LCE may terminate this Agreement by giving written notice to DM Services Provider as provided in Section 20 of this Agreement. In such event, LCE shall have no further liability or financial obligation to DM Services, except as follows: (i) DM Services Provider shall be entitled to keep any fees already paid; and (ii) LCE shall pay any amounts owed under Section 3 of the Addendum.
- (b) **Early Termination Due to Delay of LCE's Program.** If the Program has not commenced by December 1, 2015, either Party may terminate this Agreement by giving 30 days' written notice to the other Party so long as the Program has not yet begun. In such event neither Party shall have any further obligations under the Agreement.
- (c) **Termination for Cause.** If any one of the following events (each an "Event of Default") occurs with respect to a Party, then the other Party may terminate this Agreement or the applicable Addendum upon written notice to the defaulting Party: (i) with respect to LCE, LCE fails to pay amounts due hereunder and such failure continues for seven (7) business days following written notice from DM Services Provider; (ii) with respect to DM Services Provider, DM Services Provider defaults in the observance or performance of any of its material covenants or agreements in this Agreement and such default continues uncured for twenty (20) business days following written notice to DM Services Provider; (iii) either Party makes an assignment for the benefit of creditors (other than a collateral assignment to an entity providing financing to such Party), files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors or has such a petition filed against it or otherwise becomes bankrupt or insolvent (however evidenced), or is unable to pay its debts as they fall due; or

(iv) LCE fails to satisfy UDC's credit-worthiness requirements set forth in the UDC tariffs and such failure continues uncured for twenty (20) business days following written notice to LCE from UDC.

- (d) **Effect of Termination.** Upon the effective date of expiration or termination of this Agreement: (i) DM Services Provider shall immediately cease providing Services hereunder; and (ii) any and all payment obligations of LCE under this Agreement will become due within thirty (30) days; provided, however, that in the event that DM Services Provider is the defaulting Party, LCE shall have the right to deduct or set off against any part of the balance due DM Services Provider any amount due from DM Services Provider under this Agreement. Upon such expiration or termination, and upon request of LCE, DM Services Provider shall reasonably cooperate with LCE to ensure a prompt and efficient transfer of all data, documents and other materials to a new services provider in a manner such as to minimize the impact of expiration or termination on LCE's customers. If LCE is the defaulting Party, LCE agrees to pay DM Services Provider reasonable compensation for additional services performed in connection with such transfer, to the extent not otherwise provided for or contemplated in the Addendum.

8. LIMITATION ON DAMAGES. FOR ANY BREACH HEREOF, LIABILITY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY, SUCH DIRECT, ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING LOST PROFITS OR BUSINESS INTERRUPTION DAMAGES, WHETHER BASED ON STATUTE, CONTRACT, TORT, UNDER ANY INDEMNITY, INCLUDING ANY CLAIMS FOR MONETARY PENALTIES ASSESSED BY THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR ASSOCIATED WITH THE SETTLEMENT QUALITY METER DATA REPORTING OR OTHERWISE, WITHOUT REGARD TO CAUSE OR THE NEGLIGENCE OF ANY PARTY, WHETHER SOLE, JOINT, ACTIVE OR PASSIVE, AND EACH PARTY HEREBY RELEASES THE OTHER PARTY FROM ANY SUCH LIABILITY, EVEN IF DURING THE TERM HEREOF IT ADVISES THE OTHER OF THE POSSIBILITY OF SUCH DAMAGES. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS. THE FOREGOING LIMITATIONS SHALL NOT APPLY TO ANY CLAIM ARISING FROM A BREACH OF THE CONFIDENTIALITY PROVISIONS OF SECTION 13 OF THIS AGREEMENT. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, WITH THE EXPRESS EXCLUSION OF ANY CLAIM FOR INDEMNITY OR OTHER

RIGHT UNDER SECTION 5, IN NO EVENT SHALL DM SERVICES PROVIDER'S LIABILITY TO LCE HEREUNDER EXCEED THE AMOUNT OF THE FEES PAID TO DM SERVICES PROVIDER BY LCE FOR THE SERVICES PROVIDED HEREUNDER. THE PROVISIONS OF THIS ARTICLE 8 SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW.

9. **FORCE MAJEURE EVENT.** A Party shall be excused from performance under this Agreement and shall not be considered in default with respect to any obligation hereunder (other than obligations to pay money), if, and to the extent, its failure of, or delay in, performance is due to a Force Majeure Event; provided, however, that (a) such claiming Party gives written notice and full particulars of such Force Majeure Event to the other Party promptly after the occurrence of the event relied on, (b) such notice shall estimate the expected duration and probable impact on the performance of such Party's obligations hereunder, (c) such affected Party shall continue to furnish timely regular reports with respect thereto during the continuation of the delay in the affected Party's performance, (d) the suspension of such obligations sought by such Party is of no greater scope and of no longer duration than is required by the Force Majeure Event, (e) no obligation or liability of either Party which became due or arose before the occurrence of the event causing the suspension of performance shall be excused as a result of the occurrence; (f) the affected Party shall exercise all commercially reasonable efforts to mitigate or limit the interference, impairment and losses to the other Party by promptly taking appropriate and sufficient corrective action; (g) when the affected Party is able to resume performance of the affected obligations under this Agreement, the affected Party shall give the other Party written notice to that effect, and (h) the affected Party promptly shall resume performance under this Agreement. The term "Force Majeure Event" means the occurrence of any event beyond the reasonable control of the Party affected that results in the failure or delay by such Party of some performance under this Agreement, in full or part, including but not limited to the following: drought, flood, earthquake, storm, fire, volcanic eruption, lightning, epidemic, war, pests, riot, civil disturbance, sabotage, terrorism or threat of terrorism, strike or labor difficulty, accident or curtailment of supply or equipment, total casualty to equipment, or restraint, order or decree by a governmental authority. Notwithstanding the foregoing, Force Majeure Events shall expressly not include lack of financial resources, material cost increases in commodities or labor, or other economic conditions.

10. **RELATIONSHIP OF PARTIES.** DM Services Provider and LCE are independent contractors and this Agreement will not establish any relationship or partnership, joint venture, employment franchise or agency between DM Services Provider and LCE. Neither DM Services Provider nor LCE will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent, except as otherwise expressly provided for herein.

11. **ASSIGNMENT OF RIGHTS.** Neither Party shall assign any of its rights or delegate any of its responsibilities hereunder without first obtaining the consent of the other Party except it may be assigned or transferred without such consent (i) by either Party to a successor acquiring

all or substantially all of the shares and/or the assets of the transferring Party, whether by merger or acquisition, or (ii) by either Party to any wholly-owned affiliate. Any such request shall be made in writing and the consent, if any, shall be made in writing. Any transfer in violation of this provision shall be void.

12. **FURTHER ACTIONS.** The Parties agree to take all such further actions and to execute such additional documents as may be reasonably necessary to effectuate the purposes of this Agreement.

13. **CONFIDENTIALITY.**

- (a) This Agreement and all information shared between the Parties regarding this Agreement and the Services to be provided hereunder (e.g., reports, etc.) is strictly confidential and shall not be disclosed by a Party (except to such Party's affiliates, employees, lenders, counsel and other advisors, permitted assignees, or prospective purchasers who have a need to know the information and have agreed to treat such information as confidential) without the prior written consent of the other Party, except (i) as required by Law, including but not limited to the California Public Records Act and the Brown Act; and (ii) that LCE may share all such data with its Supplier. In addition, DM Services Provider shall comply with the requirements of the customer information confidentiality policy adopted by LCE, and shall take all reasonable steps necessary to ensure that such data remains confidential.
- (b) DM Service Provider acknowledges that the confidential information about LCE's customers to which it will have access under this Agreement could give it or a third party an unfair competitive advantage in the event that DM Services Provider or any third party were to compete with LCE in the provision of electrical or other services to LCE's customers. DM SERVICES PROVIDER AGREES THAT IT WILL NOT USE ANY INFORMATION IT RECEIVES REGARDING LCE CUSTOMERS FOR ANY PURPOSE OTHER THAN PROVIDING SERVICES UNDER THIS AGREEMENT. DM Services Provider agrees not to use any of the CCA data provided to it by LCE for its own marketing purposes. DM Services Provider shall not use such customer information to compete with LCE in any manner, except as provided herein below. Upon termination of this Agreement, DM Services Provider shall (i) return all documents and other materials received from the LCE and all copies (if any) of such documents and tangible materials, and (ii) destroy all other documents or materials in DM Services Provider's possession that contain LCE customer data, and (iii) deliver to LCE a certificate, signed by an authorized representative of DM Services Provider, stating that DM Services Provider has returned or destroyed all such documents and materials; provided, however, that DM Services Provider may retain copies of information necessary for tax, billing or other financial purposes, to be used solely for such purposes. **Notwithstanding anything in the foregoing to the contrary, however,** that DM

Service Provider is not prohibited from conducting its business with potential customers in LCE's territory, either due to a business opportunity already known to DM Service Provider as of the date of this Agreement, or made known to DM Service Provider, other than LCE, in the ordinary course of DM Service Provider's business. For the avoidance of doubt, any information, including but not limited to customer names, usage, data, etc., that DM Service Provider knows of, learns of or is provided to DM Service Provider by a third party in the ordinary course of DM Service Provider's business other than performance of the Services under this Agreement shall not be deemed to be confidential information for purposes of this Agreement, even if it is the same or similar information such as would be confidential information, if provided to DM Service Provider pursuant to this Agreement.

- (c) The Parties agree that damages would be an inadequate remedy for breach of the provisions in this Section 13 and that either Party shall be entitled to equitable relief in connection therewith, and shall be entitled to recover any damages for such breach as may be provided by law.

14. **COMPLIANCE WITH LAW.** Each party shall be responsible for compliance with all laws or regulations applicable to the Services being provided under this Agreement. If either Party's activities hereunder become subject to law or regulation of any kind, which renders the activity illegal, unenforceable, or which imposes additional costs on such Party for which the Parties cannot mutually agree upon an acceptable price modification, then such Party shall at such time have the right to terminate this Agreement upon written notice to the other Party with respect to the illegal, unenforceable, or uneconomic provisions only; the remaining provisions of this Agreement will remain in full force and effect. Any such termination shall not constitute a basis for termination for cause as defined in Section 7, above.

15. **CHOICE OF LAW.** This Agreement, and the rights and duties of the Parties arising hereunder, shall be governed by and construed in accordance with the laws of the State of California, without giving effect to any choice of law rules that may require the application of the laws of another jurisdiction.

16. **INTEGRATION.** This Agreement contains the complete understanding between the Parties, supersedes all previous discussions, communications, writings and agreements related to the subject matter of this Agreement, and, except to the extent otherwise provided for herein, may not be amended, modified or supplemented except in a writing signed by both Parties.

17. **WAIVER.** No waiver by either Party of any right or obligation hereunder, including in respect to any Default by the other Party, shall be considered a waiver of any future right or obligation, whether of a similar or different character. Any waiver shall be in writing.

18. **GOVERNMENTAL ENTITY.** LCE shall not claim immunity on the grounds of sovereignty or similar grounds from enforcement of this Agreement. Except as provided in Section 7(a) above, LCE's failure to obtain any necessary budgetary approvals, appropriations, or funding for its obligations under this Agreement shall not excuse LCE's performance hereunder.

19. **NOTICES.** All notices and other communications required under this Agreement shall be in writing and may be delivered by hand delivery, United States mail, overnight courier service, facsimile or email and shall be deemed to have been duly given (i) on the date of service, if served personally on the person to whom notice is to be given, (ii) on the date of service if sent by facsimile or email, provided the original is concurrently sent by first class mail, and provided that notices received by facsimile or email after 5:00 p.m. shall be deemed given on the next business day, (iii) on the next business day after deposit with a recognized overnight delivery service, or (iv) on the third (3rd) day after mailing, if mailed to the party to whom notice is to be given by first class mail, registered or certified, postage-prepaid, and properly addressed as follows:

If to DM
Services
Provider:

Noble Americas Energy Solutions LLC
Attn: Legal Dept.
401 West A Street, Suite 500
San Diego, CA 92101
619-684-8251 (Phone)
619-684-8350 (Fax)

If to LCE:

Lancaster Choice Energy
Attn: Mark Bozigian, City Manager
44933 Fern Avenue
Lancaster, CA 93534

With Copies
to:

Barbara Boswell, Director of Finance
mbozigian@cityoflancasterca.org
bboswell@cityoflancasterca.org

20. **TIME.** Time is of the essence of this Agreement and each and all of its provisions. The parties agree that the time for performance of any action permitted or required under this Agreement shall be computed as if such action were "an act provided by law" within the meaning of California Civil Code §10, which provides: "The time in which any act provided by law to be done is computed by excluding the first day and including the last unless the last day is a holiday, and then it is also excluded."

21. **LIMITATIONS.** Nothing contained in this Agreement shall in any way limit DM Services Provider from marketing any of its products and services outside of LCE's service territory.

22. **THIRD PARTY BENEFICIARIES.** The Parties agree that there are no third-party beneficiaries to this Agreement either expressed or implied.

23. **INSURANCE.** With respect to performance of services under this Agreement, DM Services Provider shall maintain and shall require any subcontractor performing Call Center or other functions as described in the Addendum, to maintain, insurance as described in Exhibit A, which is attached hereto and incorporated herein by this reference.

24. **ATTORNEYS' FEES.** In the event that an action, suit or other proceeding is brought to enforce or interpret this Agreement or any part hereof or the rights or obligations of any Party to this Agreement, the prevailing Party will be entitled to recover from the other Party reasonable attorneys' fees and direct out-of-pocket costs and disbursements associated with the dispute that are incurred by the prevailing party.

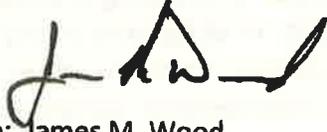
[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties hereto have executed the Agreement as of the Effective Date provided herein.

Noble Americas Energy Solutions LLC

Lancaster Choice Energy

By:



Name: James M. Wood

Title: President

Date: 10/28/2014

By:



Name: Mark V. Bozigan

Title: City Manager

Date: 10/28/2014

14

ATTEST:



Britt Avrit, CMC
City Clerk

APPROVED AS TO FORM:



Allison E. Burns, Esq.
City Attorney

Exhibit A - Insurance.

A. (1) The DM Services Provider, 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	\$5,000,000
Per Project General Aggregate Including Products/Completed Operations Including Contractual Liability/Independent Contractors Including Broad Form Property Damage	\$10,000,000

Commercial Automobile Liability

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

As Required by the State of California	Statutory Limits
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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 DM Services Provider'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 LCE. At the option of the LCE, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the LCE 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 LCE insured entities. Any insurance or self-insurance maintained by the LCE insured entities shall be in excess of the DM Services Provider'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 LCE insured entities.

H. Insurance provided and maintained by DM Service Provider 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 DM Service Provider for all claims made by the LCE insured entities arising out of any acts or omissions of DM Service Provider or its officers, employees, or agents during the time this Agreement was in effect.

J. DM Service Provider shall furnish the LCE 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 LCE before work commences. The LCE 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 LCE insured entities.

L. Certificates of Insurance must be deposited with the LCE of Lancaster 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 LCE of Lancaster.

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

Lancaster Choice Energy - Data Management Services

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 DM Services Provider;

products and completed operations of the DM Services Provider; premises owned, occupied, or used by DM Services Provider; or automobiles owned, leased, hired, or borrowed by the DM Services Provider. (This does not apply to Professional Liability policies.)

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

The City of Lancaster, Lancaster Choice Energy, 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. DM Services Provider 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 DM Services Provider.

N. The coverage shall contain no special limitations on the scope of protection afforded to the insured entities. The DM Services Provider's insurance coverage shall be primary insurance as respects the LCE's insured entities.

Addendum for Data Manager Services
Reference: MASTER PROFESSIONAL SERVICES AGREEMENT
Between Noble Americas Energy Solutions LLC ("DM Services Provider")
And City of Lancaster, d/b/a Lancaster Choice Energy ("LCE")
As of November 1st, 2014
Addendum Date: November 1st, 2014

This Addendum (the "Addendum") supplements the Lancaster Choice Energy Master Professional Services Agreement referred to above (the "Agreement").

1. **EFFECTIVE PERIOD.** The Effective Period for the Addendum shall be from November 1, 2014 through December 31, 2019.
2. **DESCRIPTION OF DATA MANAGER SERVICES.** During the Effective Period, DM Services Provider shall provide the Data Manager Services listed below.
 - a. Start-Up Support Services:
 - i. Participate in coordinative meetings, at LCE's reasonable request, to initiate Community Choice Aggregation ("CCA") service in Utility Distribution Company ("UDC") territory. Such meetings may include LCE's management/staff, DM Services Provider's management/staff and/or UDC's management/staff, as necessary, and may require on-site participation by DM Services Provider's management/staff.
 - ii. DM Services Provider shall complete the technical testing of all necessary electronic interfaces with the UDC, which provide for the communication by Internet and Electronic Data Interchange ("EDI") between DM Services Provider and UDC to confirm system compatibility related to CCA Service Requests ("CCASR's"), billing collections, meter reading, and electricity usage data.
 - iii. DM Services Provider shall demonstrate successful completion of all standard UDC technical testing and shall have the capability and signed agreements necessary to communicate or exchange the information using EDI, Internet, or an electronic format acceptable to the UDC.
 - iv. Obtain all customer information data, including historical usage for enrolled customers, from LCE or UDC.
 - v. Provide customer mailing list to LCE designated printer for customer notices during each Enrollment Phase using methodology agreed upon by LCE/DM Services Provider/LCE designated printer.
 - b. Electronic Data Interchange Services:
 - i. Process CCASRs from/to the UDC, which specify requested changes to a customer's choice of services such as enrollment in LCE's Standard and Voluntary Tariff options, customer initiated returns to bundled utility

service, or customer initiated returns to direct access service (814 EDI Files).

- ii. Obtain all customer usage data from the UDC's Meter Data Management Agent ("MDMA") server to allow for timely billing (according to UDC's requirements) of each customer (867 EDI Files).
- iii. Maintain and timely communicate the amount to be billed by the UDC for services provided by LCE (810 EDI Files) according to UDC's applicable billing window.
- iv. Receive and maintain all data related to payment transactions toward LCE charges from the UDC after payment is received by the UDC from customers (820 EDI Files), to include UDC confirmations of payment transactions.
- v. Process CCASRs with UDC when customer status changes.

c. Customer Information System Development & Maintenance:

- i. Maintain an accurate customer database of all customers who are offered LCE's CCA service and identify each customer's enrollment status, tariff election(s), payment history, collection status, on-site generating capacity, if applicable, and any correspondence with customer as well as other information that may become necessary to effectively administer LCE's CCA program. Information in this database will be based on the information provided by the UDC and/or the CCA customer
- ii. Allow LCE to have functional access to the online database to add customer interactions and other account notes.
- iii. Allow LCE to view customer email or written letter correspondence within online database.
- iv. Maintain and provide as-needed historical usage data (as provided by the UDC) on all customers going back from the start of CCA Service.
- v. Maintain viewing access, available to appropriate LCE staff, to billing records/details of LCE customers. DM Services Provider shall use commercially reasonable efforts to include functionality that supports the intuitive parsing and labeling of files provided by the UDC. Maintain accessible archive of billing records for all CCA customers from the start of CCA Service or a period of no less than five years.
- vi. Process CCASRs with the UDC when customer status changes.
- vii. Maintain and communicate as needed record of customers who have been offered service with LCE but have elected to opt out, either before or after starting service with LCE.
- viii. Maintain and communicate as-needed records of Net-Energy Metering

credits and production statistics for participating LCE customers to support on-bill data posting and periodic account settlement/true-up consistent with applicable provisions of LCE's Net-Energy Metering program.

- ix. Maintain all customer data according to LCE's customer privacy policy and the requirements of relevant California Public Utilities Commission Decisions including D.12-08-045, including a daily backup process.
- x. Maintain an agreed upon security breach policy.
- xi. LCE reserves the right to include the management of Level Pay Plan and On-Bill Financing, in the initial per account fee.

d. Customer Call Center Management & Staffing:

- i. Staff a call center during any Statutory Enrollment Period 24 hours a day, 7 days a week. As a minimum requirement, the DM Services Provider shall staff this call center with personnel located within the continental United States between the hours of 7 AM and 9 PM PPT during any Statutory Enrollment Period.
- ii. Staff a call center during non-enrollment period between the hours of 7 AM and 7 PM PPT Monday through Friday, excluding UDC/LCE holidays. During such non-enrollment periods, the DM Services Provider shall staff this call center with personnel located within the continental United States.
- iii. Ensure that a sufficient number of data manager experts are available to seamlessly manage escalated calls between the hours of 8 AM and 5 PM PPT Monday through Friday, excluding UDC/LCE/DM Services Provider holidays.
- iv. Receive calls from LCE customers referred to DM Services Provider by the UDC and receive calls from LCE customers choosing to contact DM Services Provider directly without referral from the UDC.
- v. Ensure that a minimum of 80% of all calls will be answered within 60 seconds during non-enrollment periods. Ensure a no greater than 10% abandon rate for all non-enrollment period calls.
- vi. Record all inbound calls and make available to LCE staff upon request. Maintain an archive of such recorded calls for a minimum period of 24 months.
- vii. During inbound calls, attempt to collect and/or confirm current email, mailing address and phone number of LCE customers (and add to or update database accordingly).
- viii. Respond to telephone inquiries from LCE's customers using a script developed and updated quarterly by LCE in cooperation with DM Services

Provider. For questions not addressed within the script, DM Services Provider shall refer inquiries either back to the UDC or to LCE, as appropriate.

- ix. Respond to customer inquiries within one business day, including inquiries received through telephone calls, email, fax, or web-portal.
- x. DM Services Providers shall provide the Customer Call Center's telephone number on the UDC invoice to allow LCE customers to call a Customer Service Representative directly.
- xi. Offer bi-annual cross training to UDC call center management/supervisory staff. It is anticipated that the location for such training will be within California, generally located at the offices of LCE or the UDC.
- xii. Participate in coordinative meetings, at LCE's request, to promote the resolution of any customer service issues. Such meetings may include LCE's management/staff, DM Services Provider's management/staff and/or UDC's management/staff, as necessary, and may require on-site participation by DM Services Provider's management/staff.
- xiii. Provide translation services for messaging and inbound calls for the Spanish language.
- xiv. Provide TTY services for inbound calls for the hearing impaired.

e. Billing Administration:

- i. Maintain a table of rate schedules provided by LCE, including voluntary renewable energy tariff.
- ii. Apply UDC account usage for all LCE customers against applicable rate to allow for customer billing.
- iii. Review application of LCE rates to UDC accounts to ensure that the proper rates are applied to the accounts.
- iv. Timely submit billing information for each customer to the UDC to meet the UDC billing window.
- v. Use commercially reasonable efforts to remedy billing errors for any customer in a timely manner, no more than two billing cycles.
- vi. Assist with annual settlement process for Net-Energy Metering customers by identifying eligible customers, providing accrued charges and credits, and providing mailing list to LCE's designated printer.
- vii. Provide customer mailing list to LCE designated printer for new move-in customer notices and opt out confirmation letters routinely within 7 days of enrollment or opt out.
- viii. Participate in coordinative discussions with LCE and UDC, as necessary, to

ensure the effective administration of LCE's Net-Energy Metering program with regard to bill presentment, credit tracking and account settlement. Assist in troubleshooting and resolving, through process and/or system modifications, any issues that may result in CCA customer confusion and/or misinformation related to LCE's Net-Energy Metering program.

f. Settlement Quality Meter Data Services:

- i. DM Services Provider shall provide LCE or LCE's designated Scheduling Coordinator ("SC") with Settlement Quality Meter Data ("SQMD") as required from SC's by the California Independent System Operator ("CAISO").
- ii. Obtain historical usage data for enrolled customers, from UDC, and utilize for estimation in SQMD process. In the absence of current historical usage, LCE to provide DM Services Provider with usage received from Schedule CCA-INFO in order to calculate Default Usage. LCE will approve Default Usage.
- iii. Upon LCE's request, DM Services Provider shall submit the SQMD directly to the CAISO on behalf of LCE or LCE's designated SC
- iv. LCE agrees that DM Services Provider shall have no responsibility for any charges or penalties assessed by the CAISO associated with the SQMD under an indemnity or otherwise.
- v. DM Services Provider shall prepare the SQMD in accordance with Prudent Utility Practice, however, DM Services Provider hereby disclaims in advance that any representation is made or intended that the SQMD is necessarily complete, or free from error.

g. Qualified Reporting Entity ("QRE") Services:

- i. DM Services Provider may serve as a QRE for: 1) certain locally situated, small-scale renewable generators supplying electric energy to LCE through its feed-in tariff; and/or 2) certain locally situated, small-scale renewable generators that may be owned and/or controlled by LCE, supplying electric energy to LCE through such arrangements under terms and conditions set forth in a Qualified Reporting Entity Services Agreement mutually agreed to by the Parties.
- ii. Submit a monthly generation extract file to the Western Renewable Energy Generation Information System ("WREGIS") on LCE's behalf, which will conform to the characteristics and data requirements set forth in the WREGIS Interface Control Document for Qualified Reporting Entities.
- iii. For the purpose of collecting applicable generation and usage data for LCE's renewable energy projects and consistent with the UDC's applicable

meter servicing agreement, serve as designated "subcontractor" for certain renewable energy projects: DM Services Provider shall receive applicable electric meter data from the UDC and shall provide such data to LCE for purposes of performance tracking and invoice creation.

iv. Assist LCE in completing requisite generator registration materials, as such materials may be required by WREGIS, the California Energy Commission, the California Public Utilities Commission and/or other entities to effect the successful crediting of renewable energy certificates, as appropriate, to LCE's WREGIS account. These services shall be limited to assistance with the process and shall not involve providing regulatory or legal advice.

h. Reporting – DM Services Provider Shall include the following reports, frequency and delivery methods:

Report	Frequency	Delivery Method
Aging	Weekly, Monthly	SFTP
Call Center Statistics	Weekly, Monthly	Email
Cash Receipts	Weekly, Monthly	SFTP
Days to Invoice	Weekly, Monthly	SFTP
Voluntary RE tariff Enrollment	Weekly, Monthly	SFTP
Invoice Summary Report	Weekly, Monthly	SFTP
Monthly Transaction Summary	Monthly	Email
Opt Out with Rate Class	Weekly, Monthly	SFTP
Retroactive Returns	Monthly	Email
Sent to Collections	Monthly	Email
Snapshot	Weekly	SFTP
Snapshot with Addresses	Weekly	SFTP
Unbilled Usage	Monthly	SFTP
Full Volume Usage by Rate Class	Monthly	SFTP

- i. Ensure monthly status reports are provided during the first week of each month.
- ii. Ensure weekly status reports are provided during all enrollment periods.

3. FEES.

Meter Fee: Each month during the Effective Period, LCE shall pay DM Services Provider for each LCE customer meter enrolled in CCA service as follows:

Up to 20,000 meters, the fee will be \$1.75 per meter.

From 20,001 to 80,000 meters, the fee will be \$1.50 per meter.

In excess of 80,000, the fee will be \$1.25 per meter.

4. PRICING ASSUMPTIONS.

The Fees defined in Section 3 include only the services and items expressly set forth in this Addendum. Unless otherwise agreed to by the Parties in an Addendum, the cost of any additional deliverables provided by DM Services Provider to LCE shall be passed through directly to LCE without mark-up. A labor rate of \$150.00 per hour will be utilized for labor costs unless otherwise agreed upon in writing by both parties prior to the commencement of additional work

5. DEFINITIONS.

"CCA Service" means LCE's Community Choice Aggregation Service which permits cities, counties or a joint powers agency whose governing boards have elected to acquire their electric power needs, hereinafter referred to as Community Choice Aggregators (CCA), to provide electric services to utility end-use customers located within their service area(s) as set forth in California Public Utilities Code Section 366.2 and other Commission directives.

"CCA Service Request ("CCASR")" means requests in a form approved by LCE's UDC to change a CCA customer's, utility customer's or direct access customer's choice of services which could include returning a CCA customer to bundled utility service or direct access service.

"UDC" means Utility Distribution Company.

"Mass Enrollment" means the automatic enrollment of customers into a CCA program where new service is being offered for the first time to a group of eligible customers.

"Meter Data Management Agent (MDMA) Services" means reading the UDC's customers' meters, validating the meter reads, editing the meter reads if necessary and transferring the meter reading data to a server pursuant to LCE's UDC standards.

"Prudent Utility Practice" means any of the practices, methods, techniques and standards (including those that would be implemented and followed by a prudent operator of similar generating facilities in the United States during the relevant time period) that, in the exercise of reasonable judgment in the light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result, giving due regard to manufacturers' warranties and recommendations, contractual obligations, any governmental requirements or guidance, including CAISO, applicable laws, the

requirements of insurers, good business practices, economy, efficiency, reliability, and safety. Prudent Utility Practice shall not be limited to the optimum practice, method, technique or standard to the exclusion of all others, but rather shall be a range of possible practices, methods, techniques or standards.

"Statutory Enrollment Period" means three months prior to a Mass Enrollment, the month in which the Mass Enrollment occurs, and two billing cycles following Mass Enrollment. The Statutory Enrollment Period takes place over a six month period.

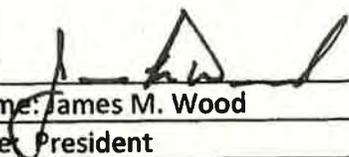
"Default Usage" means the average monthly usage value, by rate schedule, used for estimation in the absence of actual historical usage data.

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IN WITNESS WHEREOF, the Parties hereto have executed the Addendum as of the Addendum Date provided herein.

Noble Americas Energy Solutions LLC

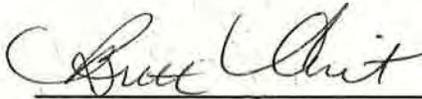
Lancaster Choice Energy

By: 
Name: James M. Wood
Title: President
Date: 10/28/2014

By: 
Name: Mark V. Bozigian
Title: City Manager
Date: 10/28/2014

pg

ATTEST:


Britt Avrit, CMC
City Clerk

APPROVED AS TO FORM:


Allison E. Burns, Esq.
City Attorney

AGREEMENT #2 FOR PROFESSIONAL CONSULTANT SERVICES

THIS AGREEMENT FOR CONSULTING SERVICES (this "AGREEMENT") is made and entered into this 8th day of July, 2016, 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:

COMMUNITY CHOICE AGGREGATION IMPLEMENTATION 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 one or more Work Orders related hereto. An example Work Order is attached hereto as Exhibit "A". Prior to the completion of any work under this AGREEMENT, OWNER and CONSULTANT shall execute one or more Work Orders, which shall describe the applicable scope of work, not to exceed budget and expected timing of work completion amongst other details. Following execution of any Work Order related to this AGREEMENT, such Work Order will become part of this AGREEMENT. CONSULTANT shall perform and complete, in a manner satisfactory to OWNER, all work and services set forth in the Work Orders. 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 Work Orders shall not exceed an aggregate amount \$125,000. 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 Work Orders 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	\$2,000,000
Including Products/Completed Operations	
Including Contractual Liability/Independent Contractors	
Including Broad Form Property Damage	

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.

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 Work Orders.

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.**

The following exhibits to which reference is made in this AGREEMENT are deemed incorporated herein in their entirety:

Exhibit "A" Work Order (example)

Exhibit "B" Payment Clause

22. **Governing Law.**

This AGREEMENT shall be governed by the laws of the State of California.

23. **Effective Date.**

This AGREEMENT shall become effective as of the date set forth below on which the last of the parties, whether OWNER or CONSULTANT, executes this AGREEMENT.

(SIGNATURES ON NEXT PAGE)

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed and attested by their respective officers thereunto duly authorized.

“OWNER”
CITY OF LANCASTER
LANCASTER, CALIFORNIA

Approved By Department Head:

By: Barbara Boswell
Barbara Boswell, Director of Finance

Dated: 7/2/16

By: Mark V. Bozigian
Mark V. Bozigian, City Manager

Dated: 7-8-16

"CONSULTANT"
(COMPANY NAME)

By: Christina Kirby Duce
(Name, Title)

Christina Kirby Duce, Vice President

Dated: June 23, 2016

ATTEST:

Britt Avrit
Britt Avrit, CMC
City Clerk

APPROVED AS TO FORM:

Allison E. Burns
Allison E. Burns, Esq.
City Attorney

EXHIBIT "A"

**WORK ORDER 1
TO BE COMPLETED BY
PACIFIC ENERGY ADVISORS, INC.
AT THE REQUEST OF
OWNER**

DATED: JUNE 17, 2016

This Work Order includes the Scope of Services, Schedule and Fees for Services for work to be completed by CONSULTANT at the request of OWNER under the AGREEMENT, dated June 17, 2016, between OWNER and CONSULTANT.

SCOPE OF SERVICES

CONSULTANT will provide support to OWNER in evaluating a prospective community choice aggregation program to be offered within the City of San Jacinto ("City"). Tasks to be completed by CONSULTANT will include the following items, subject to cost limitations reflected under Fees for Services (below):

1. Electric load evaluation, based on data procured by the City (from Southern California Edison in the typical Item #16 data form/format) and provided to CONSULTANT;
2. Community Choice Aggregation operational analysis;
3. Projected customer rate analysis and comparison (for typical customer rate designations, such as "residential", "small commercial", "medium commercial", etc.);
4. PowerPoint Presentation summarizing analytical results and key findings to be delivered to the City at a mutually agreeable meeting date/time; and
5. Compilation of data tables and pro forma operating projections to be included in the City's draft Community Choice Aggregation Implementation Plan.

ESTIMATED TIME FOR COMPLETION

Approximately eight (12) weeks, beginning on or around July 1, 2016. The Estimated Time for Completion may be delayed to the extent that requisite data is not timely provided by the City.

FEES FOR SERVICES

CONSULTANT will bill for time at a not-to-exceed cost of \$30,000 based on the above referenced Scope of Services. Any expenses that are reasonably incurred by CONSULTANT during completion of the Scope of Services discussed herein shall be passed through by CONSULTANT to OWNER with no markup.

All professional services required to complete the scope of services shall be billed at the following rates:

CONSULTANT Rates	
Consultant	Rate (\$/Hour)
John Dalessi, President	\$295
Kirby Dusel, Vice President	\$250
Brian Goldstein, Principal	\$205

*The hourly rates set forth above shall increase by 3% on January 1st of each year throughout the term of agreement.

CONSULTANT will submit monthly invoices reflecting actual work performed and expenses incurred by CONSULTANT during completion of the specified Scope of Services. Billing and payment schedules for all work completed under this Work Order will be in accordance with the terms of the AGREEMENT.

OWNER

City of Lancaster

AUTHORIZATION

This Work Order is authorized and made an attachment to the above-identified AGREEMENT through the signatures below.

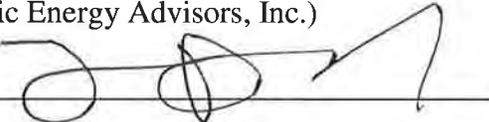
AUTHORIZED BY:

CONSULTANT

(Pacific Energy Advisors, Inc.)

ACCEPTED BY:

OWNER

By: 

By: 

Printed: Christian Kirby Dusel

Printed: MARK V. BOZIGIAN

Dated: June 23, 2016

Dated: 7-8-16

EXHIBIT "A"

**WORK ORDER 2
TO BE COMPLETED BY
PACIFIC ENERGY ADVISORS, INC.
AT THE REQUEST OF
OWNER**

DATED: JUNE 17, 2016

This Work Order includes the Scope of Services, Schedule and Fees for Services for work to be completed by CONSULTANT at the request of OWNER under the AGREEMENT, dated June 17, 2016, between OWNER and CONSULTANT.

SCOPE OF SERVICES

CONSULTANT will provide support to OWNER in evaluating a prospective community choice aggregation program to be offered within the City of Pico Rivera ("City"). Tasks to be completed by CONSULTANT will include the following items, subject to cost limitations reflected under Fees for Services (below):

1. Electric load evaluation, based on data procured by the City (from Southern California Edison in the typical Item #16 data form/format) and provided to CONSULTANT;
2. Community Choice Aggregation operational analysis;
3. Projected customer rate analysis and comparison (for typical customer rate designations, such as "residential", "small commercial", "medium commercial", etc.);
4. PowerPoint Presentation summarizing analytical results and key findings to be delivered to the City at a mutually agreeable meeting date/time; and
5. Compilation of data tables and pro forma operating projections to be included in the City's draft Community Choice Aggregation Implementation Plan.

ESTIMATED TIME FOR COMPLETION

Approximately eight (12) weeks, beginning on or around July 1, 2016. The Estimated Time for Completion may be delayed to the extent that requisite data is not timely provided by the City.

FEES FOR SERVICES

CONSULTANT will bill for time at a not-to-exceed cost of \$30,000 based on the above referenced Scope of Services. Any expenses that are reasonably incurred by CONSULTANT during completion of the Scope of Services discussed herein shall be passed through by CONSULTANT to OWNER with no markup.

All professional services required to complete the scope of services shall be billed at the following rates:

CONSULTANT Rates	
Consultant	Rate (\$/Hour)
John Dalessi, President	\$295
Kirby Dusel, Vice President	\$250
Brian Goldstein, Principal	\$205

*The hourly rates set forth above shall increase by 3% on January 1st of each year throughout the term of agreement.

CONSULTANT will submit monthly invoices reflecting actual work performed and expenses incurred by CONSULTANT during completion of the specified Scope of Services. Billing and payment schedules for all work completed under this Work Order will be in accordance with the terms of the AGREEMENT.

OWNER

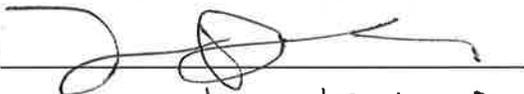
City of Lancaster

AUTHORIZATION

This Work Order is authorized and made an attachment to the above-identified AGREEMENT through the signatures below.

AUTHORIZED BY:
CONSULTANT
(Pacific Energy Advisors, Inc.)

ACCEPTED BY:
OWNER

By: 

By: 

Printed: Christian Kirby Dusel

Printed: MARK V. BOZIGIAN

Dated: June 23, 2016

Dated: 7-8-16

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 each Work Order in consideration of the specifications reflected in such Work Order.

All time shall be billed to OWNER by CONSULTANT in one-quarter hour increments. 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 in each Work Order. Any additional work will require a separate Work Order signed by both parties.

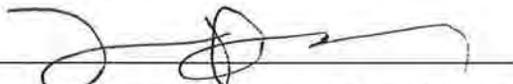
CONSULTANT shall be reimbursed for actual travel expenses incurred in the performance of the work for all travel explicitly requested by OWNER.

Time for Commencement and Completion

CONSULTANT shall commence performance of the work following the receipt of a fully executed Work Order 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, OWNER may avail itself of any and all remedies provided for in this Agreement.

CONSULTANT
(Pacific Energy Advisors, Inc.)

OWNER

By: 

By: 

Printed: Christian Kirby Duse

Printed: MARK V. BOZIGIAN

Dated: June 23, 2016

Dated: 7-8-16

STAFF REPORT
City of Lancaster
California Choice Energy Authority

JNB 1
05/09/17
MVB

Date: May 9, 2017

To: Mayor/Chairman Parris and City Council Members/Agency Directors

From: Jason Caudle, Deputy City Manager
Cathy DeFalco, Lancaster Choice Energy Manager

Subject: Approve Professional Services Agreement between City of Lancaster and California Choice Energy Authority

City Council Recommendation:

Approve a professional services agreement with California Choice Energy Authority (“CCEA”) for support provided by city staff and regulatory services for all CCEA administrative service agreements.

California Choice Energy Authority Recommendation:

Approve a professional services agreement with the City of Lancaster (“the City”) for support provided by city staff and regulatory services for all CCEA administrative support agreements.

Fiscal Impact:

The appropriate expenses and revenues associated with the performance of this Agreement for FY17/18 will be included in the FY17/18 budget. Sufficient funds will be available through revenues collected from Administrative Services Agreements with CCEA member cities. On an annual basis, with current CCEA membership, this Agreement represents approximately \$500,000 in additional revenue to the City.

Background:

On March 28, 2017, the Lancaster City Council adopted Resolution No. 02-17, adopting the first amendment to the California Clean Energy Authority Joint Exercise of Powers Agreement (JPA). The amendment changed the name of the JPA to California Choice Energy Authority to better reflect the authority’s administrative support provided to member cities for their CCA operational services.

CCEA will execute Professional Services Agreements for Implementation Support Services and Administrative Service Agreements for member cities as they join CCEA. Through these agreements, CCEA will facilitate the purchase and sale of electricity and other related services on behalf of member cities. The Professional Services Agreement between the City and CCEA will provide a means of utilizing City staff and regulatory services in support of the agreements.

By entering into these Agreements, the City of Lancaster will recognize approximately \$500,000 in additional revenue with its current membership. With additional member cities, the City will experience additional cost benefits through increased economies of scale, such as discounts for power and power related products, and reduced operational costs as fixed costs are spread across CCEA's membership.

JC:cd

Attachment:

Professional Services Agreement

AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

THIS AGREEMENT FOR CONSULTING SERVICES (this "AGREEMENT") is made and entered into this 10 day of May, 2017, by and between the CALIFORNIA CHOICE ENERGY AUTHORITY, a joint powers authority (the "OWNER"), and the CITY OF LANCASTER, a municipal corporation and charter city (the "CONSULTANT").

RECITALS

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

STAFF AND REGULATORY SUPPORT SERVICES

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: California Choice Energy Authority.
- B. CONSULTANT: City of Lancaster

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 Executive Director
California Choice Energy Authority
44933 North Fern Avenue
Lancaster, California 93534
- CONSULTANT Jason Caudle, Deputy City Manager
City of Lancaster
44933 North Fern Avenue
Lancaster, California 93534

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. **Incorporation by Reference.** The CONSULTANT'S Proposal is hereby incorporated in and made a part of this AGREEMENT. CONSULTANT agrees to comply with all of the requirements set forth therein.

5. **Precedence of AGREEMENT Documents.** If there is a conflict between AGREEMENT documents, the document highest in precedence shall control. The precedence shall be:

First: This AGREEMENT
Second: The CONSULTANT'S Proposal

6. **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 Executive Director 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 Executive Director, or his or her designee.

7. **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 \$ 752,870 annually. 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.

8. **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.

9. **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.

10. **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. 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.

11. **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 Executive Director and CONSULTANT.

12. **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.

13. **Termination for Convenience.** The governing board of the OWNER may terminate this AGREEMENT at any time without cause by giving fifteen (15) 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 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.

14. **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 the contract amount, less the cost of hiring another CONSULTANT to complete CONSULTANT's services. In the event no new CONSULTANT is employed, CONSULTANT shall be paid an amount equal to the value of the work performed. In ascertaining the value of the work performed up to the date of termination, consideration shall be given to completed work and work in progress, complete and incomplete drawings, and other documents whether delivered to OWNER or in possession of CONSULTANT, and authorized reimbursement expenses.

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 14.

15. **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.

16. **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:

Commercial General Liability	
Each Occurrence	\$1,000,000
Per Project General Aggregate	\$2,000,000
Including Products/Completed Operations	
Including Contractual Liability/Independent Contractors	
Including Broad Form Property Damage	
 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. For General Liability insurance shall be at least as broad as ISO form CG2010 11/85 or CG2010 07/04 and CG2037 07/04 combined, or an equivalent providing ongoing and completed operations. Commercial Auto coverage shall be at least as broad as ISO form CA00 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 AGREEMENT 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.

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 AGREEMENT. The certificates 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 AGREEMENT. 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:

STAFF AND REGULATORY SUPPORT SERVICES

City of Lancaster, its elected officials, officers, employees and volunteers are included as additional covered parties, but only insofar as the operations under this contract are concerned.

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

The City of Lancaster, 44933 Fern Avenue, Lancaster, California 93534.

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.

17. **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 Executive Director 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.

18. **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 14.

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.

19. **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.

20. **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.

21. **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.

22. **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.

23. **Exhibits.**

The following exhibits to which reference is made in this AGREEMENT are deemed incorporated herein in their entirety:

Exhibit "A" Scope of Services

Exhibit "B" Payment Clause

24. **Governing Law.**

This AGREEMENT shall be governed by the laws of the State of California.

25. **Effective Date.**

This AGREEMENT shall become effective as of the date set forth below on which the last of the parties, whether OWNER or CONSULTANT, executes this AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed and attested by their respective officers thereunto duly authorized.

(Signatures begin on next page.)

“OWNER”
CALIFORNIA CHOICE ENERGY AUTHORITY
LANCASTER, CALIFORNIA

Approved By Department Head:

By: _____
Department Director

Dated: _____

By: _____
Mark V. Bozigian, Executive Director

Dated: _____

"CONSULTANT"
CITY OF LANCASTER
LANCASTER, CALIFORNIA

By: _____
Mark V. Bozigian, City Manager

Dated: _____

ATTEST:

Britt Avrit, CMC
City Clerk

APPROVED AS TO FORM:

Allison E. Burns, Esq.
City Attorney

EXHIBIT "A"
SCOPE OF SERVICES

The work to be managed or performed under this contract shall include:

A. **Fixed Fee Services**

1. **Portfolio Operations**

(a) Energy Procurement

- (i) Consultant to consider load patterns of the CCA and advise Customer on assembling a supply portfolio that will match resources to the aggregate load shape of the CCA's customer base;
- (ii) Consultant to negotiate contracts for the sale of electricity to fill the load requirements of the CCA.

(b) Risk and Credit Management

- (i) Consultant to monitor the credit rating and financial condition of Customer's energy suppliers;
- (ii) Consultant to periodically calculate the financial exposure to a specific supplier.

(c) Load Forecasting and Data Collection

- (i) Consultant to collect, process, and forecast load information.

(d) Scheduling Coordination

- (i) Consultant to coordinate scheduling with the grid operator's schedule coordinator; exchange customer usage and billing formation with the Utility.

2. **Account Services**

- (a) If necessary, Consultant to calculate individual end-user customer bills;
- (b) Consultant to confirm receipt of funds in lockbox account;
- (c) Consultant to review and validate invoices from Schedule Coordinator;
- (d) Consultant to direct distribution of funds from lockbox account.

3. **Administrative and Management of CCA Program**

4. **Regulatory Representation and Compliance Filings**

B. Reimbursable Services

(a) Data Management Services (e.g., electronic data interchange (EDI) services; customer information system development and maintenance; customer call center management and staffing; billing administration; settlement quality meter data services; customer care, billing and related reports; and qualified reporting entity (QRE) services)

(b) Professional Services (e.g., legal services for negotiation of Energy Contracts and Security Documents on behalf member cities; electric load evaluation; community choice aggregation operational analysis; projected customer rate analysis and comparison; and support and maintenance of financial model)

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 3 **years** and 3 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 City and the CONSULTANT may mutually agree in writing to extend the Term of this Agreement.

Payment. The OWNER shall reimburse the CONSULTANT a total cost of \$752,870.00 annually. CONSULTANT shall reimburse OWNER in monthly installments of \$62,739.16.

STAFF REPORT
City of Lancaster
California Choice Energy Authority

JNB 2
05/09/17
MVB

Date: May 9, 2017

To: Mayor/Chairman Parris and City Council Members/Agency Directors

From: Jason Caudle, Deputy City Manager
Cathy DeFalco, Lancaster Choice Energy Manager

Subject: Approve Administrative Services Agreement between City of Lancaster and California Choice Energy Authority

City Council Recommendation:

Approve Administrative Services Agreement with California Choice Energy Authority (“CCEA”); and authorize the City Manager, or his designee, to sign all documents.

California Choice Energy Authority Recommendation:

Approve Administrative Services Agreement with the City of Lancaster (“Lancaster”) and authorize the Executive Director, or his designee, to sign all documents.

Fiscal Impact:

The appropriate expenses and revenues associated with the performance of this Agreement for FY17/18 will be included in the FY17/18 budget. Sufficient funds are available in the Lancaster Choice Energy (“LCE”) budget.

Background:

In 2012, Lancaster City Council adopted Resolution 12-59 forming the California Clean Energy Authority a joint powers agreement with the City of San Jacinto with the purpose of expanding solar partnerships.

In October 2014, the City of Lancaster launched LCE, the first community choice aggregator (“CCA”) in Southern California Edison territory and the first CCA operated by a city in the State of California. Since operations began, LCE has saved Lancaster residents over a million dollars in energy costs, while providing a higher renewable energy product, helping the City reach its Net Zero goal.

On March 28, 2017, Lancaster City Council adopted Resolution No. 02-17, adopting the first amendment to the California Clean Energy Authority Joint Exercise of Powers Agreement (JPA). The amendment changed the name of the JPA to California Choice Energy Authority to better reflect the authority's purpose and administrative support to be provided to member cities for their CCA operational services.

Under the terms of this Agreement, the CCEA will provide operational support and work with various consultants in support of Lancaster's CCA operations.

JC:cd

Attachment:
Administrative Services Agreement

**ADMINISTRATIVE SERVICES AGREEMENT
(CITY OF LANCASTER),**

dated as of May 10, 2017,

between

**CALIFORNIA CHOICE ENERGY AUTHORITY,
as Provider,**

and

**CITY OF LANCASTER,
as Customer**

**ADMINISTRATIVE SERVICES AGREEMENT
(CITY OF LANCASTER)**

This ADMINISTRATIVE SERVICES AGREEMENT (CITY OF LANCASTER) (this “**Agreement**”), dated as of May 10, 2017 (the “**Effective Date**”), is between California Choice Energy Authority, a California joint powers authority (“**Provider**”), and City of LANCASTER, a municipal corporation organized and charter city (“**Customer**”). Provider and Customer are sometimes referred to in this Agreement individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

WHEREAS, pursuant to California Public Utilities Code (the “**Code**”) Sections 366.1, *et. seq.*, Customer has been registered as a “community choice aggregator” (as defined in the Code), which has been established for the purpose of delivering community choice aggregation services to certain customers located within its boundaries;

WHEREAS, pursuant to Code Section 366.2, Customer submitted its implementation plan detailing the process and consequences of community choice aggregation, and its statement of intent to establish electrical load aggregation, to the California Public Utilities Commission (the “**CPUC**”);

WHEREAS, pursuant to Code Section 366.2, a community choice aggregator may enter into agreements for services to facilitate the sale and purchase of electricity and other related services;

WHEREAS, Provider has also been registered as a CCA and has expertise and knowledge in the management and administration of community choice aggregation programs and maintains business relationships with multiple energy suppliers;

WHEREAS, due to Provider’s expertise and knowledge, Customer wishes to engage Provider as an independent contractor, during the Term of this Agreement, for the purpose of facilitating the purchase and sale of electricity and other related services on behalf of Customer and for performing certain other duties and services on the terms and conditions set forth herein; and

WHEREAS, Provider is willing to perform such duties and services for Customer on the terms and conditions set forth herein for a fee.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**ARTICLE 1
DEFINITIONS**

1.1 Definitions.

As used in this Agreement, all capitalized terms shall have the respective meanings given to them in this Agreement and in Exhibit A (Schedule of Definitions).

1.2 Construction.

All references herein to an agreement shall be to such agreement as amended, supplemented or modified from time to time. All references to a particular entity shall include a reference to such entity's successors and permitted assigns. The words "herein", "hereof" and "hereunder" and other words of similar import shall refer to this Agreement as a whole, including all appendices, annexes, exhibits and schedules, and not to any particular section or subsection of this Agreement. Wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and neuter genders. The words "includes" or "including" shall be deemed to be followed by the words "without limitation". All references to statutes and related regulations shall include any amendments of the same and any successor statutes and regulations. All exhibits and schedules to this Agreement are hereby incorporated herein by reference, including the following:

- (i) Exhibit A – Schedule of Definitions
- (ii) Exhibit B – Scope of Work
- (iii) Exhibit C – Fixed Fee Rate, Reimbursable Expenses and Notice Address
- (iv) Exhibit D – Authorization Documents
- (v) Exhibit E – Customer Approval Procedures
- (vi) Exhibit F – Form of Authorized Officer Approval
- (vii) Exhibit G – Joint Exercise of Powers Agreement Relating to the California Choice Energy Authority and amendments thereto

ARTICLE 2 ENGAGEMENT OF CONTRACTOR

2.1 Engagement of Provider.

Customer hereby engages Provider as an independent contractor to perform certain administration, energy procurement and resource planning services (as such Services are described herein) on behalf of Customer in connection and to perform certain other duties, all as set forth in this Agreement. In consideration of the fees and cost reimbursements payable to Provider hereunder, Provider accepts such engagement and agrees to perform the Services in accordance with the terms and conditions hereof.

2.2 Relationship.

(a) Provider shall act as an independent contractor of Customer with respect to the performance of its obligations hereunder. Neither Provider nor its Affiliates, employees or Subcontractors (including Provider's legal counsel) or the employees of any such parties engaged in connection with the Services shall be deemed to be an agent, representative, employee, or servant of Customer. This Agreement is not intended to create, and shall not be construed to create, a relationship

of partnership or an association of profit between Customer and Provider. Provider is not admitted to practice law in any jurisdiction, and will not provide legal advice to Customer in connection with the performance of the Services. Provider is not licensed as a provider of accounting services, does not hold any certifications required to be held by those providing accounting services, and will not provide any services that require such licensing and certification. Provider is not licensed as a financial advisor, financial manager, insurance advisor, or insurance broker.

(b) In the unanticipated event that Provider or any employee, agent, or subcontractor of Provider providing Services hereunder claims, or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (“PERS”), to be eligible for enrollment in PERS as an employee of the Customer, Provider shall indemnify, defend, and hold harmless Customer for the payment of any employee and/or employer contributions for PERS benefits on behalf of Provider or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Customer.

(c) Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Provider and any of its employees, agents, and subcontractors providing Services hereunder shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by Customer, including but not limited to eligibility to enroll in PERS as an employee of Customer and entitlement to any contribution to be paid by Customer for employer contribution and/or employee contributions for PERS benefits.

2.3 Engagement of Third Parties.

Provider may, subject to the other provisions of this Agreement, engage such Persons as it deems reasonably necessary and appropriate for the purpose of performing or carrying out any of the Services or its obligations under this Agreement; provided, however, that no such engagement shall relieve Provider of any of its obligations or liabilities under this Agreement, including those set forth in Article 7; and provided further, that, except as provided herein, Provider’s use of such Persons shall not modify or increase the compensation payable to Provider pursuant to Article 5. Except as expressly set forth herein, nothing in this Agreement shall be construed to create any contractual relationship between any such Person (including Provider’s legal counsel) and Customer.

ARTICLE 3 TERM AND RENEWAL

3.1 Term.

(a) Unless earlier terminated in accordance with Article 8, the term of this Agreement shall commence on the Effective Date and shall continue for a period equal to the longer of (a) three (3) years from the Effective Date, or (b) the longest term of any Energy Contract to which the Authority is a party on behalf of Customer (the “**Base Term**”; as such period may be extended pursuant to clause (b), the “**Term**”).

(b) Unless sooner terminated as set forth in Article 8, at the expiration of the Base Term, the term of this Agreement shall be automatically extended until such time as a Party provides written notice to the other Party that it elects to terminate this Agreement pursuant to Article 8 (such

written notice, a “**Termination Notice**”). Following receipt by such other Party of a Termination Notice, this Agreement shall terminate as set forth in Section 8.4.

(c) For purposes of greater clarity, the definition of “Term” shall include the Base Term and the renewal term of this Agreement as set forth in clause (b).

ARTICLE 4 DUTIES OF PROVIDER

4.1 Services.

During the Term, Provider shall perform the administration, energy procurement, contract negotiation, contract administration, resource planning services and other services identified in the Scope of Work set forth in Exhibit B hereto or as otherwise agreed to by the Parties pursuant to the terms hereof (the “**Services**”). The Services shall be comprised of those services identified in the Scope of Work Exhibit as “Fixed Fee Services” (collectively, the “**Fixed Fee Services**”) and those services to be performed on behalf of Customer and identified in the Scope of Work Exhibit as “Reimbursable Services” (collectively, the “**Reimbursable Services**”).

4.2 General Operating Standards.

Provider shall perform the Services in a good, workmanlike, and commercially reasonable manner in accordance with the requirements of this Agreement and Applicable Laws. Provider shall use commercially reasonable efforts to cause the Services to be planned and performed in a timely and cost-effective manner. Provider shall reasonably cooperate with Customer with respect to the requirements relating to applicable provisions of the Authorization Documents that relate to the tasks to be completed by Customer on or before the date requested by Customer.

4.3 Personnel.

Provider’s administration personnel as a group, including any Persons engaged by Provider pursuant to Section 2.3, shall be qualified in administering services related to community choice aggregation programs, possess any certification(s) or license(s) necessary or required by law to perform the service, and experienced in the duties to which they are assigned.

ARTICLE 5 FEES AND COST REIMBURSEMENT

5.1 Fixed Fees.

(a) As compensation for performing the Fixed Fee Services, Customer shall pay Provider a monthly fee equal to the “Fixed Fee Rate” identified on Exhibit C hereto (as such fee is adjusted pursuant to Section 5.1(b), the “**Fixed Fee**”) during the Term. The Fixed Fee shall be based on the pro-rata share of Customer’s Bundled Load compared to the aggregate Bundled Load for all Provider’s members, determined each fiscal year by Provider, and payable in accordance with Section 5.3. The Fixed Fee does not include amounts payable under Energy Contracts or the Security Documents.

(b) The Fixed Fee shall be adjusted as follows:

(i) No later than July 1, 2019, Provider shall have a one-time right to adjust (by increasing or decreasing) the Fixed Fee amount set forth in Exhibit “C” to reflect actual costs incurred or expected to be incurred in providing the Fixed Fee Services. Provider’s one-time adjustment of the Fixed Fee as described in this subparagraph shall be preceded by written notice to Customer, and said notice shall provide an explanation and support for the adjustment;

(ii) Commencing on July 1, 2019, and every July 1 thereafter during the Term of this Agreement, to reflect reasonable cost increases actually incurred by Provider in performing this Agreement, the Fixed Fee shall be increased in an amount equal to the change in the Consumer Price Index (CPI-U) for the Los Angeles – Riverside – Orange County region as published by the Federal Bureau of Labor Statistics as measured from May to May of each year, provided that no such increase shall be more than three percent (3%) of the Fixed Fee applicable for the immediately preceding fiscal year; and

(iii) Within ninety (90) days after the commencement or termination of deliveries of electricity under an Energy Contract associated with a change in membership of Provider, Provider shall recalculate the Fixed Fee in accordance with Section 5.1(a), and the recalculated Fixed Fee shall be applied and payable on a prospective basis.

5.2 Reimbursable Expenses.

(a) During the Term, Customer shall reimburse Provider for the expenses actually incurred by Provider in connection with the performance of the Reimbursable Services (the “**Reimbursable Expenses**”).

(b) The Reimbursable Expenses shall be allocated to Customer as follows:

(i) Data management fees will be allocated to Customer on the basis of the Customer’s total number of electric service accounts multiplied by the per account maintenance fee invoiced by the Data Management service provider.

(ii) Professional services fees and costs, and any other Reimbursable Expenses not allocated pursuant to Section 5.2(b)(i), will be allocated among all Provider members on an equal basis.

(c) The Reimbursable Expenses incurred by Provider shall be invoiced and payable as set forth in Section 5.3.

5.3 Invoicing and Payment Procedures.

(a) The Fixed Fee and the Reimbursable Expenses shall be payable for each month on the twenty-fifth (25th) each calendar month during the Term (each such date, a “**Payment Date**”) and shall be prorated for any partial monthly period at the beginning and end of the Term, with such prorations based on a thirty (30) day calendar month. Invoiced amounts will be paid by wire transfer of immediately available funds to Provider at an account designated in writing by Provider.

(b) Provider shall submit invoices to Customer at least ten (10) days prior to the relevant Payment Date for the Fixed Fee and Reimbursable Expenses that are due and payable on such Payment Date. Invoices by Provider shall be sent to Customer at the address(es) set out in Exhibit C.

(c) Once Customer has maintained a positive cash flow for three (3) consecutive months, Provider may submit invoices to Customer and to the collateral agent for payment from the lockbox account established pursuant to the Security Documents not less than ten (10) days prior to the relevant Payment Date for the Fixed Fee and Reimbursable Expenses that are due and payable on such Payment Date.

(d) Customer may, in good faith, dispute the correctness of any invoice, bill, charge, or any adjustment to an invoice, rendered under this Agreement, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, bill, charge, or adjustment to an invoice, was rendered. If a Payment Invoice or portion thereof, or any other claim or adjustment arising thereunder, is disputed, payment of the undisputed portion of the Payment Invoice shall be required to be made when due, with written notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount (the “**Disputed Payment**”) shall not be required until the dispute is resolved. The Parties shall use commercially reasonable efforts to resolve the Disputed Payment within ten (10) Business Days of receipt by Provider of the notice of the Disputed Payment. Within five (5) days of the Parties agreeing on a resolved payment amount, Customer shall pay, or cause to be paid, such resolved payment to Provider in accordance with this Section 5.2(c). In the event the Parties are unable to resolve a payment dispute within ten (10) Business Days, the lesser amount shall be deemed due payable unless and until a different amount is identified following conclusion of the dispute resolution provisions in Article 12, or a court of competent jurisdiction orders otherwise.

5.4 Records and Audits.

(a) Except as otherwise required by Applicable Laws, Provider shall keep books and records in accordance with generally accepted accounting principles with respect to Services performed for a period of three (3) years after the applicable creation date of such book or record; or any such longer period as may be required by law.

(b) Upon no less than seventy-two (72) hours’ notice to Provider, Provider shall make such books and records related to the Services available for inspection and audit by Customer or its designated agents at Customer’s expense during Regular Work Hours and at the office where such books and records are kept; provided that Provider’s company software, books and records not directly related to this Agreement shall not be subject to inspection or audit.

(c) If any such inspection or audit discloses that any error has occurred and that, as a result thereof, any overpayment or any underpayment has occurred, the amount thereof shall promptly be paid with interest at the rate set forth in Section 5.4 to the Party to whom it is owed by the other Party; provided that Provider or Customer, as applicable, shall only be liable for any amounts hereunder that relate to a period within twelve (12) months of the date of the inspection or audit conducted by Customer.

5.5 Past Due Amounts.

Any amounts due under this Agreement, if not timely paid by the Party from whom they are due, shall bear interest at the per annum rate equal to the Prime Rate (as published in The Wall Street Journal) plus one and one-half percent (1.5%), prorated on the basis of a 365-day year (or such lower rate as is the maximum rate permitted by Applicable Law) from the date that such amount was due and payable (taking into account any grace period herein provided) until the time that such amount is paid.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES; COVENANTS

6.1 General Representations and Warranties.

Each Party, for itself only, hereby represents and warrants to the other Party hereto, as of the date hereof, that:

(a) It is an entity duly organized, validly existing and in good standing under the applicable laws of the jurisdiction in which it was formed.

(b) It has the requisite power and authority to enter into this Agreement and to perform its obligations hereunder (including with respect to any indemnity obligations hereunder), and the execution, delivery and performance hereof do not and will not contravene any Applicable Law, or any order of any court or Governmental Authority or agency applicable to or binding on it or any of its properties, or contravene the provisions of, or constitute a default under, its organizational documents or any indenture, mortgage, contract or other agreement or instrument to which it is a party or by which it or any of its property is bound or affected.

(c) This Agreement has been duly authorized by all necessary actions on the part of such Party and the execution, delivery and performance by such Party of this Agreement do not require any approval not already obtained by it or any approval or consent not already obtained of any trustee or holders of indebtedness or obligations of such Party.

(d) No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority or regulatory body is required for the due execution, delivery or performance by such Party of this Agreement.

(e) The execution, delivery and performance of this Agreement have been duly authorized by all requisite entity actions.

(f) The person signing this Agreement is authorized to execute this Agreement on behalf of, and to bind, the applicable Party.

(g) Assuming the due authorization, execution and delivery of this Agreement by the other Parties hereto, this Agreement constitutes its valid and binding obligation, enforceable against it in accordance with its terms, except to the extent such enforceability is limited by bankruptcy, insolvency, moratorium or similar laws affecting or relating to the enforcement of creditors' rights generally and by general equitable principles (regardless of whether such enforcement is considered in a proceeding in equity or at law).

(h) There are no pending or, to such Party's knowledge, threatened actions or proceedings against such Party before any court or administrative agency which would materially adversely affect such Party's ability to perform its obligations hereunder.

6.2 Additional Customer Representations and Warranties.

(a) Delegation of Authority and Authorization Documents. Customer has taken and performed all acts necessary, and has received all necessary authorizations, approvals or other actions required by, and has made all necessary filings with, any Governmental Authority that is required for the (i) delegation of authority to Provider as contemplated hereby (ii) filing with Provider an executed counterpart of the JPA and (iii) adoption of a resolution of its governing body approving the JPA and the execution and delivery thereof. The Authorization Documents represent a true, complete and accurate list of all such necessary authorizations, approvals, actions and filings and Customer has provided true, complete and accurate copies of the Authorization Documents to Provider as of the Effective Date. Other than the Authorization Documents, there are no other authorizations, approvals, filings or other actions required for Customer to enter into this Agreement, perform its obligations hereunder and delegate authority to Provider to perform the Services.

(b) Security Documents and Ancillary Documents. Subject to Provider's compliance with the Customer Approval Procedures and, in connection with any Energy Contract entered into on behalf of Customer, Provider is authorized to (i) enter into Energy Contracts on behalf of Customer, (ii) grant to the counterparties to any such Energy Contracts a first priority security interest in any amounts received from the Utility, Customer or the end-users in Customer's territory pursuant to such Energy Contracts (as contemplated in the Security Documents), (iii) arrange for any funds received from the Utility, Customer or such end-users in connection with such Energy Contracts to be deposited into a lockbox account pledged to the counterparties to any such Energy Contract and be paid to any such counterparties in accordance with the terms and conditions of such Energy Contracts and the Security Documents, and (iv) enter into any needed ancillary documentation required in connection with the execution, performance or administration of the Energy Contracts, the Security Documents or in connection with the provision of the Services.

(c) Authorized Officer. Customer has designated the Authorized Officer to approve Provider's execution of Energy Contracts as set forth in and subject to the Customer Approval Procedures, on behalf of Customer, for the purchase of energy and renewable energy and Customer has authorized the Authorized Officer to provide any such approval in the form attached hereto as Exhibit E. Upon receipt of the Authorized Officer's approval of any Energy Contract or other action, Provider is authorized to enter into such Energy Contract or perform such action on behalf of Customer.

6.3 Customer Covenants. Customer covenants and agrees as follows:

(a) Authorizing Documents. Customer shall maintain the Authorization Documents in full force and effect throughout the Term and shall immediately inform Provider of any change to the identity of the Authorized Officer hereunder or to the Authorization Documents that may affect the ability of Provider to perform its obligations hereunder.

(b) Collateral Agent's Determinations. In performing the Services hereunder, Provider may rely upon the authorizations and instructions received from the Authorized Officer (if such authorization is required pursuant to the Customer Authorization Procedures) and may rely on the accuracy of the Customer Approval Procedures. Provider shall have no liability to Customer for

actions taken in reliance on authorizations or instructions received by the Authorized Officer or in compliance with the Customer Approval Procedures. Until such time as Customer instructs Provider in writing that an individual is no longer an “Authorized Officer” hereunder, Provider shall have no duty to inquire as to the authority of such Authorized Officer to provide the authorizations or instructions in connection with the Services. In the event that Provider is at any time unsure as to the identity of the Authorized Officer hereunder, Provider may request written instructions from Customer as to the course of action to be adopted by Provider and Provider shall be entitled to conclusively rely upon such written instructions without liability to Customer or any other Person.

(c) Data Access. If requested by Provider, Customer shall assist Provider in obtaining information regarding Customer’s end-users from the Utility, including the number of end-user customers that form part of Customer’s community choice aggregation program, the energy consumption, load shapes and usage data of such end-users and the proportional share of such end-users in Customer’s territory.

(d) Customer Rates. Customer shall establish and maintain end-user customer rates designed to generate revenues sufficient to satisfy the overall revenue requirement for Customer, including timely payment of all Customer’s obligations under this Agreement, all Energy Contracts and the Security Documents.

6.4 **Response Time.**

(a) Customer Response Time.

(i) In all circumstances where Provider requests the approval, consent or cooperation of Customer to any action (or inaction) hereunder, Customer shall consider and respond to such request as promptly as feasible under the circumstances.

(ii) Provider will exercise commercially reasonable efforts to provide as much advance notice of such request as is reasonable given the prevailing circumstances and the nature of the matters for which a response is requested.

(iii) If Provider is prevented from performing its obligations under this Agreement as the result of an unreasonable delay on the part of Customer to provide a required response required pursuant hereto, then Provider’s obligations hereunder shall be excused until such time as Customer provides its required response.

(b) Provider Response Time.

(i) With respect to the provision of the Services, Provider shall promptly respond to any request or direction from or on behalf of Customer and to any event that requires action by Provider pursuant to this Agreement within the time frame by which such response is required hereunder.

ARTICLE 7 INDEMNIFICATION

7.1 **Indemnification by Provider.**

(a) Subject to Section 7.1(b), Provider shall defend, indemnify and hold harmless each Customer Indemnified Party from and against any and all Claims incurred or asserted against such Customer Indemnified Party arising out of or otherwise in connection with Provider's gross negligence, bad faith, recklessness or willful misconduct in connection with the performance of the Services hereunder, including any Claims relating to any liability resulting from any violation of or noncompliance with any Applicable Law to be complied with by Provider hereunder. Provider's obligations under this paragraph shall include all costs (including but not limited to attorneys fees) incurred in performing the same. Customer may employ counsel at its own expense with respect to any claims or demands asserted or sought to be collected against it; provided, if counsel is employed because Provider does not assume control of the defense, Provider will bear the reasonable expenses of Customer's counsel.

(b) Notwithstanding anything to the contrary in the foregoing, Provider shall not be required to defend, indemnify or hold harmless any Customer Indemnified Party from and against, and no Customer Indemnified Party shall be exculpated from, any Claims to the extent such Claims (i) are caused by or arise from the breach of this Agreement by Customer or the gross negligence, bad faith, recklessness or willful misconduct of such Customer Indemnified Party; (ii) relate to changes to the market rate for electricity, including the fact that, from time to time, negotiated rates under Energy Contracts entered into by Provider on behalf of Customer may be higher than rates charged by the Utility, (iii) relate to defaults under the Energy Contracts that are not caused by Provider's gross negligence, bad faith, recklessness or willful misconduct, or (iv) are the result of a change in governmental regulation or a change in Applicable Law.

7.2 Indemnification by Customer.

(a) Subject to Section 7.2(b), Customer shall defend, indemnify and hold harmless each Provider Indemnified Party from and against any and all Claims incurred or asserted against such Provider Indemnified Party arising out of or otherwise in connection with this Agreement and/or Provider's entry into any Energy Contract on behalf of Customer or the end-users in Customer's territory, including any Claims resulting from (i) the failure of Customer (or the end-users in its territory) to make payments with respect to an Energy Contract, or (ii) a default by Provider under any Energy Contract entered into pursuant hereto. Customer's obligations under this paragraph shall include all costs (including but not limited to attorneys fees) incurred in performing the same. Provider may employ counsel at its own expense with respect to any claims or demands asserted or sought to be collected against it; provided, if counsel is employed because Customer does not assume control of the defense, Customer will bear the reasonable expenses of Provider's counsel.

(b) Notwithstanding anything to the contrary in the foregoing, Customer shall not be required to defend, indemnify or hold harmless any Provider Indemnified Party from and against, and no Provider Indemnified Party shall be exculpated from, any Claims to the extent caused by or arising from the breach of this Agreement by Provider or the gross negligence, bad faith, recklessness or willful misconduct of such Provider Indemnified Party.

7.3 Indemnification Procedure.

(a) After receipt by an Indemnified Party of notice of the commencement of any Claim that is indemnifiable by Provider under Section 7.1 or Customer under Section 7.2 (as applicable, in such capacity, the "**Indemnifying Party**"), such Indemnified Party shall give prompt written notice to the relevant Indemnifying Party of the commencement thereof. The failure to

promptly notify such Indemnifying Party shall not relieve the Indemnifying Party of any liability that it may have to any Indemnified Party with respect to such action; provided that, to the extent that any such failure to provide prompt notice is responsible for an increase in the indemnity obligations of the Indemnifying Party, the Indemnifying Party shall not be responsible for any such increase.

(b) When required to indemnify an Indemnified Party in accordance with this Article 7, the relevant Indemnifying Party shall assume on behalf of such Indemnified Party and conduct with due diligence and in good faith the defense of any Claim against such Indemnified Party, whether or not the Indemnifying Party shall be joined therein, and the Indemnified Party shall cooperate with the Indemnifying Party in such defense.

(c) The Indemnifying Party shall have charge and direction of the defense and settlement of such Claim; provided, however, that without relieving the Indemnifying Party of its obligations hereunder or impairing the Indemnifying Party's right to control the defense or settlement thereof, the Indemnified Party may elect to participate through separate counsel in the defense of any such Claim, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless (i) the employment of counsel by such Indemnified Party has been authorized in writing by the Indemnifying Party, (ii) the Indemnified Party shall have reasonably concluded that there exists a material conflict of interest between the Indemnifying Party and such Indemnified Party in the conduct of the defense of such Claim (in which case the Indemnifying Party shall not have the right to control the defense or settlement of such Claim on behalf of such Indemnified Party) or (iii) the Indemnifying Party shall not have employed counsel to assume the defense of such Claim within a reasonable time after notice of the commencement thereof. In each of such cases the reasonable fees and expenses of counsel shall be at the expense of the Indemnifying Party.

(d) The Indemnifying Party shall obtain the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed) before entering into a settlement of or ceasing to defend such claim or action if, pursuant to or as a result of such settlement or cessation, injunctive or equitable relief or other non-monetary relief, remedy or arrangement will be imposed against the Indemnified Party or if the Indemnifying Party will not fully pay or satisfy all amounts payable with respect to such proceeding or settlement. In no event shall the Indemnifying Party be required to indemnify an Indemnified Party with respect to amounts paid in settlement of a claim unless such claim was settled with the consent of the Indemnifying Party.

7.4 **Limitations of Liability.**

(a) Total Limitation of Liability. Except for amounts payable as provided in Section 7.1 (Indemnification) and Section 2.2(b), Provider's total liability under this Agreement to Customer Indemnified Parties on all Claims of any kind, whether based on contract, indemnity, warranty, tort (including negligence), strict liability or otherwise, for all losses or damages arising out of, connected with, or resulting from this Agreement or from the performance or breach thereof, or from any services covered by or furnished during the Term of this Agreement shall with respect to any fiscal year in no case exceed one hundred percent (100%) of the value of the Fixed Fee payable in such fiscal year. Similarly, except for amounts payable as provided in Section 7.2 (Indemnification), Customer's total liability under this Agreement to Provider Indemnified Parties on all Claims of any kind, whether based on contract, indemnity, warranty, tort (including negligence), strict liability or otherwise, for all losses or damages arising out of, connected with, or resulting from this Agreement or from the performance or breach thereof, or from any services covered by or furnished during the Term

of this Agreement shall with respect to any fiscal year in no case exceed one hundred percent (100%) of the value of the Fixed Fee payable in such fiscal year.

(b) No Liability for Energy Contracts. Customer acknowledges that Provider will be entering into Energy Contracts on behalf of Customer and the end-users in Customer's territory. Customer acknowledges and agrees that neither Provider nor any member of Provider shall be liable for the amount of any shortfall between the payments due to the counterparty under such Energy Contracts and the amount received from such end-users unless such shortfall is the result of the gross negligence, willful misconduct, conversion, misappropriation or theft on the part of Provider.

(c) Waiver of Consequential Damages. Except in connection with indemnification for third-party Claims or Claims resulting from gross negligence or willful misconduct, in no event, whether based on contract, indemnity, warranty, tort (including negligence), strict liability or otherwise, shall a Party or its respective Affiliates be liable for special, incidental, exemplary, indirect or consequential damages.

7.5 **Survival.**

Notwithstanding any other provision of this Agreement, the provisions of this Article 7 are intended to and shall survive termination of this Agreement

ARTICLE 8 TERMINATION

8.1 **Termination by Customer.**

(a) Termination for Cause.

(i) Without limiting any other rights or remedies it may have, Customer shall be entitled to terminate this Agreement for cause by delivery of a Termination Notice to Provider in connection with the occurrence of any of the following events:

(1) Provider fails to make any payment required to be made by Provider to Customer hereunder when such payment is due and owing under this Agreement, and such failure shall continue for ten (10) days after written notice thereof has been given to Provider.

(2) Provider has filed against it petitions under any insolvency or bankruptcy Law of any jurisdiction which are not dismissed within ninety (90) days of the date filed, proposes any dissolution, liquidation, composition, financial reorganization or recapitalization with creditors, makes a general assignment for the benefit of creditors, files a voluntary petition in bankruptcy under any provision of Applicable Law or consents to the filing of any bankruptcy or reorganization petition against it under any similar law, or if receivers, trustees, custodians or similar agents are appointed or take possession with respect to any property or business of Provider.

(3) Provider fails to comply (other than for Force Majeure reasons) in any material respect with any term, provision or covenant of this Agreement,

other than the payment of sums to be paid hereunder, and such failure shall continue for sixty (60) days after written notice thereof has been given to Provider; provided, however, that if such failure cannot reasonably be cured within said sixty (60) day period and Provider has diligently commenced the cure of such failure within said period, then Provider shall have a commercially reasonable additional period of time to cure such default not to exceed an additional one hundred eighty (180) days.

(4) Provider assigns this Agreement in violation of the provisions of Section 13.6.

(ii) Notwithstanding the foregoing, Customer shall not have the right to terminate this Agreement pursuant to this Section 8.1(a) if the occurrence of any of the events or conditions described in this Section 8.1(a) is the result of Customer's bad faith, willful misconduct or gross negligence.

(b) Termination for Convenience. Notwithstanding anything to the contrary in this Agreement, Customer shall be entitled to terminate this Agreement or any part of the Services for convenience, at Customer's sole discretion with or without cause, by delivery of a Termination Notice to Provider at any time after the expiration of the Base Term.

(c) Timing of Termination. If Customer delivers a Termination Notice to Provider pursuant to Section 8.1(a) or 8.1(b), this Agreement shall terminate as set forth in Section 8.4.

8.2 Termination by Provider.

(a) Termination for Cause.

(i) Without limiting any other rights or remedies it may have, Provider shall be entitled to terminate this Agreement for cause by delivery of a Termination Notice to Customer in connection with the occurrence of any of the following events:

(1) Customer has failed to make any undisputed payment required to be made to Provider under this Agreement and such failure is not remedied within ten (10) days after the date on which Customer has received notice of such failure to make such payment.

(2) Customer has filed against it petitions under any insolvency or bankruptcy Law of any jurisdiction which are not dismissed within ninety (90) days of the date filed, proposes any dissolution, liquidation, composition, financial reorganization or recapitalization with creditors, makes a general assignment for the benefit of creditors, files a voluntary petition in bankruptcy under any provision of Applicable Law or consents to the filing of any bankruptcy or reorganization petition against it under any similar law, or if receivers, trustees, custodians or similar agents are appointed or take possession with respect to any property or business of Customer.

(3) Customer fails to establish or maintain end-user customer rates in compliance with Section 6.3(d), as reasonably determined by Provider, and

fails to establish such rates within sixty (60) days after written notice thereof has been given to Customer; provided, however, that if Customer has sent notice of a rate increase and is awaiting council action, then Customer shall have a commercially reasonable additional period of time to cure such default not to exceed an additional one hundred eighty (180) days.

(4) Customer assigns this Agreement in violation of the provisions of Section 13.6.

(5) Customer fails to comply (other than for Force Majeure reasons) in any other material respect with any term, provision or covenant of this Agreement, other than the payment of sums to be paid hereunder, or as otherwise provided above, and such failure continues for sixty (60) days after written notice thereof has been given to Customer; provided, however, that if such failure cannot reasonably be cured within said sixty (60) day period and Customer has diligently commenced the cure of such failure within said period, then Customer shall have a commercially reasonable additional period of time to cure such default not to exceed an additional ninety (90) days.

(ii) Provider shall not have the right to terminate this Agreement pursuant to this Section 8.2(a) if the occurrence of any of the events or conditions described in this Section 8.2(a) is the result of Provider's bad faith, willful misconduct or gross negligence.

(b) Termination for Convenience. Notwithstanding anything to the contrary in this Agreement, Provider shall be entitled to terminate this Agreement or any part of the Services for convenience, at Provider's sole discretion with or without cause, by delivery of a Termination Notice to Customer at any time after the expiration of the Base Term; provided that no Termination Notice shall be effective for at least thirty (30) days following Customer's receipt of the same, or any such longer period as may be indicated in the Termination Notice.

(c) Timing of Termination. If Provider delivers a Termination Notice to Customer pursuant to Section 8.2(a) or 8.2(b), this Agreement shall terminate as set forth in Section 8.4.

8.3 Cooperation Upon Termination.

In connection with any termination of this Agreement in accordance herewith, at the reasonable request of Customer, Provider shall cooperate with Customer to provide for the orderly transition of the performance of the Services to a replacement administrator, including the transfer of documentation and data access.

8.4 Effect of Termination; No Prejudice.

(a) Effect of Termination. Subject to clause (b) below, if Customer or Provider delivers a Termination Notice in accordance with, and as permitted by, this Agreement, then this Agreement shall terminate on the later to occur of (i) ninety (90) days from the date of such Termination Notice and (ii) the date on which all of the Energy Contracts to which Provider is a party on behalf of Customer on the date of such Termination Notice have terminated in accordance with their respective terms.

(b) No Prejudice. Termination of this Agreement shall not affect any rights or obligations as between the Parties that may have accrued prior to such termination or that expressly or by implication are intended to survive termination whether resulting from the event giving rise to termination or otherwise. In addition, except as expressly provided for herein, termination of this Agreement for any reason shall be without prejudice to Provider's right to receive a proportional amount of the Fixed Fees or payment of any outstanding Reimbursable Expenses as of the date of termination. Except as otherwise set forth in this Agreement, remedies are cumulative and the exercise of, or failure to exercise, one or more remedies by a Party shall not limit or preclude the exercise of, or constitute a waiver of, other remedies provided for under this Agreement by such Party. For breach of any provision of this Agreement for which an express remedy or measure of damages is herein provided, (i) such express remedy or measure of damages shall be the sole and exclusive remedy hereunder, (ii) the liability of the Party that has committed such breach shall be limited as set forth in such provision and (iii) the Parties hereby waive all other remedies or damages at law or in equity with respect to such breach. If no remedy or measure of damages is expressly provided herein with respect to a breach of any provision of this Agreement, the liability of the Party that has committed such breach shall be limited to direct actual damages only; provided that this limitation shall not apply to (A) Provider's obligation with respect to indemnifying and holding harmless each Customer Indemnified Party to the extent of any amount owed to a third party other than a Customer Indemnified Party, if any, or (B) Customer's obligation with respect to indemnifying and holding harmless each Provider Indemnified Party to the extent of any amount owed to a third party other than an Provider Indemnified Party.

ARTICLE 9 FORCE MAJEURE

9.1 Force Majeure.

(a) Notwithstanding any other provision of this Agreement, each Party's obligations under this Agreement shall be suspended by any Force Majeure if and to the extent that such Party is prevented or delayed from performing by reason of the Force Majeure; provided, however, that:

(i) the suspension of performance shall be of no greater scope and of no longer duration than is necessarily caused by the Force Majeure and required by any remedial measures;

(ii) no obligations of any Party that arose before the occurrence of Force Majeure shall be excused as the result of the occurrence; and

(iii) each Party shall use commercially reasonable efforts to remedy its inability to perform; provided, further, that no Force Majeure shall excuse any payment obligations of either Provider or Customer otherwise due hereunder.

(b) If the performance by a Party of its obligations under this Agreement is affected by any Force Majeure, such Party shall as soon as practicable notify the other Parties of the nature and extent thereof.

ARTICLE 10 NOTICES

10.1 Notices.

(a) All notices and other communications required or permitted by this Agreement or by Applicable Law to be served upon or given to a Party by any other Party shall be deemed duly served, given and received (i) on the date of service if served personally or if sent by facsimile transmission or electronic mail during Regular Work Hours (each with appropriate confirmation of receipt) to the Party to whom notice is to be given, or (ii) on the fourth (4th) day after mailing, if mailed by first class registered or certified mail, postage prepaid or (iii) on the next day if sent by a nationally recognized courier for next day service and so addressed and if there is evidence of acceptance by receipt addressed to the address(es) set forth in Exhibit C.

(b) The Parties, by like notice in writing, may designate, from time to time, another address or office to which notices shall be given pursuant to this Agreement.

ARTICLE 11 CONFIDENTIALITY

11.1 General Confidential Information.

(a) Except as otherwise provided in this Agreement, without the prior written consent of the other Parties hereto, no Party shall disclose Confidential Information (as defined below) received in connection with the performance of the Services.

(b) The recipient of any Confidential Information shall use the same degree of care that it uses to protect its own confidential information of like nature, but no less than a reasonable degree of care, to maintain in confidence the Confidential Information of the disclosing Party.

(c) No Party shall have any obligation under this Section 11.1 with respect to any information that:

(i) at the time of disclosure is in the public domain, or thereafter becomes part of the public domain, in each case through a source other than the receiving Party in violation of this Agreement;

(ii) is subsequently learned by receiving Party from a third party that, to the knowledge of the receiving Party, is not under an obligation to keep such information confidential;

(iii) was known to the receiving Party at the time of disclosure without confidentiality restrictions, as can be demonstrated by contemporaneous written evidence;

(iv) is generated independently by the receiving Party without reference to the Confidential Information of the disclosing Party, as can be demonstrated by contemporaneous written evidence, or

(v) is required to be disclosed pursuant to Applicable Law, regulation, subpoena, court order or other legal process or professional requirements, or in connection with the enforcement of the receiving Party's rights under this Agreement.

Prior to any such disclosure, the disclosing Party shall, to the maximum extent possible, provide reasonable notice to the other Party, with adequate time (to be judged based upon the facts and circumstances surrounding the disclosure) for the non-disclosing party to seek court intervention if it should so elect in its sole and absolute discretion.

(d) For purposes of this Agreement, “**Confidential Information**” shall mean all end-user customer specific information, including energy consumption, and market sensitive data, including non-public wholesale energy pricing disclosed in connection with negotiation or procurement of energy or related products under Energy Contracts in connection with the Services whether or not such information was owned or developed by the disclosing Party, which the receiving Party may obtain knowledge of, through or as a result of the relationship established hereunder with the disclosing Party.

(e) Provider shall obtain written approval from the relevant Customer in connection with any press release or promotional materials that reference the relationship established through this Agreement and such Parties shall agree on the form and content of such press release. Any other press announcement by a Party regarding the subject matter of this Agreement will be subject to the approval of the other Parties hereto, which approval shall not be unreasonably withheld or delayed.

11.2 Limited Disclosure of Confidential Information.

Notwithstanding the provisions of Section 11.1, Provider shall be entitled to the extent necessary for the performance of its duties hereunder to allow access to the Confidential Information to such of its employees and consultants who are directly concerned with the carrying out of Provider’s duties under this Agreement, provided that Provider shall inform each of such Persons of the confidential nature of, and Provider’s obligation of confidentiality with respect to, such Confidential Information and such employees and consultants shall agree to keep the Confidential Information confidential in accordance with the terms of this Agreement.

ARTICLE 12 DISPUTE RESOLUTION

12.1 Negotiations.

The Parties shall attempt in good faith to resolve all disputes promptly by negotiation, as set forth below.

(a) A Party may give another Party written notice of any dispute between such Parties that has not been resolved in the normal course of business. Representatives of such Parties at levels one level above the personnel who have previously been involved in the dispute shall meet at a mutually acceptable time and place within ten (10) days after delivery of such notice, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute.

(b) If such representatives are unable to resolve, or do not anticipate being able to resolve, the dispute within twenty (20) days after receiving notice of such dispute, either Party may initiate legal proceedings in a court of competent jurisdiction as provided in Section 13.2.

(c) If a Party intends to be accompanied at a meeting by an attorney, the other Party shall be given at least three (3) Business Days' notice of such intention so that the other Party may also be accompanied by an attorney. All negotiations pursuant to this Section 12.1 are confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and applicable state rules of evidence. Each Party shall bear its own costs for this dispute resolution phase.

12.2 Continued Prosecution of the Work.

In case of any dispute, Provider shall continue to diligently perform its obligations under this Agreement, and, without limiting the generality of the foregoing and subject to Section 5.3(c), Customer shall continue to make payments to Provider for those portions of the Services performed hereunder that are not the subject of dispute in accordance with this Agreement.

ARTICLE 13 MISCELLANEOUS

13.1 Execution.

This Agreement may be executed in any number of counterparts and by the different Parties on separate counterparts, each of which, when so executed and delivered (including by electronic mail), shall be an original, but all such counterparts shall together constitute but one and the same instrument.

13.2 Governing Law; Venue and Jurisdiction.

THIS AGREEMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO ITS CONFLICT OF LAWS RULES.

ANY LITIGATION ARISING HEREUNDER SHALL BE SUBJECT TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED IN THE STATE OF CALIFORNIA AND VENUE SHALL BE IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA OR THE SUPERIOR COURT FOR THE STATE OF CALIFORNIA LOCATED IN LOS ANGELES COUNTY. ANY OF THE FOREGOING COURTS SHALL HAVE PERSONAL JURISDICTION OVER THE PARTIES HERETO. EACH PARTY WAIVES ANY AND ALL RIGHTS TO CONTEST SAID JURISDICTION AND VENUE AND WAIVES ANY RIGHT TO COMMENCE ANY ACTION AGAINST THE OTHER PARTY IN ANY OTHER JURISDICTION.

13.3 Jury Waiver and Judicial Reference.

(a) EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND

(B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) IN THE EVENT ANY LEGAL PROCEEDING IS FILED IN A COURT OF THE STATE OF CALIFORNIA (THE "COURT") BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY CONTROVERSY, DISPUTE OR CLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) (EACH, A "DISPUTE") AND THE WAIVER SET FORTH IN THE PRECEDING PARAGRAPH IS NOT ENFORCEABLE IN SUCH ACTION OR PROCEEDING, THE PARTIES HERETO AGREE AS FOLLOWS:

(c) WITH THE EXCEPTION OF THE MATTERS SPECIFIED IN PARAGRAPH (b) BELOW, ANY DISPUTE WILL BE DETERMINED BY A GENERAL REFERENCE PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1. THE PARTIES INTEND THIS GENERAL REFERENCE AGREEMENT TO BE SPECIFICALLY ENFORCEABLE IN ACCORDANCE WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638.

(d) THE FOLLOWING MATTERS SHALL NOT BE SUBJECT TO A GENERAL REFERENCE PROCEEDING: (1) NON-JUDICIAL FORECLOSURE OF ANY SECURITY INTERESTS IN REAL OR PERSONAL PROPERTY, (2) EXERCISE OF SELF- HELP REMEDIES (INCLUDING, WITHOUT LIMITATION, SET-OFF), (3) APPOINTMENT OF A RECEIVER AND (4) TEMPORARY, PROVISIONAL OR ANCILLARY REMEDIES (INCLUDING, WITHOUT LIMITATION, WRITS OF ATTACHMENT, WRITS OF POSSESSION, TEMPORARY RESTRAINING ORDERS OR PRELIMINARY INJUNCTIONS). THIS AGREEMENT DOES NOT LIMIT THE RIGHT OF ANY PARTY TO EXERCISE OR OPPOSE ANY OF THE RIGHTS AND REMEDIES DESCRIBED IN CLAUSES (1) – (4) AND ANY SUCH EXERCISE OR OPPOSITION DOES NOT WAIVE THE RIGHT OF ANY PARTY TO A REFERENCE PROCEEDING PURSUANT TO THIS AGREEMENT.

(e) UPON THE WRITTEN REQUEST OF ANY PARTY, THE PARTIES SHALL SELECT A SINGLE REFEREE, WHO SHALL BE A RETIRED JUDGE OR JUSTICE. IF THE PARTIES DO NOT AGREE UPON A REFEREE WITHIN TEN (10) DAYS OF SUCH WRITTEN REQUEST, THEN, ANY PARTY MAY REQUEST THE COURT TO APPOINT A REFEREE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 640(B).

(f) ALL PROCEEDINGS AND HEARINGS CONDUCTED BEFORE THE REFEREE, EXCEPT FOR TRIAL, SHALL BE CONDUCTED WITHOUT A COURT REPORTER, EXCEPT WHEN ANY PARTY SO REQUESTS, A COURT REPORTER WILL BE USED AND THE REFEREE WILL BE PROVIDED A COURTESY COPY OF THE TRANSCRIPT. THE PARTY MAKING SUCH REQUEST SHALL HAVE THE OBLIGATION TO ARRANGE FOR AND PAY COSTS OF THE COURT REPORTER, PROVIDED THAT SUCH COSTS, ALONG WITH THE REFEREE'S FEES, SHALL ULTIMATELY BE BORNE BY THE PARTY WHO DOES NOT PREVAIL, AS DETERMINED BY THE REFEREE.

(g) THE REFEREE MAY REQUIRE ONE OR MORE PREHEARING CONFERENCES. THE PARTIES HERETO SHALL BE ENTITLED TO DISCOVERY, AND THE

REFEREE SHALL OVERSEE DISCOVERY IN ACCORDANCE WITH THE RULES OF DISCOVERY, AND MAY ENFORCE ALL DISCOVERY ORDERS IN THE SAME MANNER AS ANY TRIAL COURT JUDGE IN PROCEEDINGS AT LAW IN THE STATE OF CALIFORNIA. THE REFEREE SHALL APPLY THE RULES OF EVIDENCE APPLICABLE TO PROCEEDINGS AT LAW IN THE STATE OF CALIFORNIA AND SHALL DETERMINE ALL ISSUES IN ACCORDANCE WITH APPLICABLE STATE AND FEDERAL LAW. THE REFEREE SHALL BE EMPOWERED TO ENTER EQUITABLE AS WELL AS LEGAL RELIEF AND RULE ON ANY MOTION WHICH WOULD BE AUTHORIZED IN A TRIAL, INCLUDING, WITHOUT LIMITATION, MOTIONS FOR DEFAULT JUDGMENT OR SUMMARY JUDGMENT. THE REFEREE SHALL REPORT HIS OR HER DECISION, WHICH REPORT SHALL ALSO INCLUDE FINDINGS OF FACT AND CONCLUSIONS OF LAW.

(h) THE PARTIES RECOGNIZE AND AGREE THAT ALL DISPUTES RESOLVED IN A GENERAL REFERENCE PROCEEDING PURSUANT HERETO WILL BE DECIDED BY A REFEREE AND NOT BY A JURY.

13.4 **Amendments, Supplements, Etc.**

Neither this Agreement nor any of the terms hereof may be amended, supplemented, or modified orally, but only by an instrument in writing signed by Provider and by Customer.

13.5 **Headings.**

The headings of the Articles and Sections of this Agreement have been inserted for convenience of reference only and shall not modify, define or limit any of the terms or provisions hereof.

13.6 **Assignment.**

(a) Neither Party may assign, pledge or otherwise transfer this Agreement without the prior written consent of the other Party.

(b) Any attempted assignment, pledge or other transfer in violation of this Section 13.6 shall be null and void.

13.7 **Successors and Assigns.**

This Agreement shall be binding upon and inure to the benefit of the Parties, and their respective successors and assigns, to the extent that assignment is permitted hereunder.

13.8 **Other Customers.**

Nothing in this Agreement shall be construed to prevent or prohibit Provider from providing the same or similar services to any Person not a Party to this Agreement and from entering into a form of agreement substantially similar to this Agreement with any such Persons; provided that the provision of such services does not adversely affect Provider's ability to perform its obligations hereunder.

13.9 **Waiver.**

No provision of this Agreement may be waived except in writing by the waiving Party. The waiver of any breach of any term or condition hereof shall not be deemed a waiver of any other or subsequent breach, whether of like or different nature.

13.10 Severability.

If any provision of this Agreement is declared by a court of competent jurisdiction to be illegal, unenforceable or void, that provision shall be modified so as to be enforceable and as nearly as possible reflect the original intention of the Parties, it being agreed and understood by the Parties that (i) this Agreement and all the provisions hereof shall be enforceable in accordance with their respective terms to the fullest extent permitted by Applicable Law, and (ii) the remainder of this Agreement shall remain in full force and effect.

13.11 Construction.

Every term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any Party.

13.12 Entire Agreement.

This Agreement, including the exhibits and schedules attached hereto, which are hereby incorporated by this reference as though fully set forth herein, constitutes the entire agreement between the Parties with respect to the subject matter hereof. Nothing in this Agreement, express or implied, is intended to confer upon any Person other than the Parties any rights, remedies, obligations or liabilities under or by reason of this Agreement.

13.13 Third-Party Beneficiaries.

This Agreement is made and entered into for the sole benefit of the Parties and each of their permitted successors and assigns and no other person or entity shall be a direct or indirect legal beneficiary of, have any rights under, or have any direct or indirect cause of action or claim in connection with this Agreement.

13.14 Survival.

Section 4.4, Section 5.4, Section 5.6, Article 7, Article 8, Article 9, and Article 13 shall survive the termination or expiration of this Agreement and any provision which by its terms or by implication is intended to survive the termination or expiration of this Agreement shall so survive.

13.15 No Rules of Construction Against Drafter.

Each Party acknowledges that it and its attorneys have been given an equal opportunity to negotiate the terms and conditions of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party or any similar rule operating against the drafter of an agreement shall not be applicable to the construction or interpretation of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the duly authorized officers of the Parties have executed this Agreement as of the Effective Date.

CALIFORNIA CHOICE ENERGY AUTHORITY

By: _____
Name: Mark Bozigian
Title: Executive Director

CITY OF LANCASTER

By: _____
Name: Mark Bozigian
Title: City Manager

EXHIBIT A

SCHEDULE OF DEFINITIONS

The terms defined in this Schedule of Definitions shall include the plural as well as the singular and the singular as well as the plural. Except as otherwise indicated, all the agreements or instruments herein defined shall mean such agreements or instruments as the same may from time to time be supplemented or amended or the terms thereof waived or modified to the extent permitted by, and in accordance with, the terms thereof. When used in the Agreement (as defined below), unless otherwise defined therein, the following terms shall have the respective meanings set forth below:

“Affiliate” of a Person (the “First Person”) shall mean a Person which directly or indirectly Controls, or is Controlled by, or is under common control with, the First Person, and shall also include any limited partnership or limited liability company of which the First Person or Affiliate thereof is the general partner, managing member or manager, as the case may be, and any Subcontractor, agent, representative, employee or authorized personnel of the First Person. “Control” of a Person shall mean the Customership, directly or indirectly, of more than fifty percent (50%) of the voting securities of that Person.

“Agreement” means this Administrative Services Agreement between Customer and Provider.

“Applicable Law” shall mean all laws, statutes, orders, decrees, injunctions, licenses, permits, approvals, agreements and regulations of any Governmental Authority having jurisdiction over the matter in question which are applicable to or which affect Provider’s provision of the Services and/or the subject matters encompassed by this Agreement.

“Authorization Documents” shall mean the documents identified and summarized in Exhibit D, and the requirements of any documents in replacement of the foregoing or in addition thereto provided by Customer and added to and summarized in Exhibit D from time to time.

“Authorized Officer” means the officer(s) of Customer designated as an “Authorized Officer” in the Customer Approval Procedures.

“Base Term” shall have the meaning set forth in Section 3.1(a).

“Bundled Load” means the proposed electric energy consumption of a member of Provider, as set forth in the implementation plan filed for such member pursuant to Code Section 366.2.

“Business Day” shall mean any day except a Saturday, Sunday or other day on which commercial banks in the State of California are authorized by law to close.

“Claims” shall mean claims, actions, damages, expenses (including reasonable attorneys’ fees), fines, penalties, losses or liabilities.

“Code” shall have the meaning given thereto in the recitals.

“Confidential Information” shall have the meaning given in Section 11.1(e).

“CPUC” shall have the meaning given thereto in the recitals.

“Customer” shall have the meaning given thereto in the introductory paragraph of the Agreement, and its permitted successors and assigns, if any, under the Agreement.

“Customer Approval Procedures” means the approval procedures set forth in Exhibit E hereto.

“Customer Indemnified Party” shall mean Customer (including successors and permitted assigns) and its shareholders, partners, directors, officers, agents and employees.

“Disputed Payment” shall have the meaning given thereto in Section 5.2(c).

“Effective Date” shall have the meaning given in the introductory paragraph of this Agreement.

“Energy Contract” means an agreement for the purchase of energy, renewable energy or related products, including a power purchase agreement and/or confirmation letter thereto, entered into by Provider for the benefit of Customer.

“FERC” means the Federal Energy Regulatory Commission.

“Fixed Fee” shall have the meaning given thereto in Section 5.1(a).

“Fixed Fee Services” shall have the meaning given thereto in Section 4.1(a).

“Force Majeure” shall mean any event that wholly or partly prevents or delays the performance by the Party affected of any obligation arising under this Agreement, but only if and to the extent such event is not within the reasonable control, directly or indirectly, of and not the fault of the Party affected including (provided that the foregoing requirements are satisfied): condemnation; expropriation; invasion; plague; drought; landslide; storms or wind of sufficient intensity to prevent safe performance of work; tornado; hurricane; tsunami; flood; lightning; earthquake; fire; explosion; epidemic; quarantine; war (declared or undeclared), terrorism or other armed conflict; material physical damage to an energy facility caused by third parties; strikes and other labor disputes (including collective bargaining disputes and lockouts) involving Subcontractors; riot or similar civil disturbance or commotion; other acts of God; acts of the public enemy; blockade; insurrection, riot or revolution; sabotage or vandalism; embargoes; and actions of a Governmental Authority (excluding the actions of the claiming party). “Force Majeure” shall not include (1) an event that prevents or delays (i) Provider’s or Customer’s compliance with (a) Applicable Laws; and (b) Permits required under Applicable Law in connection with such Party’s performance under this Agreement and (ii) Customer’s indemnity obligations hereunder, (2) labor shortages; (3) labor strikes and other labor disputes (including collective bargaining disputes and lockouts) with regard to work by Provider or a Subcontractor (except if such action is part of a regional or national action); or (4) economic hardship (including lack of money).

“Governmental Authority” shall mean any federal, provincial, state or local government authority, agency, court or other body, officer or public entity, including any zoning authority, building inspector, or health or safety inspector, including the CPUC.

“Indemnified Party” shall mean a Provider Indemnified Party or Customer Indemnified Party.

“Indemnifying Party” shall have the meaning given thereto in Section 7.3.

“JPA” shall mean that certain Joint Exercise of Powers Agreement Relating to the California Clean Energy Authority dated August 14, 2012, as the same has been or may be amended from time to time.

“Payment Date” shall have the meaning given thereto in Section 5.2.

“Payment Invoice” shall have the meaning given thereto in Section 5.2.

“Permit” shall mean any waiver, exemption, variance, franchise, certification, approval, permit, authorization, license, consent, or similar order of or from any Governmental Authority having jurisdiction over the matter in question.

“Person” shall mean any individual, partnership, joint stock company, corporation, trust, unincorporated association or joint venture, a government or any department or agency thereof, or any other entity.

“Provider” shall have the meaning given thereto in the introductory paragraph of this Agreement, and its successors and permitted assigns, if any.

“Provider Indemnified Party” shall mean Provider and its Affiliates and their respective shareholders, partners, directors, officers, agents, employees and representatives.

“Provider Permits” means those permits required under Applicable Law in order for Provider to perform its obligations hereunder.

“Provider Policies” shall mean Provider’s health, safety and environmental policies.

“Regular Work Hours” means [8:00 am] (PT) to [5:00 pm] (PT) on a Business Day.

“Reimbursable Expenses” shall have the meaning set forth in Section 5.2.

“Reimbursable Services” shall have the meaning given thereto in Section 4.1(b).

“Scope of Work Exhibit” means Exhibit B hereto.

“Security Documents” means, with respect to each Energy Contract, the security documents entered into by Customer in connection therewith pursuant to which Customer grants to the energy suppliers under each Energy Contract (or its collateral agent) a security interest in any and all monies received from the Utility or the end-users in Customer’s territory in connection with such Energy Contract, which security documents shall include (i) an account control agreement for an account (sometimes referred to as a “lockbox account”) among Customer, an account bank and the energy supplier to such Energy Contract (or its collateral agent), (ii) an intercreditor and collateral agency agreement, among Customer, the counterparties to such Energy Contracts and, if applicable, the collateral agent, and (iii) a security agreement between Customer and the counterparty to such Energy Contract (or its collateral agent).

“Services” shall have the meaning set forth in Section 4.1 and shall be comprised of the Fixed Fee Services and the Reimbursable Services.

“Subcontractors” means any subcontractor, of any tier, vendor or supplier of materials, equipment or services to Provider or any subcontractor, of any tier, of any Person engaged or employed by Provider or any subcontractor of any tier that provides any part of the Services.

“Term” shall have the meaning set forth in Section 3.1(a).

“Terminating Party” shall have the meaning given thereto in Section 8.1.

“Termination Notice” shall have the meaning given thereto in Section 3.1(b).

“Utility” means [Pacific Gas and Electric] [Southern California Edison] [San Diego Gas & Electric].

EXHIBIT B
SCOPE OF WORK

A. Fixed Fee Services

1. Portfolio Operations

(a) Energy Procurement.

(i) Provider to consider load patterns of the CCA and advise Customer on assembling a supply portfolio that will match resources to the aggregate load shape of the CCA's customer base.

(ii) Provider to negotiate contracts for the sale of electricity to fill the load requirements of the CCA.

(b) Risk and Credit Management.

(i) Provider to monitor the credit rating and financial condition of Customer's energy suppliers.

(ii) Provider to periodically calculate the financial exposure to a specific supplier.

(c) Load Forecasting and Data Collection.

(i) Provider to collect, process and forecast load information.

(d) Scheduling Coordination.

(i) Provider to coordinate scheduling with the grid operator's schedule coordinator; exchange customer usage and billing formation with the Utility.

2. Account Services

(a) If necessary, Provider to calculate individual end-user customer bills.

(b) Provider to confirm receipt of funds in lockbox account.

(c) Provider to review and validate invoices from Schedule Coordinator.

(d) Provider to direct distribution of funds from lockbox account.

3. Administrative and Management of CCA Program

4. Regulatory Representation and Compliance Filings

B. Reimbursable Services

(a) Data Management Services (e.g., electronic data interchange (EDI) services; customer information system development and maintenance; customer call center management and staffing; billing administration; settlement quality meter data services; customer care, billing and related reports; and qualified reporting entity (QRE) services)

(b) Professional Services (e.g., legal services for negotiation of Energy Contracts and Security Documents on behalf of Lancaster; electric load evaluation; community choice aggregation operational analysis; projected customer rate analysis and comparison; and support and maintenance of financial model)

EXHIBIT C

**FIXED FEE RATE, REIMBURSABLE EXPENSES
AND NOTICE ADDRESS**

- 1. **Fixed Fee Rate:** \$ 1,152,870.00 annually
- 2. **Reimbursable Expenses:**
 - (a) **Data Management Services:** \$ 826,485.00 (estimated)
 - (b) **Professional Services:** \$ 250,000.00 (estimated)
- 3. **Address for Notices:**

Provider:	[Name of Provider] [Address] Attn: [_____] <input type="text"/> Tel: [_____] <input type="text"/> Facsimile: [_____] <input type="text"/> Email: [_____] <input type="text"/> With a copy to Provider's legal counsel: Troutman Sanders LLP 100 SW Main Street, Suite 1000 Portland, Oregon 97204 Attn: Stephen Hall Tel: 503.290.2336 Email: stephen.hall@troutmansanders.com
Customer:	[Name of Customer] [Address] Attn: [_____] <input type="text"/> Tel: [_____] <input type="text"/> Facsimile: [_____] <input type="text"/> Email: [_____] <input type="text"/>

EXHIBIT D
AUTHORIZATION DOCUMENTS

[To be completed]

EXHIBIT E

CUSTOMER APPROVAL PROCEDURES

1. **Authorized Officer** *[Table to be completed with name/title of Customer's officer that is authorized to provide Provider with necessary approvals.]*

Name	Title

2. **Approval Procedures**

[To be completed – Procedures to contain thresholds for which receipt of Authorized Officer's approval is required.]

Authorized Officer Approval IS Required if Term of Energy Contract is GREATER than:	Five (5) Years
Authorized Officer Approval IS NOT Required if Notional Amount of Energy Contract is EQUAL TO OR LESS than:	Five (5) Years

EXHIBIT F

FORM OF AUTHORIZED OFFICER APPROVAL

[To be inserted]

EXHIBIT G
JOINT EXERCISE OF POWERS AGREEMENT
AND AMENDMENTS THERETO

4840-6911-0854, v. 1

STAFF REPORT
City of Lancaster

NB 1
05/09/17
MVB

Date: May 9, 2017

To: Mayor Parris and City Council Members

From: Jason Caudle, Deputy City Manager

Subject: Acceptance of Reimbursement from Antelope Valley Air Quality Management District and Appropriation of Funds – ebee Smart Technologies Pilot Project

Recommendations:

- a. Acceptance of reimbursement from Antelope Valley Air Quality Management District's (AVAQMD) Plug-in Infrastructure Incentive Program Grant Agreement between the City of Lancaster and AVAQMD for the procurement of electrical vehicle charging stations. The total cost of equipment and installation is \$25,000 which will be reimbursed through this grant.
- b. Appropriate funds in the amount of \$25,000 to Revenue Account No. 204-3751-100; approve the transfer of these funds from 204-4999-490 to 490-3990-204 for the purpose of reimbursing Lancaster Choice Energy for the purchase of equipment and installation costs.
- c. Appropriate \$25,000 to expenditure Account No. 490-4370-755 for the purchase of equipment and installation costs.

Fiscal Impact:

Lancaster Choice Energy will provide \$25,000 for the initial purchase and installation of the equipment. Lancaster will be fully reimbursed upon completion of the project.

Background:

The City of Lancaster has partnered with ebee Smart Technologies, a European market leader based in Berlin, Germany, to introduce its technology to North America with a streetlight electric vehicle charging project in Lancaster. This pilot project will demonstrate innovative technology that makes installing public and semi-public electric vehicle charging cheaper, faster, and more flexible by seamlessly integrating charging units into existing infrastructure such as street lights.

In an effort to encourage maximum expanded use of electric vehicles (EV) at this early stage of market development, the project will consist of 5 (five) ebee EV charging units installed on streetlights on Lancaster Boulevard. Plug-in drivers will be able to charge their cars at these

charging stations at no cost. Additionally, each of the charging units will function as a Wi-Fi hotspot for public use.

This project is a collaboration of local and regional government and private enterprise. The City is partnering with AVAQMD, which is providing the total installation cost, and ebee Smart Technologies, which will provide the remaining project funding to cover operations, maintenance, and data collection.

This partnership supports Lancaster's goal of expanding electrical vehicle charging station infrastructure in our city, provides the community with opportunities to drive free of harmful emissions while accelerating state and national clean air goals, and assists the City in reaching our goal to be Net Zero.

JC:kw

Attachments:

License and Memorandum of Agreement

Grant Agreement

LICENSE AND MEMORANDUM OF AGREEMENT

This LICENSE AND MEMORANDUM OF AGREEMENT ("Agreement") is entered into and effective as of _____, 2016, by and between the CITY OF LANCASTER, a municipal corporation and charter city ("City"), and the EBEE SMART TECHNOLOGIES, a privately held German limited liability corporation ("Ebee") (collectively, the "Parties").

RECITALS

A. The Antelope Valley Air Quality Management District (AVAQMD) has approved a grant proposal submitted by the City, that would fund a pilot project to install electric vehicle charging units ("EV Units") on existing street lights and/or parking lot lights located in the City (the "Project").

B. The City desires that Ebee undertake all aspects of the Project, including but not limited to manufacturing, installing, maintaining, operating the EV Units and compiling and reporting on data regarding the use of the EV Units in the City, in accordance with the proposal and scope of work approved for the AVAQMD grant, attached hereto as Exhibit "A" and incorporated by reference herein, and Ebee is desirous of undertaking such work.

C. It is the Parties' intent that the City will utilize the AVAQMD grant to reimburse Ebee for the Project costs, said reimbursement to cover eighty percent (80%) of the total Project costs. It is further the Parties' intent that Ebee shall be responsible for securing the funding for the remaining Project costs.

NOW, THEREFORE, the Parties agree as follows:

1. **License.** The City hereby grants to Ebee a non-exclusive license to enter City premises as necessary to undertake the actions associated with the Project, specifically to install or otherwise attach its EV Units to City-owned streetlights and/or parking lot lights, and thereafter to operate, monitor, maintain, repair and/or replace and subsequently remove said EV Units. The premises and the specific streetlights and/or parking lot lights to be used in association with the Project shall be determined by the City in its sole discretion.

2. **Responsibilities of City.**

a. The City will enter into a Grant Agreement with the AVAQMD, and will timely submit invoices and any other claims for reimbursement to AVAQMD in accordance with said Grant Agreement. The City shall further timely and adequately undertake all other obligations set forth in the Grant Agreement.

b. The City personnel will pay Ebee the sum of five thousand dollars (\$5,000.00) for each EV Unit, not to exceed a total of five (5) EV Units, within thirty (30) calendar days of installation of each EV Unit. It is expressly understood by the Parties that any payment(s) made to Ebee for an EV Unit shall not constitute City's acceptance of full performance of the Project by Ebee. Such acceptance/acknowledgement of full performance shall be made by the City, in writing, upon the completion of the term of the Grant Agreement.

c. The City shall organize, coordinate and oversee media events, press/photo opportunities and other promotional events and marketing materials to promote the Project and AVAQMD's support for the Project.

3. **Responsibilities of Ebee.**

a. Ebee will produce, deliver, install, activate, monitor, maintain and replace or repair each EV Unit to be installed in the City.

b. Upon the expiration of the Project term, or earlier termination of the Grant Agreement and/or this Agreement in accordance the terms therein, Ebee shall, at its sole cost, remove all EV Units and shall restore streetlights and/or parking lot lights upon which the EV Units were installed, as well as any improvements on or around said lights, to their original pre-installation condition.

c. Ebee shall perform all aspects of the Project in full accordance with the Grant Agreement, including the scope of work attached thereto and incorporated therein by reference.

d. Ebee agrees to indemnify, defend and hold harmless the City, its elected officials, officers, employees, and volunteers (collectively for purposes of this Section, "City") 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 the Project, except where caused by the sole, active negligence or willful misconduct of the City.

e. Ebee, and/or subcontractors, shall install the EV Unit in accordance with CA State Prevailing Wage laws listed in Section 4.

4. **Payment of Prevailing Wage.**

A. The State of California, Department of Industrial Relations, has ascertained the general prevailing rate of wages and employer payments for health and welfare, vacation, pension, and similar purposes applicable to the work to be done. These rates shall be the minimum wage rates for this project. These rates are on file with the City and copies will be made available to any interested party upon request.

Attention is directed to the provisions of Section 1777.5 (Chapter 1411, Statutes of 1968) and Section 1777.6 of the Labor Code concerning the employment of apprentices by the Ebee or any subcontractor under him.

Section 1777.5, as amended, requires the Ebee or subcontractor employing tradesmen in any apprenticeable occupation to apply to the joint apprenticeship committee nearest the site of the public works project and which administers the apprenticeship program in that trade for a certificate of approval. The certificate will also fix the ratio of apprentices to journeymen that will be used in the performance of the contract. The ratio of apprentices to journeymen in such cases shall not be less than one to five except:

- (A) When unemployment in the area of coverage by the joint apprenticeship committee has exceeded an average of 15% in the 90 days prior to the request for certificate; or
- (B) When the number of apprentices in training in the area exceeds a ratio of one to five; or
- (C) When the trade can show that it is replacing at least 1/30 of its membership through apprenticeship training on an annual basis statewide or locally; or
- (D) When Ebee or Subcontractor provides evidence that he employs registered apprentices on all of his contracts on an annual average of not less than one apprentice to eight journeymen.

Ebee or subcontractor is required to make contributions to funds established for the administration of apprenticeship programs if he employs registered apprentices or journeymen in any apprenticeable trade on such contracts and if other Contractors on the public works site are making such contributions.

Ebee and any subcontractor under them shall comply with the requirements of Section 1777.5 and Section 1777.6 in the employment of apprentices.

Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

B. The provisions of subsection A above shall be included in all solicitations or advertisements placed by or on behalf of Ebee for personnel to perform any services under this AGREEMENT. The City shall have access to all documents, data and records of Ebee and its subcontractors for purposes of determining compliance with the Prevailing Wage provisions of this Section.

5. **Notices.** Any notice, demand, request, consent, approval, or communication either party desires or is required to give to the other party or any person shall be in email to the contacts set forth below, with "delivered" receipt requests, and/or in writing and either served personally or sent by prepaid, first-class mail to the address set forth below. Notice shall be deemed communicated twenty-four (24) hours from receipt of confirmation of email delivery or forty-eight (48) hours from the time of mailing if mailed as provided in this section.

To City: City of Lancaster
 c/o Trevin Barber
 TBarber@cityoflancaesterca.org

City of Lancaster
Attn: Mark V. Bozigian, City Manager
44933 North Fern Avenue
Lancaster, California 93534

To Ebee: Ebee Smart Technologies
 c/o Diana Moss
 d.moss@dima-communications.com

Ebee Smart Technologies
Attn: Henning Heppner, CEO
Torgauer Strasse 12-15
10829 Berlin
GERMANY

6. **Assignment of Agreement.** The Parties hereto may not assign their obligations hereunder to any assignee without the knowledge and prior written consent of the other party, which other party shall not unreasonably withhold. Assignment may be made only to an assignee willing, financially capable and competent to carry out the assignor's obligations.

7. **General Provisions.**



a. Except as otherwise provided herein, the terms, conditions, covenants and agreements set forth herein shall apply to and bind the heirs, executors, administrators, assigns and successors of the Parties hereto.

b. The Parties to this Agreement do not rely upon any warranty or representation not contained in this Agreement and/or the Grant Agreement and all exhibits attached thereto and incorporated by referenced therein.

c. This Agreement shall be governed by and interpreted with respect to the laws of the State of California.

d. Any failure or delay by any party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any rights or remedies provided for herein.

8. Term; Termination.

a. This Agreement shall terminate immediately and be of no further force and effect on the earliest of (i) five (5) years from the date of execution of the Grant Agreement; or (ii) upon notice to the City by Ebee that it has been unable to secure funding for the remaining 20% of Project costs not covered by the AVAQMD Grant; or termination of this Agreement by either Party in accordance with Subsection (b) of this Section; provided however, that another termination date may be agreed upon by the mutual written approval of the Parties by amendment to this Agreement as provided in Section 8.

b. This Agreement may be terminated with or without cause by either Party by giving 30 days' notice as provided in Section 4 herein. In the event of termination prior to the expiration of the term of the Grant Agreement, Ebee shall, within thirty (30) calendar days, reimburse the City the full amount of all Project funds paid to Ebee as of the date of termination. Upon reimbursement of Project funds, the City shall grant Ebee a non-exclusive license, in writing, to re-enter the Premises and streetlights/parking lot lights associated with the Project for the sole purpose of removing the EV Units and restoring the City's property as set forth in Section 3b of this Agreement. In the event Ebee fails to timely reimburse the City the full amount of Project funds paid to Ebee, the City may avail itself of all remedies under the law to recover said funds.

9. Amendments. Any amendment, modification, or variation from the terms of this Agreement shall be effective only upon the mutual written approval of the Parties.

10. Severability. In the event that any provision or provisions of this Agreement are held unenforceable, all provisions not so held shall remain in full force and effect.

11. Authority of Signatories. The persons executing this Agreement on behalf of the Parties hereto warrant that they are duly authorized to execute this agreement on behalf of said Parties and that by so executing this Agreement, the Parties are formally bound to the provisions of this Agreement.

[Signatures begin on next page.]



IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed and attested by their respective officers thereunto duly authorized.

CITY OF LANCASTER

By: 
Mark V. Bozigian, City Manager

Dated: 9-6-16

EBEE SMART TECHNOLOGIES, GMBH

By: Henning Heppner, CEO.
(Name, Title)

Dated: Sept. 1. 2016



ATTEST:


City Clerk

APPROVED AS TO FORM:


City Attorney

Addendum 1: Addendum to License and Memorandum of Agreement

This Addendum 1: Addendum to License and Memorandum of Agreement ("Addendum") supplements, and is hereby made part of, the License and Memorandum of Agreement ("Agreement") dated September 1, 2016 entered into by the City of Lancaster ("City") a municipal corporation and charter city and Ebee Smart Technologies ("Ebee") a privately-held German limited liability corporation.

This addendum clarifies that the electric vehicle charging units to be installed on 5 streetlights, as part of the 5-year pilot program between the City of Lancaster and Ebee Smart Technologies, **does not** require UL certification.

By: 

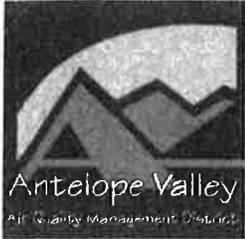
Mark V. Bozigian, City Manager

Dated: 2-24-17

Ebee Smart Technologies
By: 

Henning Heppner, CEO

(Name, Title)
Dated: Feb 20 2017



Antelope Valley Air Quality Management District
43301 Division St., Suite 206
Lancaster, CA 93535-4649

661.723.8070

December 8, 2016

City of Lancaster
44933 Fern Avenue
Lancaster, CA 93534
Attn: Trevin Barber

Dear Trevin,

Enclosed please find a copy of the fully executed agreement and scope of work between the Antelope Valley Air Quality Management District and the City of Lancaster. Per the project agreement, please note the following items needed to complete this project as well as the annual reporting requirement.

As a program participant, there is a commitment to providing annual usage reports to the District for the five (5) year project lifetime which begins the first day the Charging Stations are put into service.

After the Charging Stations are placed into service please adhere to the following:

- 1) Notify the District when the Charging Stations are put into service and arrange for District staff site visit.
- 2) Submit reimbursement request along with the following copies:
 - Final Invoice
 - Form of payment made to the vendor
 - Warranties
 - Maintenance and Service Agreements
 - Replacement plan and/or insurance certificate insuring against loss and/or destruction
- 3) Contact information for the person responsible for providing the District with annual usage data for the five (5) year project life.

If you have any questions or need further information, please contact me at (661) 723-8070 ext. 8 or jmckeehan@avaqmd.ca.gov.

Sincerely,

A handwritten signature in cursive script that reads "Julie McKeehan".

Julie McKeehan
Air Quality Specialist
Grants Program Coordinator

Enclosure

1 the activities described in the Mobile Source Emissions Reduction projects submitted by Grantee and the
2 Project Scope of Work hereafter referred to as Scope of Work "Exhibit A" attached hereto and
3 incorporated herein.

4 NOW THEREFORE, in consideration of mutual covenants and conditions listed below, the
5 Parties agree as follows:

6 **GRANT TERMS AND CONDITIONS**

7 1. Due Diligence: Upon the commencement of the term of this Agreement, City of Lancaster agrees
8 to proceed with due diligence to perform as described in Exhibit A.

9 2. Purpose: The purpose of this Agreement is for Grantee to utilize the funds for the costs
10 associated with the purchase and installation of five (5) Ebee Streetlight EV Charging units throughout
11 various City of Lancaster locations as specified in Exhibit A. The Project must be completed, operated
12 and maintained in a manner such that it does not void any warranty for five (5) years of the Project life
13 also specified in Exhibit A. Grantee certifies compliance with all applicable federal, state, and local air
14 quality rules and regulations at time of contract execution and shall maintain compliance with such rules
15 and regulations for the full contract term.

16 3. Schedule: Grantee shall follow the general schedule specified in Exhibit A.

17 4. Term: This Agreement shall commence on April 11, 2016 and terminate five (5) years following
18 completion of the Projects as specified in Exhibit A, or later date if approved in writing by the
19 AVAQMD. During the project life, either the AVAQMD or CARB or their designee have the authority
20 to inspect the Project, enforce the terms of this Agreement, conduct a fiscal audit, and seek any remedies
21 available under the law for non-compliance with the terms and conditions of this Agreement.

22 5. Cost: The total payment to Grantee shall not exceed Twenty-Five Thousand Dollars (\$25,000)
23 towards the purchase and installation of five (5) Ebee Streetlight EV Charging units. Grantee shall
24 obtain through other sources sufficient additional monies to fund the total cost of the Project should
25 additional funds be needed in excess of Twenty-Five Thousand Dollars (\$25,000) or Five Thousand
26 Dollars (\$5,000) per unit for a total of five (5) units. In the Project's Proposal, Grantee has disclosed all
27 other sources of funding to be applied towards this Project. Grantee shall not use this Project to generate
28 credits or compliance extensions, and must be excluded when determining regulatory compliance.

1 Grantee shall provide written evidence of commitment for such funding to AVAQMD and AVAQMD
2 may not release any funds under this Agreement until it finds such evidence satisfactory.

3 If an existing contract is amended to increase the total grant funding of the Project, AVAQMD must
4 reevaluate eligibility and consider all applicable regulations.

5 a. Payments.

6 i. AVAQMD shall not make any advance payment under this Agreement and all
7 payments to Grantee by AVAQMD as provided herein shall be paid out upon receipt of a
8 final itemized invoice along with all documentation as specific in the Exhibit A. Claims
9 for payment must be submitted to AVAQMD, Attention: Julie McKeehan.

10 ii. The amount to be paid to Grantee under this Agreement shall be the lower of the
11 contract amount or the final invoice amount and includes all sales and use taxes incurred
12 pursuant to this Agreement, including but not limited to any taxes due on equipment
13 purchased by Grantee. Grantee shall not receive additional funds for reimbursement of
14 such taxes and shall not decrease work to compensate therefore.

15 iv In the event there are any subcontractors, concurrently with the submission of any
16 claim for payment, Grantee shall certify that complete payment has been made to any
17 and all subcontractors. Grantee shall support such certification by appropriate copies of
18 invoices issued, checks, receipts, and similar documents.

19 b. Close-out Period.

20 i. All final claims shall be submitted by Grantee within sixty (30) days following
21 the final month of activities for which payment is claimed. AVAQMD will have no
22 obligation to pay or take any action on claims submitted after the 60-day close-out period.

23 c. Repayment of Grant.

24 i. Grantee agrees to repay AVAQMD if any of the following occur:

25 1. The Project specified in Exhibit A are sold and the buyer fails to accept
26 and perform the obligations of this Agreement for the remaining project lifetime
27 as set forth in Exhibit A; or

28 //

1 2. The Project specified in Exhibit A are destroyed or otherwise rendered
2 inoperable.

3 ii. The amount of repayment shall be calculated as follows:

4 Repayment amount = $\frac{G}{N}$

5 Where:

6 G = "Grant amount" is the amount of money Grantee is reimbursed for the
7 equipment and installation under this Agreement.

8 N = "project life in years" for the purposes of this calculation, five (5) years or sixty
9 (60) months

10 6. Maintenance: Grantee shall operate and maintain the Projects pursuant to the manufacturer's
11 specifications for the entire project life. If during the project life the Project fails for any reason, the
12 owner shall immediately notify the AVAQMD of the failure and must repair or replace the non-
13 operating Project(s) promptly.

14 7. Independent Contractor:

15 a. The relationship of Grantee to AVAQMD under this Agreement is that of an independent
16 contractor. Grantee is to exercise its own discretion as to the method and manner of performing
17 its duties. AVAQMD will not exercise control over Grantee, its employees, agents, or
18 subcontractors, except regarding the result to be obtained and to verify compliance with the terms
19 of this Agreement. Grantee and AVAQMD shall comply with all applicable provisions of law
20 and the rules and regulations, if any, of governmental authorities having jurisdiction over matters
21 the subject thereof.

22 b. Grantee understands that this Agreement does not preclude Grantee from performing
23 services for other projects under the jurisdiction of the AVAQMD as long as such services are
24 not in conflict with this Agreement and as long as such services do not create conflict of interest
25 under applicable laws.

26 c. The Parties further agree that since the status of Grantee is that of an independent contractor,
27 Grantee shall not become entitled to any employment rights or benefits that are available to the
28 employees of AVAQMD. The Parties further agree that Grantee shall be solely responsible for

1 providing to itself, and on behalf of itself, all legally required employment benefits.

2 8. Termination:

3 a. Breach of Agreement: AVAQMD may immediately suspend or terminate this
4 Agreement, in whole or in part, where in the reasonable determination of AVAQMD there is:

5 i. An illegal or improper use of funds;

6 ii. A breach by Grantee of any material term of this Agreement and failure to cure
7 such breach within thirty (30) days following written notice from AVAQMD; or

8 iii. A substantially incorrect or incomplete report submitted to AVAQMD that is not
9 corrected within thirty (30) days following written notice by the AVAQMD of the report
10 deficiencies.

11 iv. A breach by sublet, transfer of any rights or obligations, modification or sale of
12 the Project equipment by Grantee under this Agreement in violation of paragraph 16c or
13 d of this Agreement prior to the fulfillment of all obligations under this Agreement.

14 In no event shall any reimbursement by AVAQMD constitute a waiver by AVAQMD of any
15 breach of this Agreement or any default which may then exist on the part of Grantee. Neither shall such
16 reimbursement impair or prejudice any remedy available to AVAQMD with respect to the breach or
17 default. AVAQMD shall have the right to demand of Grantee the repayment to AVAQMD of any funds
18 disbursed to Grantee under this Agreement which in the judgment of AVAQMD were not expended in
19 accordance with the terms of this Agreement. Grantee shall promptly refund any such funds upon
20 demand.

21 In addition to immediate suspension or termination, AVAQMD may seek any other remedies
22 available at law, in equity, or otherwise specified in this Agreement.

23 b. Without Cause: In the event of unavailability of funds because of fault or no fault of
24 either party, such party may terminate this Agreement upon giving written notice to the other
25 party at least thirty (30) days before the effective date of such termination.

26 c. For Cause: AVAQMD may terminate this Agreement upon the conviction for any
27 criminal act by Grantee, its agents, officers and employees if such act directly relates to this
28 Agreement.

1 9. Indemnification: Grantee agrees to indemnify, defend and hold harmless AVAQMD and its
2 authorized agents, officers, volunteers and employees against any and all claims or actions arising from
3 Grantee's acts, errors or omissions in performing services pursuant to this Agreement. Grantee agrees to
4 indemnify, defend, and hold harmless AVAQMD, its authorized agents, officers, volunteers and
5 employees against any and all losses sustained due to the use of the Project equipment pursuant to this
6 Agreement. AVAQMD agrees to indemnify, defend and hold harmless Grantee and its authorized
7 agents, officers, volunteers and employees against any and all claims or actions arising from
8 AVAQMD's acts, errors or omissions in performing services pursuant to this Agreement.

9 10. Insurance:

10 a. In order to accomplish the indemnification herein provided for, Grantee shall secure and
11 maintain, throughout the term of the Agreement, the following types of insurance issued by
12 companies reasonably acceptable to AVAQMD. Grantee will procure and maintain insurance as
13 required by law or regulation. At a minimum, Grantee will procure and maintain the following
14 types of insurance:

- 15 i. Workers' compensation insurance in amounts to satisfy applicable state laws;
- 16 ii. Employer's liability insurance in the amount of \$1,000,000;
- 17 iii. Automobile liability insurance in the amount of \$1,000,000 per occurrence;
- 18 iv. General commercial liability insurance for bodily injury, death or loss of or
19 damage to property of third persons in the minimum amount of \$1,000,000 per
20 occurrence and in the aggregate.

21 b. Such insurance policies shall name AVAQMD, its officers, agents, employees,
22 individually and collectively, as additional insured (except workers' compensation insurance),
23 for purposes of the matter covered under this Agreement. The coverage shall contain no special
24 limitations on the scope of protection afforded to the District, its officers, agents, employees,
25 individually and collectively. Such coverage for additional insured shall apply as primary
26 insurance, and any other insurance maintained by AVAQMD, its officers, agents, and employees,
27 shall be excess only and not contributing with insurance provided under Grantee's policies
28 herein. The grantee's insurance shall apply separately to each insured against whom claim is

1 made or suit is brought, except with respect to the limits of the insurer's liability. Any failure to
2 comply with any of the provisions or policies including breach of warranties shall not affect
3 coverage provided to the District, its officers, agents, employees, individually and collectively.
4 Each insurance policy required by this clause shall state or be endorsed to state that coverage
5 shall not be cancelled by either party, except after thirty (30) days, prior written notice by U.S.
6 mail has been given to the District or in the event of non-payment of premium, ten (10) days
7 prior written notice by U.S. mail has been given to the District.

8 c. Prior to the commencement of performing its obligations under this Agreement, Grantee
9 shall provide to AVAQMD appropriate certificates from its insurance carrier or carriers stating
10 that such insurance coverages have been obtained and are in full force; that AVAQMD, its
11 officers, agents and employees will not be responsible for any premiums on the policies; that
12 such insurance names AVAQMD, its officers, agents, and employees, individually and
13 collectively, as additional insureds and stating policy number, dates of expiration, limits of
14 liability thereunder, and special endorsements (except workers' compensation insurance), for
15 purposes of the matter covered under this Agreement; that such coverage for additional insured
16 shall apply as primary insurance and any other insurance maintained by AVAQMD, its officer,
17 agents, and employees, shall be excess only and not contributing with insurance provided under
18 Grantee's policies herein.

19 11. Audits, Inspections and Reports:

20 a. During the Project life, either or both the AVAQMD and CARB or their designee have
21 the authority to inspect projects, enforce terms of this Agreement, and pursue a refund for any
22 noncompliance with the terms and conditions of this Grant Agreement or applicable state laws or
23 regulations. Grantee shall make available to AVAQMD at any time during regular business
24 hours following reasonable notice from the AVAQMD, and as often as AVAQMD may deem
25 necessary, all of its records and data for examination with respect to the matters covered in this
26 Agreement. Grantee shall allow AVAQMD upon reasonable advance request at AVAQMD's
27 cost, to audit and inspect all of such records and data necessary to ensure Grantee's compliance
28 with the terms of this Agreement. In the event it becomes necessary, Grantee shall be subject to

1 an audit to determine if the funds received by Grantee were spent for the Project equipment and
2 to determine whether said funds were spent as provided by law and this Agreement. If after audit
3 AVAQMD makes a determination that funds provided to Grantee pursuant to this Agreement
4 were not spent in conformance with this Agreement or any other applicable provisions of law,
5 and following resolution of any appeal of such determination by Grantee to the Board of the
6 AVAQMD, Grantee agrees to immediately reimburse AVAQMD all funds determined to have
7 been expended not in conformance with said provisions.

8 b. Grantee shall deliver usage reports commencing twelve (12) months after the CNG
9 fueling station has been placed back into service with the new upgraded and annually thereafter
10 for the Project life as specified in Exhibit A. Failure to submit a report will result in on-site
11 monitoring or inspection(s).

12 c. Grantee shall retain all records and data for activities performed under this Agreement for
13 at least three (3) years beyond the performance of the final obligation pursuant to this Agreement
14 or until all state and federal audits are completed, whichever is later.

15 12. Notices: The persons and their addresses having authority to give and receive notices under this
16 Agreement are as follows:

17 City of Lancaster	AVAQMD	AVAQMD
18 Mark V. Bozigian	Julie McKeehan	Bret Banks
19 City Manager	Grants Program Coordinator	Deputy Director
44933 Fern Avenue	14306 Park Avenue	43301 Division Street
Lancaster, CA 93534	Victorville, CA 92392	Lancaster, CA 93535

20
21 Any and all notices to AVAQMD and Grantee provided for or permitted under this Agreement
22 or by law shall be in writing and shall be deemed duly served when personally delivered, or in lieu of
23 such personal service, when actually received or when deposited in the United States mail, postage
24 prepaid, addressed to such party.

25 13. Political Activity Prohibited: None of the funds, materials, property, or services provided under
26 this Agreement shall be used for any political activity, or to further the election or defeat
27 of any candidate for public office contrary to federal or state laws, statutes, regulations, rules, or
28 guidelines.

1 14. Lobbying Prohibited: None of the funds provided under this Agreement shall be used for
2 publicity, lobbying, or propaganda purposes designed to support or defeat legislation before the
3 Congress of the United States of America or the Legislature of the State of California.

4 15. Conflict Of Interest: No officer, employee or agent of AVAQMD who exercises any function or
5 responsibility for planning and carrying out the services provided under this Agreement shall have any
6 direct or indirect personal financial interest in this Agreement. Grantee shall comply with all federal,
7 state and local conflict of interest laws, statutes, and regulations.

8 16. Succession:

9 a. Each party and the partners, successors, and legal representatives of each party, and to the
10 extent permitted herein the assigns of each party, are hereby bound to the other party and to the
11 partners, successors, legal representatives and assigns, of such other party, in respect to all
12 covenants, Agreements and obligations of this Agreement.

13 b. Neither Party will assign, sublet or transfer any rights or obligations under this
14 Agreement without the written consent of the other. However, Grantee is authorized to use
15 employees of or assign this Agreement to an affiliate as it may deem appropriate to assist in the
16 performance of services or as a result of an internal reorganization.

17 c. Grantee shall not sublet, transfer any rights or obligations, pertaining to the equipment
18 under this Agreement, for the full term of the Agreement without prior written authorization
19 from the AVAQMD.

20 d. Grantee shall not sell or otherwise modify the equipment under this Agreement, for the
21 full term of the Agreement without prior written authorization from the AVAQMD.

22 17. Time is of Essence: Time is of the essence in completion of the services in this Agreement.

23 18. Benefit to Parties: Nothing contained in this Agreement will be construed to give any rights or
24 benefits to any person other than the Parties, and all duties and responsibilities undertaken pursuant to
25 this Agreement will be for the sole and exclusive benefit of the Parties and not for the benefit of any
26 other person.

27 19. Change in Scope of Work: Changes or amendments to the Project application as it exists at the
28 time the Governing Board makes the grant award and or Scope of Work contained in this Agreement,

1 including any increase or decrease in the amount of program funds awarded, and changes in the terms of
2 this Agreement, shall be mutually agreed upon in writing by and between AVAQMD and Grantee, and
3 shall only be effective by duly-executed written amendments to this Agreement.

4 20. Severability: In the event that any word, phrase, clause, sentence, paragraph, section, article or
5 provision contained in this Agreement is held to be unenforceable for any reason by a court of
6 competent jurisdiction, such holding shall not affect the remaining portions of this Agreement, and the
7 Agreement shall then be construed as if such unenforceable provisions are not a part hereof.

8 21. Captions: The paragraph captions of this Agreement shall have no effect on its interpretations.

9 22. Entire Agreement: This Agreement, together with the Project application and Exhibit A,
10 constitutes the entire Agreement between the Parties and will supersede all prior written or oral
11 understandings. This Agreement and its Exhibits may only be amended, supplemented, modified or
12 canceled by a duly-executed written instrument signed by the Parties.

13 23. Rights to Emission Reductions: Grant funded projects cannot generate Emission Reduction
14 Credits (ERCs) pursuant to AVAQMD Regulation XIV or be used for offsets pursuant to Regulation
15 XIII.

16 24. Governing Law: This Agreement shall be interpreted under the laws of the State of California.
17 Venue for any action arising out of this Agreement shall only be in Los Angeles County, California.

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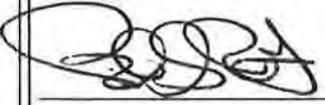
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28 //

1 This Agreement was entered into in Lancaster, California.

2 ANTELOPE VALLEY AIR QUALITY
3 MANAGEMENT DISTRICT

CITY OF LANCASTER

4 
5 _____
6 BRET BANKS
Deputy Director

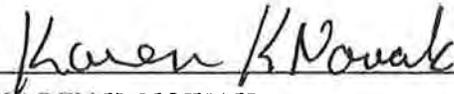
7 
8 _____
9 MARK V. BOZIGIAN
City Manager

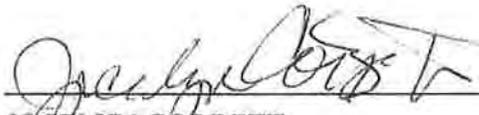
10 Dated: 9/7/16

11 Dated: 9-6-16

12 Approved as to Legal Form:

13 Approved as to Legal Form:

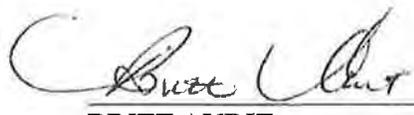
14 
15 _____
16 KAREN K. NOWAK
17 District Counsel

18 
19 _____
20 JOCELYN CORBETT
21 Asst. City Attorney

22 Dated: 9/8/16

23 Dated: 9-6-16

24 Attest:

25 
26 _____
27 BRITT AVRIT
28 Lancaster City Clerk

END OF CONTRACT

**CITY OF LANCASTER AGREEMENT
WITH ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
SCOPE OF WORK APRIL 11, 2016**

Task I: Equipment Purchase and Installation

Purchase materials and perform installation as outlined in vendor's scope-of-work included in the submitted proposal for five (5) Ebee Streetlight EV Charging units to be located in Lancaster.

Total Labor and Materials: \$25,000 (\$5,000 each unit)

Project to be completed by: March 31, 2017

Task II: Project Implementation

Provide AVAQMD with copies of outreach materials such as ads, flyers and/or website links promoting the electric charging stations.

Provide AVAQMD Electric Charging Units Operation and Access details:

- Public access to the charging units (i.e. access cards, credit cards, etc.)
- Minimum and/or maximum charging time
- Enforcement methods (i.e. signage, penalty, tow away, etc.)

Provide warranty and maintenance documentation for the Charging Stations.

Provide certificate of insurance as specified in the Agreement Section 10 (a) and (b).

Provide insurance insuring against loss and/or destruction, and providing for repair and/or replacement of the life of the charging equipment.

Notify AVAQMD when the Charging Stations installations are complete and placed into service to arrange for an on-site overview of the stations and obtain photos for the project file.

Submit reimbursement request along with a copy of the final invoice and grantee's receipt showing full payment to the vendor.

City of Lancaster will organize a media event to help promote the AVAQMD's clean air efforts and support. City of Lancaster will organize a photo opportunity announcing the new Electric Vehicle Charging Stations. City of Lancaster will issue a press release, invite the Press, invite City officials, invite the AVAQMD, key officials they recommend, and provide a photo opportunity with the new Electric Vehicle Charging Stations in the background. City of Lancaster also consents to the AVAQMD to display photos and project information as needed.

**CITY OF LANCASTER AGREEMENT
WITH ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
SCOPE OF WORK APRIL 11, 2016**

Task III: Maintain Equipment and Monitor usage of the charging stations

Maintain five (5) electric charging units in accordance with manufacturer's recommendations.

Monitor usage level and operational experience.

Deliver operation and maintenance reports commencing twelve (12) months after the Charging Stations have been placed into service and annually thereafter for the five (5) year project life providing:

1) monthly or annual kilowatt usage; 2) number of transactions; and 3) any operational or maintenance performance problems which may have been encountered.

STAFF REPORT
City of Lancaster

PH 1
05/09/17
MVB

Date: May 9, 2017

To: Mayor Parris and City Council Members

From: Brian S. Ludicke, Planning Director

Subject: Appeal of the Planning Commission’s Denial of Conditional Use Permit No. 16-08 (Request for Construction of a Mini-Mart with a Type 20 Off-Sale Alcohol License for Beer and Wine at the Southeast Corner of Avenue K and Division Street)

Recommendation:

Adopt **Resolution No. 17-17**, upholding the appeal and approving Conditional Use Permit No. 16-08.

Fiscal Impact:

None.

Background:

The site of the proposed mini-mart with associated gasoline sales and carwash is currently a vacant property at the southeast corner of Avenue K and Division Street. The conditional use permit application for this use was filed in September 2016. The Planning Commission held a public hearing on the request on March 20, 2017.

Staff reviewed the proposed request and prepared a staff report (see attached) recommending approval of the conditional use permit. The key issue in the review of the application was whether the applicant’s request to obtain a Type 20 alcohol license (off-site sale of beer and wine), in conjunction with the mini-mart, should receive approval. Since a mini-mart is defined by Chapter 17.42 of the Lancaster Municipal Code (LMC) as a “primary seller”, it is subject to various separation distances from both sensitive uses and other alcohol sellers, although an applicant can request and be granted a waiver from these distance requirements if certain findings are made. The Planning Commission, in its review of the information and public testimony, determined that it could not make these required findings and, by failing to approve (by a 0-6 vote) a motion to approve the conditional use permit, effectively denied the request. The applicant filed an appeal of the Commission’s action on March 30, 2017.

The applicant’s appeal is based on several issues identified on the appeal form, including:

- The Commission’s denial was based on a general concern about alcohol sales, but no compelling reason for denying this specific request.
- If alcohol sales are not permitted at this location, the mini-mart would be at a competitive disadvantage relative to other mini-marts in the City.

- The applicant is in agreement with all conditions recommended by City staff, and the use has the support of the neighboring Penny Lane facility.
- A mini-mart at this location will provide convenience, because existing and proposed medians will allow for this site to more easily serve both northbound and eastbound motorists.

In order to grant a distance waiver, the City must make two findings under Section 17.42.040.C of the LMC; the first being that the alcohol beverage establishment will serve a specific community need and, second, that the approval of the waiver is not expected to result in an adverse effect on adjacent property, uses, or residents. Approval of a conditional use permit for any alcohol use also requires consideration of three findings contained in Section 17.42.050 of the LMC; specifically, that the proposed use is in a zone classification that permits sale of alcoholic beverages, the use will not adversely affect nearby residents or sensitive facilities, and the use serves the public necessity and convenience based on the consideration of factors listed in Section 17.42.060 of the LMC.

Staff's reasons for originally recommending approval of the requested use, and the associated waivers, are outlined in the Planning Commission staff report. In summary, staff feels that the use, which will provide fuel, food, beverages, and sundry items along with vehicle washing services, provides a convenience for the area, including motorists on Avenue K and the estimated 3,300 employees within the Lancaster Business Park immediately south of the proposed site. The ability to sell alcohol is a part of the overall business plan of this type of mini-mart use; sales of such alcohol would meet the current requirements of the City with respect to restrictions on sales of single containers. Further, the Los Angeles County Sheriff's Department indicated that they were not opposed to the approval of alcohol sales at this location, and did not believe that it would be detrimental to public safety, provided that appropriate operating conditions are established for it. The recommended approval conditions incorporate these requirements. The Penny Lane Center, located south of the site, also did not object to the approval of the use with alcohol sales as requested. Staff feels, based on this information, that the project can be approved and successfully operated at this location.

The Planning Commission, in its evaluation of the request, noted that seven similar outlets exist within the Avenue K corridor, even though only the two businesses located at the intersection of Avenue K and Division Street are closer than the separation distance established by Chapter 17.42 of the Lancaster Municipal Code. The Commission felt that, with this number of alcohol sales locations, they could not make a finding of public necessity as required both for the waiver and the approval of the use in general. In addition, the Commission expressed concern about approval of another alcohol sales location given the general proximity of the State of California parole office (approximately 700 feet northwest of the site), as well as iLead Charter School (approximately ¼ mile southeast of the site) and Learn 4 Life (approximately ½ mile south of the site).

BSL/jr

Attachments:

Resolution No. 17-17

Conditions List (Attachment to Resolution)

PC Staff Report dated March 20, 2017

Appeal Filed March 30, 2017

RESOLUTION NO. 17-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LANCASTER, CALIFORNIA, UPHOLDING THE APPEAL
AND APPROVING CONDITIONAL USE PERMIT NO. 16-08

WHEREAS, a conditional use permit has been requested by HRES Lancaster, LLC, to construct a 4,968 square-foot Circle K mini-mart, 6,515 square-foot fuel service canopy, 1,127 square-foot car wash, and to allow the sale of alcohol with an Alcoholic Beverage Control Type 20 license (off-sale beer and wine) with waiver from distance requirements on 1.85± acres located at the southeast corner of Avenue K and Division Street in the SP 80-02 zone; and

WHEREAS, an application for the above-described conditional use permit has been filed pursuant to the regulations contained in Article I of Chapter 17.32, and Chapter 17.42 of the Lancaster Municipal Code; and

WHEREAS, a duly noticed public hearing was held by the Lancaster Planning Commission on March 20, 2017, at which time the Commission failed to adopt a resolution approving Conditional Use Permit No. 16-08, thereby constituting denial of the request; and

WHEREAS, the applicant subsequently filed an appeal of the Commission action in accordance with Chapter 2.44 of the Lancaster Municipal Code on March 30, 2017; and

WHEREAS, on May 9, 2017, the City Council held a duly noticed public hearing on the appeal, reviewed and considered the staff report prepared regarding the appeal, and considered testimony presented during the public hearing; and

WHEREAS, staff sent out Native American consultation request letters in accordance with Assembly Bill 52 and received no substantive input, as defined in the California Environmental Quality Act Guidelines, from any of the tribes; and

WHEREAS, this City Council hereby certifies that it has reviewed and considered the information in the Mitigated Negative Declaration prepared for the proposed project in compliance with the California Environmental Quality Act and the State Guidelines for the Implementation of the California Environmental Quality Act prior to taking action; and

WHEREAS, this City Council hereby finds, pursuant to Section 21082.1 of the Public Resource Code, that the Mitigated Negative Declaration prepared for the proposed project reflects the independent judgement of the City of Lancaster; and

WHEREAS, this City Council hereby finds that the Initial Study determined that the proposed project could have a significant effect on the environment; however, there will not be a significant effect in this case with the implementation of mitigation measures as detailed in Exhibit "A"; and

WHEREAS, this Council hereby adopts the following findings in support of approval of this application:

1. The proposed use of a mini-mart, car wash, and gas station with off-sale beer and wine sales (Alcoholic Beverage Control License Type 20) is in conformance with the General Plan land use designation of Commercial (C).
2. The requested alcohol use and gas station at the location proposed will not:
 - a. Adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, because the area consists of a mix of commercial, light industrial, and residential development, active mainly during daytime hours.
 - b. Be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site because the project is developing a vacant parcel with a viable commercial use.
 - c. Jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare because the business will primarily serve users that find the location more convenient than the similar business to the north.
3. The proposed site is adequately served:
 - a. By Division Street and Avenue K, which are of sufficient width and improvement to carry the anticipated daily vehicle trips such use would generate; and
 - b. By other public or private service facilities, including sewer, water, fire, and police services, as required.
4. The request for a waiver from the distance requirements is approved, because:
 - a. The proposed project will serve a specific community need, providing various goods and services, including fuel, food, beverages, and vehicle washing, at a location proximate and convenient to the businesses and approximately 3,300 employees within the Lancaster Business Park to the immediate south, as well as motorists on Avenue K.
 - b. The use is not expected to result in an adverse effect on the adjacent property, based on the determination by the Los Angeles County Sheriff's Department and the proposed conditions of approval, and the support of the proposed project by the Penny Lane facility to the south of the site.
5. The proposed use is located within the commercial designation area of the adopted Specific Plan No. 80-02, which permits uses that are in accordance with the provisions of the City's Commercial (C) zone, including mini-marts with associated alcohol sales and car wash services, subject to approval of a conditional use permit.

6. The use will not adversely affect nearby residents, including future residents that may reside in a residential development approved to the southeast of the site, based on the support of the proposed use by the Penny Lane organization, which is the facility most proximate to the proposed use.
7. The proposed use serves the public necessity and convenience, based upon consideration of the factors listed in Section 17.42.060 of the Lancaster Municipal Code, because it will provide additional goods and services, such as fuel, food, beverages, and vehicle washing, in a manner and location convenient for the significant number of employees located within the Lancaster Business Park, and the use cannot operate in a competitive manner without such alcohol sales. Further, the proposed design and layout of the establishment will provide a positive aesthetic appearance to the corner, it will be operated in accordance with training and procedures as established by the Circle K Corporation, and it is not anticipated to create crime or associated activity based upon review by the Los Angeles Sheriff's Department.
8. The proposed use will serve a specific community need by offering an alternative and additional fuel service station and mini-mart in the immediate area, providing a convenient service to motorists and direct neighbors.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

The City Council hereby approves the appeal and Conditional Use Permit No. 16-08, subject to the conditions attached hereto and incorporated herein.

PASSED, APPROVED and ADOPTED this 9th day of May, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

BRITT AVRIT, MMC
City Clerk
City of Lancaster

R. REX PARRIS
Mayor
City of Lancaster

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF LANCASTER)

CERTIFICATION OF RESOLUTION
CITY COUNCIL

I, _____, _____ City of Lancaster, California, do hereby certify that this is a true and correct copy of the original Resolution No. 17-17, for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this _____ day of _____, _____.

(seal)

ATTACHMENT TO CITY COUNCIL RESOLUTION NO. 17-17
CONDITIONAL USE PERMIT NO. 16-08
CONDITIONS LIST
May 9, 2017

GENERAL

1. All standard conditions as set forth in Planning Commission Resolution No. 15-29 for Conditional Use Permits shall apply except for Condition Nos. 21, 26, and 27.
2. All standard conditions as set forth in Planning Commission Resolution No. 10-23 for Conditional Use Permits shall apply except for Condition Nos. 8 (Modified), 13 (Modified), 14, 19, 25, and 30.
3. The developer, by agreement with the Development Services Director, may guarantee installation of improvements as determined by the Development Services Director through faithful performance bonds, letters of credit, or any other acceptable means.

GRADING/DRAINAGE

4. Prior to issuance of grading permit, the applicant shall submit a grading plan consistent with the approved site plan and conditions of approval. The grading plan shall be based on a detailed engineering soils report specifically approved by the geologist and/or soils engineer that addresses all submitted recommendations.
5. Portions of the property may be subject to sheet overflow and ponding. Per the direction of the Development Services Director, install any local storm drains necessary to mitigate on-site and off-site drainage.
6. Prior to certificate of occupancy, all drainage facilities are to be constructed and approved prior to occupancy of any structure within the project, as directed by the Development Services Director.

STREETS

7. Prior to issuance of building permit, offer for dedication a corner cut-off at the intersection of Division Street and Avenue K.
8. Prior to issuance of building permits, the applicant shall record an irrevocable offer of dedication, in addition to the existing street right-of-way, for a total of 68 feet from centerline on Division Street fronting the project site, as directed by the Development Services Director.
9. Prior to issuance of building permits, the applicant shall record an irrevocable offer of dedication, in addition to the existing street right-of-way, for a total of 58 feet from centerline on Avenue K fronting the project site, as directed by the Development Services Director.

10. Prior to certificate of occupancy, the applicant shall construct a raised median with stamped concrete on Avenue K and re-stripe as needed, to accommodate the median as directed by the Development Services Director.
11. Prior to issuance of building permit, dedicate sidewalk easements sufficient to encompass American with Disabilities Act (ADA) requirements for sidewalks installed with drive approaches.
12. Prior to certificate of occupancy, the applicant shall design and construct the curb ramp at the corner of Avenue K and Division Street to comply with the requirements of Title II of the ADA relating to curb ramps and pedestrian crossings.
13. Prior to certificate of occupancy, the applicant shall construct ADA “walk arounds” at driveway locations and at all intersections to the satisfaction of the Development Services Director (Modified Condition No. 13).
14. Prior to street plan approval, the applicant shall obtain approval of a signing and striping plan. The signing and striping plan shall be completed in accordance with all City of Lancaster standards, as directed by the City Engineer.
15. Prior to certificate of occupancy, the applicant shall design and construct street improvements to include pavement, curb, gutter, sidewalk, undergrounding of utilities, etc. The applicant is to reconstruct the street to centerline if the existing pavement section does not meet the Department of Development Services required structural section. Additional pavement as required to transition to existing pavement, or as needed to provide additional turn lanes opposing new improvements, shall also be included in street plans.
16. Prior to street plan approval, the applicant shall show on the street plan drive approaches using a modified commercial driveway design (APWA 110-1, Type C or equivalent) that will provide a street/drive approach transition with a maximum algebraic grade difference of 10 percent. Construction details shall be shown on the street plan providing a transition no greater than this maximum.
17. Place above ground utilities including, but not limited to, fire hydrants, junction boxes, and street lights outside sidewalk.

SEWER

18. Prior to certificate of occupancy, approval of this project is contingent upon the installation of separate laterals to serve each building at such time as the permanent buildings are constructed on the site.

WATER

19. Prior to certificate of occupancy, the project shall be served by adequately sized water system facilities, including fire hydrants, of sufficient size to accommodate the total domestic and fire flows required for the project. Domestic flows required are to be determined by the Development Services Director. Fire flows required are to be determined by the Fire Chief.
20. At the time of project construction, the applicant shall be required to comply with all ordinances adopted to address the balance of water supply to water demand.

LANDSCAPING

21. The development shall comply with all requirements of Ordinance No. 907 and the State of California Model Water Efficient Landscape Ordinance. The requirements are subject to revision, upon adoption of the City's updated Water Efficient Landscape Ordinance. (Modified No. 8).

ENVIRONMENTAL

22. A nesting bird/burrowing owl survey shall be conducted within 30 days prior to the start of construction/ground disturbing activities. If nesting birds are encountered, all work in the area shall cease until either the young birds have fledged, or the appropriate permits are obtained from the California Department of Fish and Wildlife.

ADDITIONAL

23. Prior to issuance of building permits, the applicant shall record a covenant for easement and/or a reciprocal access easement and maintenance agreement on APN Nos. 3126-031-034 and 3126-031-036, for all shared driveways and drive isles, and common landscaping maintenance areas within the project site and through neighboring project sites, as directed by the Development Services Director.
24. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages.
25. The City reserves the right to periodically review the operation for potential problems. If problems (on-site or within the immediate area), including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, lewd and/or disorderly conduct, and disturbing the peace result from the proposed land use, etc., the conditional use permit may be subject to review and revocation by the City of Lancaster.
26. The allowable hours for the sale of alcoholic beverages shall be from 8:00 a.m. to 12:00 a.m.

RESOLUTION NO. 15-29

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, ADOPTING CERTAIN STANDARDIZED CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMITS FOR OFF-SITE SALE OF ALCOHOL

WHEREAS, the Development Services staff presented to the Planning Commission a list of twenty-seven (27) conditions which are applied to conditional use permits for off-site sale of alcohol sales when they are approved by said Commission; and

WHEREAS, the staff explained to the Commission that since these are standard conditions for almost all use permits for off-site sale of alcohol, it might be more appropriate to adopt them by resolution for reference purposes as it would save staff time in preparing the reports and Commission time in hearing said reports; and

WHEREAS, it was further explained by staff that adoption of these standard conditions and incorporating by reference would be a more efficient and consistent approach to applying said conditions to the use permits approved by the Commission; and

WHEREAS, after discussion, it was the consensus of the Commission that it would be in the best interest of all concerned that the above-mentioned conditions of approval be adopted by resolution and referred to by resolution number for all Conditional Use Permits for Off-Site Sale of Alcohol;

NOW, THEREFORE THE LANCASTER PLANNING COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND FIND AS FOLLOWS:

The Planning Commission hereby establishes the following conditions of approval as standard conditions to be used by reference in conjunction with all Conditional Use Permit for Off-Site Sale of Alcohol and referred to by resolution number for all Conditional Use Permits for On-Site Sale of Alcohol for approvals.

1. Unless otherwise indicated herein, the use of the site shall be in substantial conformance with approved site plans on file in the Development Services Department.
2. The applicant shall comply with Chapter 17.42 and Section 17.42.080 (Conditions of Approval for Off-Sale Alcoholic Beverages Establishments) except where specifically modified by this conditional use permit.
3. This Conditional Use Permit must be used within two (2) years from the date of approval; the Conditional Use Permit will expire. The applicant may, not less than sixty (60) days prior to the expiration date, request a total of three one (1) year extensions in writing to the Director of Development Services. Modifications to the plan, including timing of on and off site improvements that do not raise significant new issues or extend the overall time frame beyond the approval period may be approved by the Director of Development Services.

NOTE: Issuance of building permits, installation of off-site improvements, and grading of the site do not constitute “use” of the Conditional Use Permit (CUP). Under the Zoning Ordinance, construction or other development authorized by the conditional use permit must have commenced. Generally, the City requires that the slab of a major building in the project be poured and inspected in order to consider the permit used, although the circumstances of each case may vary depending on the land use involved. In the case of existing premises, the City generally requires that a license has been issued by the State of California Alcoholic Beverage Control to constitute “use” of the conditional use permit.

4. All requirements of the Municipal Code and of the specific zoning of subject property must be complied with unless otherwise set forth in the permit or shown on the approved plot plan.
5. Three (3) copies of a signage plan shall be submitted for approval by the Director of Development Services at the time of building plan issuance to be in compliance with the Municipal Code and Design Guidelines. Such plan shall be comprehensive and shall include: location, height, square footage, method of attachment, construction materials, and colors of each sign proposed to be placed on the site.
6. All necessary permits shall be obtained from the City Engineering Division of the Development Services Department prior to any construction, remodeling, or replacement of buildings or other structures.
7. The applicant is hereby advised that the use of any signs, strings or pennants, banners or streamers, clusters of flags and similar attention-getting devices are prohibited, except where there has been prior approval from the Development Services Department.
8. If any provision of this permit is held or declared to be invalid, the permit shall be void, and the privileges granted hereunder shall lapse.
9. It is further declared and made a condition of this permit that if any condition hereof is violated, or if any law, statute, or ordinance is violated, the permit shall be suspended and the privileges granted hereunder shall lapse provided that the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.
10. Prior to occupancy of any buildings or structures, the permittee shall request, not less than forty-eight (48) hours in advance, that on-site inspection be made by the Development Services Department to verify that development of the property has occurred in consonance with conditions as enumerated in this permit.
11. The applicant shall be responsible for notifying the Director of Development Services in writing of any change in ownership, designation of a new engineer, or a change in the status of the developer, within thirty (30) days of said change.
12. The Director of Development Services shall execute the necessary documents to ensure the recording of this permit with the County Recorder’s Office.

13. This conditional use permit will not be effective until ten (10) working days after the date upon which it is granted by the Planning Commission and until the applicant has executed and returned to the Planning Department an authorized acceptance of the conditions of approval applicable to said permit.
14. Expansion or intensification of the use beyond the approval specified herein would require subsequent review and possible application for amendment. The Planning Director is authorized to approve modifications to the site plan provided such modifications do not substantially change the intent of the approved use, avoid issues raised at the public meeting, or raise new issues not previously addressed.
15. The applicant shall defend, indemnify, and hold harmless the City and its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the City concerning this conditional use permit and the uses(s) and development permitted by its approval. The City shall promptly notify the applicant of any claim, action, or proceeding, and shall cooperate fully in the defense; this condition shall not be imposed if the City fails to promptly notify the applicant or fails to cooperate fully in the defense.
16. A copy of the conditions of approval for the Conditional Use Permit must be kept on the premises of the establishment, and be presented to the City of Lancaster or Los Angeles County Sheriff's personnel upon request.
17. The City reserves the right to review the Conditional Use Permit one year from the date the Conditional Use Permit was first approved and at on-year intervals thereafter.
18. There shall be no sale or rental of any adult magazines, videos, tapes, disc, film or any other harmful matter as described in Penal Code Section 313.
19. Signs shall be posted with current language of the Penal code, Business and Professional Code, and Lancaster Municipal Code, regarding the prohibition of loitering, open containers, and consumption of alcoholic beverages at the premises.
20. All alcoholic and non-alcoholic beverages available for public purchase shall be displayed in separate locations.
21. Per Section 17.42.020 of the Lancaster Municipal Code, the applicant shall be allowed to devote a maximum of 5% of overall sales floor area for sale of alcoholic beverages.
22. No malt beverage products shall be sold, regardless of individual container size, in quantities of less than six per sale, except in manufacturer pre-packaged 4-packs.

23. No sales of any individual container cans or bottles of beer shall be allowed, except that the applicant may establish a system in which no less than 6 individual containers, not less than 12 ounces in size, may be combined for a single sales transaction.
24. Spirits shall not be sold in containers less than 350 milliliters.
25. Wine shall not be sold in containers less than 750 milliliters, and wine coolers must be sold in manufacturers pre-packaged multi-unit quantities.

CONVENIENCE MARKETS

26. Per Section 17.42.020 of the Lancaster Municipal Code, the applicant is required to devote a minimum of 15% of overall sales floor area to display and sale of fresh meat and produce.
27. Spirits shall not be stored, displayed, or sold on the premises per Section 17.42.020 of the Lancaster Municipal Code.

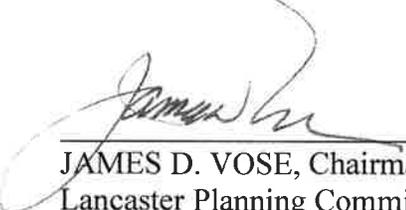
PASSED, APPROVED and ADOPTED this 21st day of September, 2015, by the following vote:

AYES: Commissioners Cook, Harvey, Malhi, Terracciano, Vice Chairman Hall, and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Coronado.



JAMES D. VOSE, Chairman
Lancaster Planning Commission

ATTEST:



BRIAN S. LUDICKE, Planning Director
City of Lancaster

RESOLUTION NO. 10-23

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, ADOPTING CERTAIN STANDARDIZED CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMITS

WHEREAS, the Planning Department staff presented to the Planning Commission a list of forty-nine (49) conditions which are applied to Conditional Use Permits when they are approved by said Commission; and

WHEREAS, the staff explained to the Commission that since these are standard conditions for almost all use permits, it might be more appropriate to adopt them by resolution for reference purposes as it would save staff time in preparing the reports and Commission time in hearing said reports; and

WHEREAS, it was further explained by staff that adoption of these standard conditions and incorporating by reference would be a more efficient and consistent approach to applying said conditions to the use permits approved by the Commission; and

WHEREAS, after discussion, it was the consensus of the Commission that it would be in the best interest of all concerned that the above-mentioned conditions of approval be adopted by resolution and referred to by resolution number for all Conditional Use Permits;

NOW, THEREFORE THE LANCASTER PLANNING COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND FIND AS FOLLOWS:

The Planning Commission hereby establishes the following conditions of approval as standard conditions to be used by reference in conjunction with all Conditional Use Permit approvals.

1. Unless otherwise indicated herein, the development of the site shall be in substantial conformance with approved site plans on file in the Planning Department.
2. This Conditional Use Permit must be used within two (2) years from the date of approval; the Conditional Use Permit will expire. The applicant may, not less than sixty (60) days prior to the expiration date, request a total of three one-(1)-year extensions in writing to the Planning Director. Modifications to the plan, including timing of on and off site improvements that do not raise significant new issues or extend the overall time frame beyond the approval period may be approved by the Planning Director

NOTE: Issuance of building permits, installation of off-site improvements, and grading of the site do not constitute "use" of the conditional use permit. Under the Zoning Ordinance, construction or other development authorized by the conditional use permit must have commenced. Generally, the City requires that the slab of a major building in the project be poured and inspected in order to consider the permit used, although the circumstances of each case may vary depending on the land use involved.

3. All requirements of the Municipal Code and of the specific zoning of subject property must be complied with unless otherwise set forth in the permit or shown on the approved plot plan.
4. The Planning Director is authorized to review and approve the elevations of future buildings proposed to ensure that they are compatible with the architectural design guidelines established for the overall development. Design and location of such buildings are subject to review and approval of the Planning Director, including but not limited to architectural style, color, exterior materials, material and type of walls. The applicant shall provide 360 degree architectural treatments for all proposed buildings. In the event disputes arise between the applicant and the Planning Director regarding elevations, or design of the buildings, the matter may be appealed to the Architectural and Design Commission (ADC) and the ADC shall render the final decision.
5. The applicant shall contact the City of Lancaster Fire Warden to determine improvements that may be required to protect the property from the fire hazard and shall provide and install at his expense such improvements as may be deemed necessary by the Fire Warden. Fire protection improvements shall be completed to the satisfaction of the Director of Public Works prior to certification of completion and occupancy of the subject buildings.
6. Three (3) copies of a signage plan shall be submitted for approval by the Planning Director at the time of building plan issuance to be in compliance with the Municipal Code and Design Guidelines. Such plan shall be comprehensive and shall include: location, height, square-footage, method of attachment, construction materials, and colors of each sign proposed to be placed on the site.
7. The following items/plans shall be submitted to the Department of Public Works, which shall route them to the Planning Department for concurrent review and approval prior to issuance of permits:
 - a. Lighting Plan: Such plan shall include decorative, directional, and security lighting. Such lighting shall be directed away or shielded from neighboring properties.
 - b. Building Plan: Such plan shall demonstrate adherence to design elements approved by the Planning Commission including but not limited to: building elevations (all sides), construction materials and colors, and the method of screening rooftop equipment.
 - c. Grading Plan: Such plan shall show height of finished building pads in addition to walls, berming and/or contour mounding if such features are approved by the Planning Commission.
 - d. Landscape Plan: Landscape plans shall be prepared in accordance with Ordinance No. 907 and submitted to the Building and Safety Department, along with required plan check fees, for review and approval prior to the installation of landscaping or

irrigation systems. Such plans are to be incorporated into development of the site and shall show size, type, and location of all plants, trees and irrigation facilities

- e. Trash Enclosure Plan: Such plan shall show location, design, construction materials, and color of materials and shall be in accordance with such plans contained within the Municipal Code and Design Guidelines. All trash enclosures shall be located in a covered area or the covered with a roof or metal lattice treatment to prevent wind-blown trash from leaving the enclosure.
8. The development shall comply with all requirements of Ordinance No. 907 (Water Efficient Landscaping Requirements).
9. All necessary permits shall be obtained from the City Engineering Division of the Public Works Department prior to any construction, remodeling, or replacement of buildings or other structures.
10. The applicant is hereby advised that this project is subject to development fees at the time of building permit issuance, including, but not limited to, the following as applicable: 1) Los Angeles County Sanitation District Sewer Connection Fee; 2) Interim School Facilities Financing Fee; 3) Installation or Upgrade of Traffic Signals Fee; 4) Planned Local Drainage Facilities Fee; 5) Dwelling Unit Fee; 6) Traffic Impact Fees; and 7) Urban Structure Fee (Park Development Fee, Administrative Office Fee, Corporate Yard Fee, and Operations Impact Fee, etc); 8) Landscape Fee.
11. Per the direction of the Director of Public Works, the submission of a hydrology study will be required with the grading plan check.
12. An encroachment permit shall be obtained from the Department of Public Works prior to doing any work within the public right-of-way.
13. Per the direction of the Director of Public Works, construct ADA “walk arounds” at driveway locations to the specifications of the Director of Public Works and install ADA curb ramps at all intersection.
14. Per the direction of the Director of Public Works, all street lighting systems designed after July 1, 2007, shall be designed as City owned and maintained street lighting systems. The Developer’s engineer shall prepare all plans necessary to build said street lighting system in accordance with Southern California Edison and City of Lancaster standards.
15. All construction and/or installation of improvements shall be undertaken to the specifications of the City of Lancaster Municipal Code.
16. Per direction of the Director of Public Works, comply with City Municipal Code, Chapter 13.20 Article II, entitled Installation/Relocation for New/Expanded Development of Overhead Utilities.

17. If determined necessary by the Director of Public Works, testing of the existing pavement section is to be performed prior to submitting street plans for plan checking. The minimum allowable structural section will be per the City requirement or the soil test recommendation whichever is greater based on the City's Traffic Index for the street. Removal and reconstruction of the street centerline may be necessary to meet the required structural section.
18. Street grades shall meet the specifications of the Department of Public Works.
19. Per the direction of the Director of Public Works, the asphalt surface course for all arterial streets shall be constructed with rubber modified asphalt. The type of rubber modified asphalt shall be as specified by the City and shall be determined in final design.
20. Per the direction of the Director of Public Works, a Dust Control Plan shall be prepared and submitted to the Antelope Valley Air Quality Management District (AVAQMD) in accordance with Rule 403 of the AVAQMD. An approved copy of the Dust Control Plan shall be submitted to Public Works prior to issuance of a grading permit within the City for commercial/industrial projects of 5 acres or larger. In lieu of an approved plan, a letter waiving this requirement shall be submitted.
21. Prior to grading, the applicant shall provide a contact name and valid phone number where someone is available 24-hours, 7 days a week to report the blowing of dust or debris from the site.
22. Per the direction of the Director of Public Works, the Developer shall install a conduit pull rope, and pull boxes along regional, primary, and secondary arterials to the nearest arterial intersection to be used for future Traffic Signal Communication Interconnect. The interconnect system shall be installed in accordance with the specifications approved by the Traffic Section.
23. The project shall comply with the Best Management Practices (BMPs) of the National Pollutant Discharge Elimination System (NPDES) and all NPDES Permit Requirements.
24. Per the direction of the Director of Public Works, install a clarifier or other BMP to treat first flush.
25. Per the direction of the Director of Public Works, if the project is located in Flood Zone AO (1), elevate the building one-foot above the highest adjacent grade.
26. Mitigate onsite nuisance water and developmental storm water runoff to the satisfaction of the Director of Public Works.
27. Box culverts or other structures acceptable to the Director of Public Works are required at all intersections with arterial streets to eliminate nuisance water from crossing the streets above ground. (No cross gutters allowed).

28. Prior to occupancy, the property shall be annexed into the Lancaster Lighting Maintenance District.
29. Prior to occupancy, the property shall be annexed into the Lancaster Drainage Maintenance District.
30. Street lights are required per adopted City ordinance or policy.
31. The applicant is hereby advised that the use of any signs, strings or pennants, banners or streamers, clusters of flags and similar attention-getting devices are prohibited, except where there has been prior approval from the Planning Department.
32. If any provision of this permit is held or declared to be invalid, the permit shall be void, and the privileges granted hereunder shall lapse.
33. It is further declared and made a condition of this permit that if any condition hereof is violated, or if any law, statute, or ordinance is violated, the permit shall be suspended and the privileges granted hereunder shall lapse provided that the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.
34. Prior to occupancy of any buildings or structures, the permittee shall request, not less than forty-eight (48) hours in advance, that on-site inspection be made by the Planning Department to verify that development of the property has occurred in conformity with conditions as enumerated in this permit.
35. Landscape materials, once approved, shall be maintained in perpetuity.
36. If the project is developed in phases, undeveloped portions of the site shall not contribute to blowing debris, dirt or dust.
37. If the project is developed in phases, all the development requirements shall be met for each phase including parking, landscaping, trash enclosures, drainage, etc.
38. The applicant shall be responsible for notifying the Planning Department in writing of any change in ownership, designation of a new engineer, or a change in the status of the developer, within thirty (30) days of said change.
39. The Planning Director shall execute the necessary documents to ensure the recording of this permit with the County Recorder's Office.
40. This conditional use permit will not be effective until ten (10) working days after the date upon which it is granted by the Planning Commission and until the applicant has executed and returned to the Planning Department an authorized acceptance of the conditions of approval applicable to said permit.

41. Expansion or intensification of the use beyond the approval specified herein would require subsequent review and possible application for amendment. The Planning Director is authorized to approve modifications to the site plan provided such modifications do not substantially change the intent of the approved use, avoid issues raised at the public meeting, or raise new issues not previously addressed.
42. Pursuant to Section 65089.6. of the Government Code, the project will be subject to the Congestion Management Plan (CMP) mitigation requirements, including mitigation fees.

ENVIRONMENTAL

43. Per the direction of the Planning Director, a Phase I Cultural Resource Study is required for any off-site area which will be disturbed by the development, such as staging areas and turn-arounds not covered by the Cultural Resource Study, or all work shall be conducted on the site by installation of a fence to determine limits of development.
44. Pursuant to Section 21089(b) of the Public Resource Code, approval of this Conditional Use Permit will not be valid, and no development right shall be vested, until such times the required fees, as set forth under Section 711.4 of the Fish and Game Code, have been paid. Said fees, in the form of a check made payable to the County of Los Angeles Clerk's Office shall be submitted to the Planning Department within three (3) days of the Commission's action.
45. The applicant shall, prior to or concurrent with the approval of a grading permit, pay a fee to the City of Lancaster in the sum of \$770.00 per gross acre, to be held in the biological mitigation fund as established by the City Council. Additionally, should the applicant be required to pay mitigation fees under the California Department of Fish and Game, these fees can be deducted from the amount collected by the City of Lancaster.
46. The project shall comply with all mitigation measures adopted in the mitigation monitoring program.

ALCOHOL CONDITIONS

47. Per the direction of the Planning Director, the applicant shall comply with Chapter 17.42 (Alcoholic Beverage Establishments).
48. On-site security shall be provided if determine necessary by the Planning Director.
49. The conditional use permit shall be subject to an annual review by the Planning Commission should on-site operations or effects on adjacent uses warrant such review.

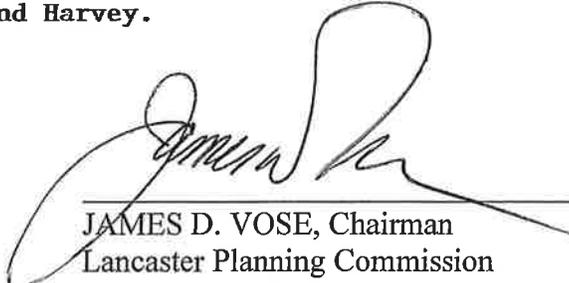
PASSED, APPROVED AND ADOPTED this 17th day of May, 2010, by the following vote:

AYES: Commissioners Haycock, Jacobs and Malhi, Vice Chair Smith, and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioners Burkey and Harvey.



JAMES D. VOSE, Chairman
Lancaster Planning Commission

ATTEST:



BRIAN S. LUDICKE, Planning Director
City of Lancaster

PLANNING COMMISSION ACTION:

DENIED (0-6-0-0-1) (NOES: Cook, Hall, Harvey, Mercy, Smith, Vose; ABSENT: Coronado)

AGENDA ITEM:

4.

DATE:

03-20-17

STAFF REPORT

CONDITIONAL USE PERMIT NO. 16-08

DATE: March 20, 2017

TO: Lancaster Planning Commission

FROM: Planning Section, Community Development Division
Development Services Department



APPLICANT: HRES Lancaster, LLC (Lori Gafner)

LOCATION: 1.85± acres located at the southeast corner of Avenue K and Division Street

REQUEST: Construction of a 4,968 square-foot Circle K mini-mart, 6,515 square-foot fuel service canopy, 1,127 square-foot car wash, and to allow the sale of alcohol with an Alcoholic Beverage Control Type 20 license (off-sale beer and wine) with waiver from distance requirements in the SP 80-02 zone

RECOMMENDATION: Adopt Resolution No. 17-07 approving Conditional Use Permit No. 16-08.

BACKGROUND: There have been no prior hearings before either the City Council, or the Planning Commission, concerning this property. The property has been vacant and unused since the 1970's.

GENERAL PLAN DESIGNATION, EXISTING ZONING AND LAND USE: The subject location is designated Commercial (C) by the General Plan, and zoned as part of the Lancaster Business Park Specific Plan (SP 80-02); however, per the specific plan, the subject parcel is evaluated and permitted according to commercial zoning standards. The subject location is currently vacant. The General Plan designation, zoning, and land use of the surrounding properties are as follows:

	<u>GENERAL PLAN</u>	<u>ZONING</u>	<u>EXISTING USE</u>
NORTH	C	Commercial Planned Development (CPD)	Bootleggers II mini-mart
NORTHWEST	Light Industrial (LI)	Light Industrial (LI)	Arco Gas Station and AM/PM mini-mart
SOUTH	C	SP 80-02	Penny Lane Family Center
EAST	C	SP 80-02	Vacant
WEST	C	CPD	Vacant

PUBLIC IMPROVEMENTS: The project site is located at the southeast corner of Division Street and Avenue K. Division Street and Avenue K are fully improved with three travel lanes in each direction, and a median turn lane. Sidewalk, curb, and gutter are present for the entire frontage of the project site. The intersection of Division Street and Avenue K is signalized. Division Street has an existing parkway with mature trees, part of street improvements for the Lancaster Business Park, which terminates at Avenue K. The site is not currently served by any utilities, though all are readily available.

ENVIRONMENTAL REVIEW: Review of pertinent environmental documents has disclosed no significant adverse impacts from the resulting proposed project after mitigation measures have been applied. Potential effects are discussed more fully in the attached Initial Study. The Initial Study prepared for the proposed project was sent to the State Clearinghouse (SCH No. 2017021059) for public review. This 30-day public review period ended on March 20, 2017. Based on this information, staff has determined that a Mitigated Negative Declaration is warranted. Notice of intent to prepare a Mitigated Negative Declaration has been legally advertised.

Applicants, whose projects have the potential to result in the loss of fish, wildlife, or habitat through urbanization and/or land use conversion, are required to pay filing fees, as set forth under Section 711.4 of the Fish and Game Code. Pursuant to Section 21089(b) of the Public Resources Code, the approval of the project is not valid, and no development right is vested, until such fees are paid.

LEGAL NOTICE: Notice of Public Hearing was mailed to all property owners within a 500-foot radius of the project, posted in three places, posted on the subject property, and noticed in a newspaper of general circulation per prescribed procedure.

ANALYSIS:

Context

The project site is currently vacant. From the turn of the century until the 1970's, the site was used for agriculture, and since that time, it has remained vacant. No structures have ever been recorded as existing on the site. The site is within the boundaries of the Lancaster Business Park Specific Plan area, which is primarily a light industrial use area. However, per the plan, this parcel and all parcels bounded by Avenue K, Sahuayo Street, Avenue K-4, and Division Street, are evaluated and permitted as commercially zoned lots.

The applicant is requesting to construct a Circle K branded mini-mart with an off-sale beer and wine Alcoholic Beverage Control Type 20 license. The site will contain a 4,968 square-foot mini-mart; a 6,515 square-foot fuel service island, with ten fuel pumps and canopy; and a 1,127 square-foot drive-through carwash. Access to the facility on Division Street is provided by a shared driveway located on the property, south of the subject parcel. Access to Avenue K is provided by a new driveway, in the northeast corner of the lot, designed to be used as a shared entrance with the adjacent parcel.

The facility will operate 24-hours a day, with alcohol sales prohibited between the hours of 2 a.m. and 6 a.m. The store will employ approximately 20 people with 60 percent full-time and 40 percent part-time.

A conditional use permit is required for a mini-mart in the Commercial zone, with or without alcohol sales, per Lancaster Municipal Code (LMC) 17.12.080.D.11. A conditional use permit is also required to obtain an Alcoholic Beverage Control Type 20 license (off-sale beer and wine) per LMC 17.42.030. A mini-mart, with alcohol sales, is classified as a Primary Alcoholic Beverage Establishment by LMC 17.42.020, which triggers certain distance requirements, from which the applicant is seeking a waiver.

Separation Distance Requirements

The City's alcohol ordinance, LMC 17.42.040, establishes separation distance requirements between certain types of alcohol sellers and uses identified as "sensitive uses," and from other alcohol sellers. This provision in the ordinance goes to the core reason that the City has enacted regulations for alcohol sales, which is to deal with the potential for negative external effects on adjacent properties that certain alcohol establishments can create. These effects can include noise, loitering, trash and debris, or increased need for police services, for example, but are not intended to include more social concerns (whether the consumption of alcohol in the community is good or bad, for example). Distance waivers are required, in this instance, due to the proximity of two Primary Alcohol Beverage Establishments within the minimum 500-foot separation requirement on the north side of Avenue K, Bootleggers II mini-mart directly to the north, and AM/PM mini-mart and gas station to the northwest. There is also an approved conditional use permit for a residential project on the parcel adjacent to the southeast of the subject site, which is within the 300-foot separation requirement for residential uses. Therefore, approval of the conditional use permit will require a waiver from these requirements.

Request for Waiver

LMC 17.42.040.C contains a provision to allow for a waiver from the normal distance requirements of the alcohol ordinance. This provision allows discretion to be applied when an application of the requirements would not follow the intent of the ordinance. The waiver requires that two findings are made; first, that the alcoholic beverage establishment will serve a specific community need; and second, that the distance waiver approved for the alcoholic beverage establishment is not expected to result in an adverse effect on adjacent properties, uses, or residents.

Recommendation

Staff has reviewed the proposed site plan for the gas station for compliance with all development regulations, including circulation, parking, landscaping, and other pertinent details. Staff believes the Planning Commission could make a favorable determination in support of the proposal, and recommends approval.

It is the staff's opinion that the proposed project will be a generally positive addition to the site. The design of the facility conforms to the Lancaster Design Guidelines (adopted 2009) for gas stations, with the main building oriented to minimize the visual impact of the fuel island, all facades of the building articulated and detailed, architecture appropriate for the site, quality materials where needed, and good use of landscaping. The site design, landscaping treatment, and incorporation of a storm water detention pond, as a landscaped amenity, exhibits high quality. The architectural treatment of the store is well-executed, and will be an attractive addition to the area. Additionally, the vacant lot, which has likely not provided any economic gains to the City since its incorporation, will become a generator of revenue.

The Lancaster Sheriff's Station has indicated to the Planning Section that the Los Angeles County Sheriff's Department does not oppose the applicant's request for an Alcoholic Beverage Control Type 20 license. According to Sheriff Deputy Lance Jordan, the request for an Alcoholic Beverage Control Type 20 license would not be detrimental to the public safety, based on the criteria outlined in the investigation report, which coincides with the LMC.

Regarding the distance requirement, it is the opinion of staff that there is adequate reason, and evidence, to provide the waiver. First, the proposed facility serves a community need through the provision of fuel, food, beverages, and various sundries. The existence, or close proximity of other gas stations or mini-marts, does not preclude this. It is common for gas stations to locate near each other, often on the opposite sides of a street, because it can be difficult to capture traffic traveling on the opposite side. The mini-mart component to the facility, including the Alcoholic Beverage Control Type 20 license, is integral to the business model, which allows the facility to establish itself to serve a community need.

Second, adverse effects on adjacent properties are not expected. Adjacent to the project site, to the south, is the Penny Lane Center, which provides family counseling services. In a letter dated December 2, 2016, Wendy Carpenter, the Associate Executive Director of Penny Lane Centers, wrote a letter expressing support for the Circle K project. The center has concerns with use of the shared driveway, but does not have any concerns regarding the sale of alcohol, as requested. Both, the Penny Lane Center and the future residential project next to it, will be separated from the project site by parking lots. The landscaping surrounding the southern and western edges of the subject property will provide filtered screening between it and the Penny Lane parking lots, but will not completely obscure the view between the sites, and, therefore, will not provide hidden spaces. The store itself is in the northwest corner of the parcel, approximately 300-feet away from the Penny Lane Center building. Pedestrian activity associated with the store will be centered there and would seem unlikely to affect its neighbor.

Conclusion

Staff is recommending approval of the mini-mart with the Alcoholic Beverage Control Type 20 license, because it meets all the requirements of the zone, and is not expected to adversely affect nearby residences or businesses. Resolution No. 15-29 prohibits the mini-mart from selling single-serving containers, and the conditions of approval would ensure that the safety and general welfare of the surrounding area would be maintained. The proposed site layout and building design are of a high quality, and would provide an attractive development for this sparsely developed area. Therefore, staff is recommending approval.

Respectfully submitted,



Tim Rosenstein, Assistant Planner

cc: Applicant
Engineer

RESOLUTION NO. 17-07

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF LANCASTER, CALIFORNIA,
APPROVING CONDITIONAL USE PERMIT NO. 16-08**

WHEREAS, a conditional use permit has been requested by HRES Lancaster, LLC, to construct a 4,968 square-foot Circle K mini-mart, 6,515 square-foot fuel service canopy, 1,127 square-foot car wash, and to allow the sale of alcohol with an Alcoholic Beverage Control Type 20 license (off-sale beer and wine) with waiver from distance requirements in the SP 80-02 zone; and

WHEREAS, an application for the above-described conditional use permit has been filed pursuant to the regulations contained in Article I of Chapter 17.32 and Chapter 17.42, of the Lancaster Municipal Code; and

WHEREAS, a notice of intention to consider the granting of a conditional use permit has been given as required in Article V of Chapter 17.32 of the Lancaster Municipal Code, and in Section 65905 of the Government Code of the State of California; and

WHEREAS, staff has performed necessary investigations, prepared a written report, and recommended approval of this conditional use application, subject to conditions; and

WHEREAS, staff sent out Native American consultation request letters in accordance with Assembly Bill 52 and received no substantive input, as defined in the California Environmental Quality Act Guidelines, from any of the tribes; and

WHEREAS, this Commission hereby certifies that it has reviewed and considered the information in the Mitigated Negative Declaration prepared for the proposed project in compliance with the California Environmental Quality Act and the State Guidelines for the Implementation of the California Environmental Quality Act prior to taking action; and

WHEREAS, this Commission hereby finds, pursuant to Section 21082.1 of the Public Resource Code, that the Mitigated Negative Declaration prepared for the proposed project reflects the independent judgement of the City of Lancaster; and

WHEREAS, this Commission hereby finds that the Initial Study determined that the proposed project could have a significant effect on the environment; however, there will not be a significant effect in this case with the implementation of mitigation measures as detailed in Exhibit "A"; and

WHEREAS, public notice was provided as required by law, and a public hearing was held on March 20, 2017; and

WHEREAS, this Commission hereby adopts the following findings in support of approval of this application:

1. The proposed use of a mini-mart and gas station with off-sale beer and wine (Alcoholic Beverage Control License Type 20) is in conformance with the General Plan land use designation of Commercial (C).
2. The requested alcohol use and gas station at the location proposed will not:
 - a. Adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, because the area consists of a mix of commercial, light industrial, and residential development, active mainly during daytime hours.
 - b. Be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site because the project is developing a vacant parcel with a viable commercial use.
 - c. Jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare because the business will primarily serve users that find the location more convenient than the similar business to the north.
3. The request for a waiver from the distance requirements may be granted because:
 - a. The proposed project will serve a community need through the provision of fuel, food, beverages, and various sundries, thereby providing greater convenience.
 - b. The project is supported by adjacent properties and adverse effects are not expected, as the project is unlikely to be a destination for unwelcome activity.
4. The proposed site is adequately served:
 - a. By Division Street and Avenue K, which are of sufficient width and improvement to carry the anticipated daily vehicle trips such use would generate; and
 - b. By other public or private service facilities, including sewer, water, fire, and police services, as required.
5. The proposed use serves the public convenience and necessity.
6. The proposed use will serve a specific community need by offering an alternative and additional fuel service station and mini-mart in the immediate area, providing a convenient service to motorists and direct neighbors.

NOW, THEREFORE, BE IT RESOLVED:

This Commission hereby approves Conditional Use Permit No. 16-08, subject to the conditions attached hereto and incorporated herein.

PASSED, APPROVED and ADOPTED this 20th day of March 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

RECUSED:

ABSENT:

JAMES D. VOSE, Chairman
Lancaster Planning Commission

ATTEST:

BRIAN S. LUDICKE, Planning Director
City of Lancaster

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Avenue K

CUP
16-08

Division Street

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**ATTACHMENT TO PC RESOLUTION NO. 17-07
CONDITIONAL USE PERMIT NO. 16-08
CONDITIONS LIST
March 20, 2017**

GENERAL

1. All standard conditions as set forth in Planning Commission Resolution No. 15-29 for Conditional Use Permits shall apply except for Conditions No. 21, 26, and 27.
2. All standard conditions as set forth in Planning Commission Resolution No. 10-23 for Conditional Use Permits shall apply except for Conditions 8 (Modified), 13 (Modified) 14, 19, 25, and 30.
3. The developer, by agreement with the Development Services Director, may guarantee installation of improvements as determined by the Development Services Director through faithful performance bonds, letters of credit, or any other acceptable means.

GRADING/DRAINAGE

4. Prior to issuance of grading permit, the applicant shall submit a grading plan consistent with the approved site plan and conditions of approval. The grading plan shall be based on a detailed engineering soils report specifically approved by the geologist and/or soils engineer that addresses all submitted recommendations.
5. Portions of the property may be subject to sheet overflow and ponding. Per the direction of the Development Services Director, install any local storm drains necessary to mitigate on-site and off-site drainage.
6. Prior to certificate of occupancy, all drainage facilities are to be constructed and approved prior to occupancy of any structure within the project, as directed by the Development Services Director.

STREETS

7. Prior to issuance of building permit, offer for dedication a corner cut-off at the intersection of Division Street and Avenue K.
8. Prior to issuance of building permits, the applicant shall record an irrevocable offer of dedication, in addition to the existing street right-of-way, for a total of 68-feet from centerline on Division Street fronting the project site, as directed by the Development Services Director.
9. Prior to issuance of building permits, the applicant shall record an irrevocable offer of dedication, in addition to the existing street right-of-way, for a total of 58-feet from centerline on Avenue K fronting the project site, as directed by the Development Services Director.

10. Prior to certificate of occupancy, the applicant shall construct a raised median with stamped concrete on Avenue K and re-stripe as needed, to accommodate the median as directed by the Development Services Director.
11. Prior to issuance of building permit, dedicate sidewalk easements sufficient to encompass American with Disabilities Act (ADA) requirements for sidewalks installed with drive approaches.
12. Prior to certificate of occupancy, the applicant shall design and construct the curb ramp at the corner of Avenue K and Division Street to comply with the requirements of Title II of the ADA relating to curb ramps and pedestrian crossings.
13. Prior certificate of occupancy, the applicant shall construct ADA “walk arounds” at driveway locations and at all intersections to the satisfaction of the Development Services Director (Modified Condition No. 13).
14. Prior to street plan approval, the applicant shall obtain approval of a signing and striping plan. The signing and striping plan shall be completed in accordance with all City of Lancaster standards, as directed by the City Engineer.
15. Prior to certificate of occupancy, the applicant shall design and construct street improvements to include pavement, curb, gutter, sidewalk, undergrounding of utilities, etc. The applicant is to reconstruct the street to centerline if the existing pavement section does not meet the Department of Development Services required structural section. Additional pavement as required to transition to existing pavement, or as needed to provide additional turn lanes opposing new improvements, shall also be included in street plans.
16. Prior to street plan approval, the applicant shall show on the street plan drive approaches using a modified commercial driveway design (APWA 110-1, Type C or equivalent) that will provide a street/drive approach transition with a maximum algebraic grade difference of 10 percent. Construction details shall be shown on the street plan providing a transition no greater than this maximum.
17. Place above ground utilities including, but not limited to, fire hydrants, junction boxes, and street lights outside sidewalk.

SEWER

18. Prior to certificate of occupancy, approval of this project is contingent upon the installation of separate laterals to serve each building at such time as the permanent buildings are constructed on the site.

WATER

19. Prior to certificate of occupancy, the project shall be served by adequately sized water system facilities, including fire hydrants, of sufficient size to accommodate the total domestic and fire flows required for the project. Domestic flows required are to be determined by the Development Services Director. Fire flows required are to be determined by the Fire Chief.
20. At the time of project construction, the applicant shall be required to comply with all ordinances adopted to address the balance of water supply to water demand.

LANDSCAPING

21. The development shall comply with all requirements of Ordinance No. 907 and the State of California Model Water Efficient Landscape Ordinance. The requirements are subject to revision, upon adoption of the City's updated Water Efficient Landscape Ordinance. (Modified No. 8).

ENVIRONMENTAL

22. A nesting bird/burrowing owl survey shall be conducted within 30-days prior to the start of construction/ground disturbing activities. If nesting birds are encountered, all work in the area shall cease until either the young birds have fledged, or the appropriate permits are obtained from the California Department of Fish and Wildlife.

ADDITIONAL

23. Prior to issuance of building permits, the applicant shall record a covenant for easement and/or a reciprocal access easement and maintenance agreement on APN Nos. 3126-031-034 and 3126-031-036, for all shared driveways and drive isles, and common landscaping maintenance areas within the project site and through neighboring project sites, as directed by the Development Services Director.
24. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages.
25. The City reserves the right to periodically review the operation for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, lewd and/or disorderly conduct, and disturbing the peace result from the proposed land use, etc., the conditional use permit may be subject to review and revocation by the City of Lancaster.

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RESOLUTION NO. 15-29

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, ADOPTING CERTAIN STANDARDIZED CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMITS FOR OFF-SITE SALE OF ALCOHOL

WHEREAS, the Development Services staff presented to the Planning Commission a list of twenty-seven (27) conditions which are applied to conditional use permits for off-site sale of alcohol sales when they are approved by said Commission; and

WHEREAS, the staff explained to the Commission that since these are standard conditions for almost all use permits for off-site sale of alcohol, it might be more appropriate to adopt them by resolution for reference purposes as it would save staff time in preparing the reports and Commission time in hearing said reports; and

WHEREAS, it was further explained by staff that adoption of these standard conditions and incorporating by reference would be a more efficient and consistent approach to applying said conditions to the use permits approved by the Commission; and

WHEREAS, after discussion, it was the consensus of the Commission that it would be in the best interest of all concerned that the above-mentioned conditions of approval be adopted by resolution and referred to by resolution number for all Conditional Use Permits for Off-Site Sale of Alcohol;

NOW, THEREFORE THE LANCASTER PLANNING COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND FIND AS FOLLOWS:

The Planning Commission hereby establishes the following conditions of approval as standard conditions to be used by reference in conjunction with all Conditional Use Permit for Off-Site Sale of Alcohol and referred to by resolution number for all Conditional Use Permits for On-Site Sale of Alcohol for approvals.

1. Unless otherwise indicated herein, the use of the site shall be in substantial conformance with approved site plans on file in the Development Services Department.
2. The applicant shall comply with Chapter 17.42 and Section 17.42.080 (Conditions of Approval for Off-Sale Alcoholic Beverages Establishments) except where specifically modified by this conditional use permit.
3. This Conditional Use Permit must be used within two (2) years from the date of approval; the Conditional Use Permit will expire. The applicant may, not less than sixty (60) days prior to the expiration date, request a total of three one (1) year extensions in writing to the Director of Development Services. Modifications to the plan, including timing of on and off site improvements that do not raise significant new issues or extend the overall time frame beyond the approval period may be approved by the Director of Development Services.

NOTE: Issuance of building permits, installation of off-site improvements, and grading of the site do not constitute “use” of the Conditional Use Permit (CUP). Under the Zoning Ordinance, construction or other development authorized by the conditional use permit must have commenced. Generally, the City requires that the slab of a major building in the project be poured and inspected in order to consider the permit used, although the circumstances of each case may vary depending on the land use involved. In the case of existing premises, the City generally requires that a license has been issued by the State of California Alcoholic Beverage Control to constitute “use” of the conditional use permit.

4. All requirements of the Municipal Code and of the specific zoning of subject property must be complied with unless otherwise set forth in the permit or shown on the approved plot plan.
5. Three (3) copies of a signage plan shall be submitted for approval by the Director of Development Services at the time of building plan issuance to be in compliance with the Municipal Code and Design Guidelines. Such plan shall be comprehensive and shall include: location, height, square footage, method of attachment, construction materials, and colors of each sign proposed to be placed on the site.
6. All necessary permits shall be obtained from the City Engineering Division of the Development Services Department prior to any construction, remodeling, or replacement of buildings or other structures.
7. The applicant is hereby advised that the use of any signs, strings or pennants, banners or streamers, clusters of flags and similar attention-getting devices are prohibited, except where there has been prior approval from the Development Services Department.
8. If any provision of this permit is held or declared to be invalid, the permit shall be void, and the privileges granted hereunder shall lapse.
9. It is further declared and made a condition of this permit that if any condition hereof is violated, or if any law, statute, or ordinance is violated, the permit shall be suspended and the privileges granted hereunder shall lapse provided that the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.
10. Prior to occupancy of any buildings or structures, the permittee shall request, not less than forty-eight (48) hours in advance, that on-site inspection be made by the Development Services Department to verify that development of the property has occurred in consonance with conditions as enumerated in this permit.
11. The applicant shall be responsible for notifying the Director of Development Services in writing of any change in ownership, designation of a new engineer, or a change in the status of the developer, within thirty (30) days of said change.
12. The Director of Development Services shall execute the necessary documents to ensure the recording of this permit with the County Recorder’s Office.

13. This conditional use permit will not be effective until ten (10) working days after the date upon which it is granted by the Planning Commission and until the applicant has executed and returned to the Planning Department an authorized acceptance of the conditions of approval applicable to said permit.
14. Expansion or intensification of the use beyond the approval specified herein would require subsequent review and possible application for amendment. The Planning Director is authorized to approve modifications to the site plan provided such modifications do not substantially change the intent of the approved use, avoid issues raised at the public meeting, or raise new issues not previously addressed.
15. The applicant shall defend, indemnify, and hold harmless the City and its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the City concerning this conditional use permit and the uses(s) and development permitted by its approval. The City shall promptly notify the applicant of any claim, action, or proceeding, and shall cooperate fully in the defense; this condition shall not be imposed if the City fails to promptly notify the applicant or fails to cooperate fully in the defense.
16. A copy of the conditions of approval for the Conditional Use Permit must be kept on the premises of the establishment, and be presented to the City of Lancaster or Los Angeles County Sheriff's personnel upon request.
17. The City reserves the right to review the Conditional Use Permit one year from the date the Conditional Use Permit was first approved and at on-year intervals thereafter.
18. There shall be no sale or rental of any adult magazines, videos, tapes, disc, film or any other harmful matter as described in Penal Code Section 313.
19. Signs shall be posted with current language of the Penal code, Business and Professional Code, and Lancaster Municipal Code, regarding the prohibition of loitering, open containers, and consumption of alcoholic beverages at the premises.
20. All alcoholic and non-alcoholic beverages available for public purchase shall be displayed in separate locations.
21. Per Section 17.42.020 of the Lancaster Municipal Code, the applicant shall be allowed to devote a maximum of 5% of overall sales floor area for sale of alcoholic beverages.
22. No malt beverage products shall be sold, regardless of individual container size, in quantities of less than six per sale, except in manufacturer pre-packaged 4-packs.

23. No sales of any individual container cans or bottles of beer shall be allowed, except that the applicant may establish a system in which no less than 6 individual containers, not less than 12 ounces in size, may be combined for a single sales transaction.
24. Spirits shall not be sold in containers less than 350 milliliters.
25. Wine shall not be sold in containers less than 750 milliliters, and wine coolers must be sold in manufacturers pre-packaged multi-unit quantities.

CONVENIENCE MARKETS

26. Per Section 17.42.020 of the Lancaster Municipal Code, the applicant is required to devote a minimum of 15% of overall sales floor area to display and sale of fresh meat and produce.
27. Spirits shall not be stored, displayed, or sold on the premises per Section 17.42.020 of the Lancaster Municipal Code.

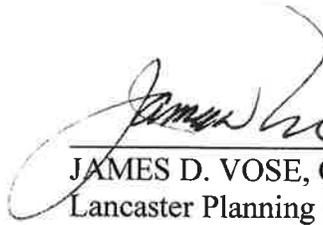
PASSED, APPROVED and ADOPTED this 21st day of September, 2015, by the following vote:

AYES: Commissioners Cook, Harvey, Malhi, Terracciano, Vice Chairman Hall, and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Coronado.



JAMES D. VOSE, Chairman
Lancaster Planning Commission

ATTEST:



BRIAN S. LUDICKE, Planning Director
City of Lancaster

RESOLUTION NO. 10-23

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, ADOPTING CERTAIN STANDARDIZED CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMITS

WHEREAS, the Planning Department staff presented to the Planning Commission a list of forty-nine (49) conditions which are applied to Conditional Use Permits when they are approved by said Commission; and

WHEREAS, the staff explained to the Commission that since these are standard conditions for almost all use permits, it might be more appropriate to adopt them by resolution for reference purposes as it would save staff time in preparing the reports and Commission time in hearing said reports; and

WHEREAS, it was further explained by staff that adoption of these standard conditions and incorporating by reference would be a more efficient and consistent approach to applying said conditions to the use permits approved by the Commission; and

WHEREAS, after discussion, it was the consensus of the Commission that it would be in the best interest of all concerned that the above-mentioned conditions of approval be adopted by resolution and referred to by resolution number for all Conditional Use Permits;

NOW, THEREFORE THE LANCASTER PLANNING COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND FIND AS FOLLOWS:

The Planning Commission hereby establishes the following conditions of approval as standard conditions to be used by reference in conjunction with all Conditional Use Permit approvals.

1. Unless otherwise indicated herein, the development of the site shall be in substantial conformance with approved site plans on file in the Planning Department.
2. This Conditional Use Permit must be used within two (2) years from the date of approval; the Conditional Use Permit will expire. The applicant may, not less than sixty (60) days prior to the expiration date, request a total of three one-(1)-year extensions in writing to the Planning Director. Modifications to the plan, including timing of on and off site improvements that do not raise significant new issues or extend the overall time frame beyond the approval period may be approved by the Planning Director

NOTE: Issuance of building permits, installation of off-site improvements, and grading of the site do not constitute "use" of the conditional use permit. Under the Zoning Ordinance, construction or other development authorized by the conditional use permit must have commenced. Generally, the City requires that the slab of a major building in the project be poured and inspected in order to consider the permit used, although the circumstances of each case may vary depending on the land use involved.

3. All requirements of the Municipal Code and of the specific zoning of subject property must be complied with unless otherwise set forth in the permit or shown on the approved plot plan.
4. The Planning Director is authorized to review and approve the elevations of future buildings proposed to ensure that they are compatible with the architectural design guidelines established for the overall development. Design and location of such buildings are subject to review and approval of the Planning Director, including but not limited to architectural style, color, exterior materials, material and type of walls. The applicant shall provide 360 degree architectural treatments for all proposed buildings. In the event disputes arise between the applicant and the Planning Director regarding elevations, or design of the buildings, the matter may be appealed to the Architectural and Design Commission (ADC) and the ADC shall render the final decision.
5. The applicant shall contact the City of Lancaster Fire Warden to determine improvements that may be required to protect the property from the fire hazard and shall provide and install at his expense such improvements as may be deemed necessary by the Fire Warden. Fire protection improvements shall be completed to the satisfaction of the Director of Public Works prior to certification of completion and occupancy of the subject buildings.
6. Three (3) copies of a signage plan shall be submitted for approval by the Planning Director at the time of building plan issuance to be in compliance with the Municipal Code and Design Guidelines. Such plan shall be comprehensive and shall include: location, height, square-footage, method of attachment, construction materials, and colors of each sign proposed to be placed on the site.
7. The following items/plans shall be submitted to the Department of Public Works, which shall route them to the Planning Department for concurrent review and approval prior to issuance of permits:
 - a. Lighting Plan: Such plan shall include decorative, directional, and security lighting. Such lighting shall be directed away or shielded from neighboring properties.
 - b. Building Plan: Such plan shall demonstrate adherence to design elements approved by the Planning Commission including but not limited to: building elevations (all sides), construction materials and colors, and the method of screening rooftop equipment.
 - c. Grading Plan: Such plan shall show height of finished building pads in addition to walls, berming and/or contour mounding if such features are approved by the Planning Commission.
 - d. Landscape Plan: Landscape plans shall be prepared in accordance with Ordinance No. 907 and submitted to the Building and Safety Department, along with required plan check fees, for review and approval prior to the installation of landscaping or

irrigation systems. Such plans are to be incorporated into development of the site and shall show size, type, and location of all plants, trees and irrigation facilities

- e. Trash Enclosure Plan: Such plan shall show location, design, construction materials, and color of materials and shall be in accordance with such plans contained within the Municipal Code and Design Guidelines. All trash enclosures shall be located in a covered area or the covered with a roof or metal lattice treatment to prevent wind-blown trash from leaving the enclosure.
8. The development shall comply with all requirements of Ordinance No. 907 (Water Efficient Landscaping Requirements).
9. All necessary permits shall be obtained from the City Engineering Division of the Public Works Department prior to any construction, remodeling, or replacement of buildings or other structures.
10. The applicant is hereby advised that this project is subject to development fees at the time of building permit issuance, including, but not limited to, the following as applicable: 1) Los Angeles County Sanitation District Sewer Connection Fee; 2) Interim School Facilities Financing Fee; 3) Installation or Upgrade of Traffic Signals Fee; 4) Planned Local Drainage Facilities Fee; 5) Dwelling Unit Fee; 6) Traffic Impact Fees; and 7) Urban Structure Fee (Park Development Fee, Administrative Office Fee, Corporate Yard Fee, and Operations Impact Fee, etc); 8) Landscape Fee.
11. Per the direction of the Director of Public Works, the submission of a hydrology study will be required with the grading plan check.
12. An encroachment permit shall be obtained from the Department of Public Works prior to doing any work within the public right-of-way.
13. Per the direction of the Director of Public Works, construct ADA “walk arounds” at driveway locations to the specifications of the Director of Public Works and install ADA curb ramps at all intersection.
14. Per the direction of the Director of Public Works, all street lighting systems designed after July 1, 2007, shall be designed as City owned and maintained street lighting systems. The Developer’s engineer shall prepare all plans necessary to build said street lighting system in accordance with Southern California Edison and City of Lancaster standards.
15. All construction and/or installation of improvements shall be undertaken to the specifications of the City of Lancaster Municipal Code.
16. Per direction of the Director of Public Works, comply with City Municipal Code, Chapter 13.20 Article II, entitled Installation/Relocation for New/Expanded Development of Overhead Utilities.

17. If determined necessary by the Director of Public Works, testing of the existing pavement section is to be performed prior to submitting street plans for plan checking. The minimum allowable structural section will be per the City requirement or the soil test recommendation whichever is greater based on the City's Traffic Index for the street. Removal and reconstruction of the street centerline may be necessary to meet the required structural section.
18. Street grades shall meet the specifications of the Department of Public Works.
19. Per the direction of the Director of Public Works, the asphalt surface course for all arterial streets shall be constructed with rubber modified asphalt. The type of rubber modified asphalt shall be as specified by the City and shall be determined in final design.
20. Per the direction of the Director of Public Works, a Dust Control Plan shall be prepared and submitted to the Antelope Valley Air Quality Management District (AVAQMD) in accordance with Rule 403 of the AVAQMD. An approved copy of the Dust Control Plan shall be submitted to Public Works prior to issuance of a grading permit within the City for commercial/industrial projects of 5 acres or larger. In lieu of an approved plan, a letter waiving this requirement shall be submitted.
21. Prior to grading, the applicant shall provide a contact name and valid phone number where someone is available 24-hours, 7 days a week to report the blowing of dust or debris from the site.
22. Per the direction of the Director of Public Works, the Developer shall install a conduit pull rope, and pull boxes along regional, primary, and secondary arterials to the nearest arterial intersection to be used for future Traffic Signal Communication Interconnect. The interconnect system shall be installed in accordance with the specifications approved by the Traffic Section.
23. The project shall comply with the Best Management Practices (BMPs) of the National Pollutant Discharge Elimination System (NPDES) and all NPDES Permit Requirements.
24. Per the direction of the Director of Public Works, install a clarifier or other BMP to treat first flush.
25. Per the direction of the Director of Public Works, if the project is located in Flood Zone AO (1), elevate the building one-foot above the highest adjacent grade.
26. Mitigate onsite nuisance water and developmental storm water runoff to the satisfaction of the Director of Public Works.
27. Box culverts or other structures acceptable to the Director of Public Works are required at all intersections with arterial streets to eliminate nuisance water from crossing the streets above ground. (No cross gutters allowed).

28. Prior to occupancy, the property shall be annexed into the Lancaster Lighting Maintenance District.
29. Prior to occupancy, the property shall be annexed into the Lancaster Drainage Maintenance District.
30. Street lights are required per adopted City ordinance or policy.
31. The applicant is hereby advised that the use of any signs, strings or pennants, banners or streamers, clusters of flags and similar attention-getting devices are prohibited, except where there has been prior approval from the Planning Department.
32. If any provision of this permit is held or declared to be invalid, the permit shall be void, and the privileges granted hereunder shall lapse.
33. It is further declared and made a condition of this permit that if any condition hereof is violated, or if any law, statute, or ordinance is violated, the permit shall be suspended and the privileges granted hereunder shall lapse provided that the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.
34. Prior to occupancy of any buildings or structures, the permittee shall request, not less than forty-eight (48) hours in advance, that on-site inspection be made by the Planning Department to verify that development of the property has occurred in conformity with conditions as enumerated in this permit.
35. Landscape materials, once approved, shall be maintained in perpetuity.
36. If the project is developed in phases, undeveloped portions of the site shall not contribute to blowing debris, dirt or dust.
37. If the project is developed in phases, all the development requirements shall be met for each phase including parking, landscaping, trash enclosures, drainage, etc.
38. The applicant shall be responsible for notifying the Planning Department in writing of any change in ownership, designation of a new engineer, or a change in the status of the developer, within thirty (30) days of said change.
39. The Planning Director shall execute the necessary documents to ensure the recording of this permit with the County Recorder's Office.
40. This conditional use permit will not be effective until ten (10) working days after the date upon which it is granted by the Planning Commission and until the applicant has executed and returned to the Planning Department an authorized acceptance of the conditions of approval applicable to said permit.

41. Expansion or intensification of the use beyond the approval specified herein would require subsequent review and possible application for amendment. The Planning Director is authorized to approve modifications to the site plan provided such modifications do not substantially change the intent of the approved use, avoid issues raised at the public meeting, or raise new issues not previously addressed.
42. Pursuant to Section 65089.6. of the Government Code, the project will be subject to the Congestion Management Plan (CMP) mitigation requirements, including mitigation fees.

ENVIRONMENTAL

43. Per the direction of the Planning Director, a Phase I Cultural Resource Study is required for any off-site area which will be disturbed by the development, such as staging areas and turn-arounds not covered by the Cultural Resource Study, or all work shall be conducted on the site by installation of a fence to determine limits of development.
44. Pursuant to Section 21089(b) of the Public Resource Code, approval of this Conditional Use Permit will not be valid, and no development right shall be vested, until such times the required fees, as set forth under Section 711.4 of the Fish and Game Code, have been paid. Said fees, in the form of a check made payable to the County of Los Angeles Clerk's Office shall be submitted to the Planning Department within three (3) days of the Commission's action.
45. The applicant shall, prior to or concurrent with the approval of a grading permit, pay a fee to the City of Lancaster in the sum of \$770.00 per gross acre, to be held in the biological mitigation fund as established by the City Council. Additionally, should the applicant be required to pay mitigation fees under the California Department of Fish and Game, these fees can be deducted from the amount collected by the City of Lancaster.
46. The project shall comply with all mitigation measures adopted in the mitigation monitoring program.

ALCOHOL CONDITIONS

47. Per the direction of the Planning Director, the applicant shall comply with Chapter 17.42 (Alcoholic Beverage Establishments).
48. On-site security shall be provided if determine necessary by the Planning Director.
49. The conditional use permit shall be subject to an annual review by the Planning Commission should on-site operations or effects on adjacent uses warrant such review.

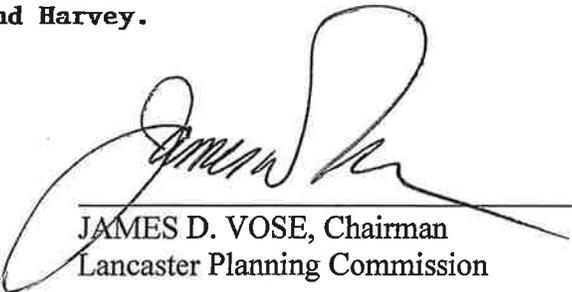
PASSED, APPROVED AND ADOPTED this 17th day of May, 2010, by the following vote:

AYES: **Commissioners Haycock, Jacobs and Malhi, Vice Chair Smith, and
Chairman Vose.**

NOES: **None.**

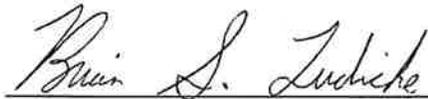
ABSTAIN: **None.**

ABSENT: **Commissioners Burkey and Harvey.**



JAMES D. VOSE, Chairman
Lancaster Planning Commission

ATTEST:



BRIAN S. LUDICKE, Planning Director
City of Lancaster

Mit. / Cond. No.	Mitigation Measure/ Conditions of Approval	Monitoring Milestone (Frequency)	Method of Verification	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE	
					Initials	Date
REMARKS						
1.	A nesting bird/burrowing owl survey shall be conducted within 30 days prior to the start of construction/ground disturbing activities. If nesting birds are encountered, all work in the area shall cease until either the young birds have fledged or the appropriate permits are obtained from the California Department of Fish and Wildlife.	Prior to final approval of a grading/construction plan, issuance of a stockpile or construction permit, or any ground disturbing activities.	Prior to any rolling, vegetation removal, grubbing, grading, stockpiling, or construction activities, a copy of the report from a biologist with the results of the nesting bird/burrowing owl survey shall be submitted to the City.	Development Services Department/Planning		

CITY OF LANCASTER
INITIAL STUDY

1. Project title and File Number: Conditional Use Permit No. 16-08
2. Lead agency name and address: City of Lancaster
Development Services Department
Community Development Division, Planning
44933 Fern Avenue
Lancaster, California 93534
3. Contact person and phone number: Tim Rosenstein, Assistant Planner
(661) 723-6100
4. Applicant name and address: HRES Lancaster, LLC.
c/o Lori Gafner
PO Box 1006
Fort Collins, CO 80522
(970) 980-9688
5. Location: 1.85± acres at the southeast corner of Avenue K and Division Street (Assessor Parcel Number 3126-031-035)
6. General Plan designation: Commercial (C)
7. Zoning: SP 80-02 (Specific Plan 80-02, Lancaster Business Park)
8. Description of project: Construction of a 4,968 square-foot Circle K mini-mart, 6,515 square-foot fuel service canopy, and 1,127 square-foot car wash with a Conditional Use Permit for the mini-mart and Department of Alcohol Beverage Control (ABC) Type No. 20 License (Off-sale Beer and Wine).
9. The project site is a vacant parcel at the southeast corner of Avenue K and Division Street, which are both fully improved with three lanes of traffic in each direction and median turning lane. Parcels within 1,000 feet of the site are mostly vacant with the exception of the adjacent parcel to the south; the parcel to the northeast across the intersection; and the parcel to the north across Avenue K from the subject site. Parcels to the east and south are designated in the General Plan as Commercial (C), and zoned SP 80-02. Parcels directly to the north and west are designated C and zoned Commercial Planned Development (CPD). Northwest of the subject site, across the intersection, parcels are designated and zoned Light Industrial (LI).
10. Other public agencies whose approval is required (e.g. permits, financing approval, or participation agreement.)

Approvals from other public agencies for the proposed project include, but are not limited to, the following:

- Los Angeles County Waterworks District 40 (connection to the water system)
- Antelope Valley Air Quality Management District (dust control)
- Los Angeles County Sanitation District No. 14 (connection to public sewer)

- Los Angeles County Fire Department (fire access and life safety equipment)
- Southern California Gas Company (connection to gas line)
- Southern California Edison

11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code Section 21080.3.1? If so, has consultation begun?

In accordance with Assembly Bill (AB) 52, the City sent letters to a total of nine tribes (the six identified by NAHC and three that have directly contacted the City for notification) via certified, return receipt mail on October 20, 2016. These letters included copies of the cultural report, site plan and an aerial photograph along with the offer to consult on the project. Table 1 identifies the nine tribes, the person whose attention the letter was directed to, and the date the letter was received.

**Table 1
 Tribal Notification**

Tribe	Person/Title	Date Received
Fernandeno Tataviam Band of Mission Indians	Caitlin B. Gulley/ Tribal Historic and Cultural Preservation Officer	October 24, 2016
Serrano Nation of Mission Indians	Goldie Walker/ Chairperson	October 24, 2016
San Fernando Band of Mission Indians	John Valenzuela/ Chairperson	October 26, 2016
Gabrieleno Band of Mission Indians – Kizh Nation	Andrew Salas/ Chairman	October 25, 2016
Kern Valley Indian Council	Robert Robinson/ Chairperson	October 24, 2016
Colorado River Indian Tribe	Dennis Patch/ Chairman	October 26, 2016
Morongo Band of Mission Indians	Robert Martin/Chairperson	October 24, 2016
Tubatulabals of Kern County	Robert L. Gomez/ Chairperson	Returned undelivered
San Manuel Band of Mission Indians	Lee Clauss/ Director of Cultural Resources	October 24, 2016

On October 28, 2016, the City received a letter from the Fernandeno Tataviam Band of Mission Indians requesting consultation so that they could analyze the project and provide custom mitigation. They included a form that they wanted filled out and requested payment for consultation. No specific issues were raised in the letter, no historic or prehistoric resources were identified in the surveys or record search, the sacred lands file search came back negative, and all of the information that the tribe is requesting was provided in the original letter. As the tribe has been previously informed, there is no provision in the AB 52 allowing for the payment of the tribe for consultation. As no specific concern associated with the project site was identified the City views the consultation process to be concluded. No other tribes responded to the letter.

On February 14, 2017, the City received a letter from the Colorado River Indian Tribe stating that they “do not have any specific comment on the proposed project and instead defer to the comments of other affiliated tribes”. As no issues were raised in the letters, no response is necessary.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- Aesthetics
- Agriculture and Forest Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology/Soils
- Greenhouse Gas Emissions
- Hazards & Hazardous Materials
- Hydrology/Water Quality
- Land Use/Planning
- Mineral Resources
- Noise
- Population/Housing
- Public Services
- Recreation
- Transportation/Traffic
- Tribal Cultural Resources
- Utilities/Service Systems
- Mandatory Findings of Significance

DETERMINATION - On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in a earlier EIR or NEGATIVE DECLARATION pursuant to applicant standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.


Tim Rosenstein, Assistant Planner

2/16/17
Date

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.
- 4) “Negative Declaration: Less Than Significant With Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant (mitigation measures from Section XVII, “Earlier Analyses,” may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation measures. For effects that are “Less than Significant with Mitigation Measures Incorporated”, describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
 - a) the significance criteria or threshold, if any, used to evaluate each question; and
 - b) the mitigation measure identified, if any, to reduce the impact to less than significant.

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
I. <u>AESTHETICS</u> -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?				X
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings?			X	
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			X	
II. <u>AGRICULTURE AND FOREST RESOURCES:</u> In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and the forest carbon measurement methodology provided in the Forest Protocols adopted by the California Air Resources Board. Would the project:				

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)) or timberland (as defined in Public Resources Code Section 4526)?				X
d) Result in the loss of forest land or conversion of forest land to non-forest use?				X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?				X
III. <u>AIR QUALITY</u> -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable Air Quality Plan?				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?			X	

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?			X	
d) Expose sensitive receptors to substantial pollutant concentrations?				X
e) Create objectionable odors affecting a substantial number of people?			X	
IV. BIOLOGICAL RESOURCES -- Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?		X		
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?				X

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X
V. <u>CULTURAL RESOURCES</u> -- Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?				X
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
d) Disturb any human remains, including those interred outside of formal cemeteries?				X

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
VI. <u>GEOLOGY AND SOILS</u> -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
ii) Strong seismic ground shaking?			X	
iii) Seismic-related ground failure, including liquefaction?				X
iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?			X	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?			X	
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for disposal of waste water?				X

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
VII. <u>GREENHOUSE GAS EMISSIONS</u> -- Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X	
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?			X	
VIII. <u>HAZARDS AND HAZARDOUS MATERIALS</u> -- Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?			X	
b) Create a significant hazard to the public or the environment through reasonably fore-seeable upset and accident conditions involving the release of hazardous materials into the environment?			X	
c) Emit hazardous emissions or handle hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code §65962.5 and, as a result, would it create a significant hazard to the public or the environment?			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?			X	
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?			X	
IX. <u>HYDROLOGY AND WATER QUALITY</u> – Would the project:				
a) Violate any water quality standards or waste discharge requirements?			X	
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?			X	
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in substantial erosion or siltation on- or off-site?			X	

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on-or off-site?			X	
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems?			X	
f) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate map or other flood hazard delineation map?				X
g) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
h) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
i) Inundation by seiche, tsunami, or mudflow?				X
X. <u>LAND USE AND PLANNING</u> -- Would the project:				
a) Physically divide an established community?				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
c) Conflict with any applicable habitat conservation plan or natural communities conservation plan?				X
XI. <u>MINERAL RESOURCES</u> – Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?				X
XII <u>NOISE</u> -- Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X	
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X
XIII. POPULATION AND HOUSING -- Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X
XIV. PUBLIC SERVICES				
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?			X	
Police protection?			X	
Schools?				X
Parks?				X

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
Other public facilities?				X
XV. RECREATION --				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X
XVI. TRANSPORTATION/TRAFFIC -- Would the project:				
a) Exceed the capacity of the existing circulation system, based on an applicable measure of effectiveness (as designated in a general plan policy, ordinance, etc.), taking into account all relevant components of the circulation system, including but not limited to, intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?			X	
b) Conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?				X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			X	
e) Result in inadequate emergency access?				X
f) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X
XVII. TRIBAL CULTURAL RESOURCES --				
Would the project cause a substantial adverse change in the significance of a tribal cultural resources, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place or object with cultural value to a California Native American tribe and that is:				
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or				X
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set for in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significant of the resource to a California Native American tribe.				X

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
XVIII. UTILITIES AND SERVICE SYSTEMS -- Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?			X	
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
d) Have sufficient water supplies available to serve the project from existing resources, or are new or expanded entitlements needed?			X	
e) Have a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?			X	
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?			X	
g) Comply with federal, state, and local statutes and regulations related to solid waste?			X	

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
XIX. <u>MANDATORY FINDINGS OF SIGNIFICANCE</u> --				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?		X		
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			X	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			X	

DISCUSSION OF ENVIRONMENTAL CHECKLIST

I. a. There are no scenic vistas identified in the General Plan readily visible from the project site (LMEA p. 12-1 to 12-3 and Figure 12-1). Views of hills surrounding the valley are minimally available from the roadways surrounding the project site.. Construction of the proposed project would not impact the available views. Therefore, no impacts to scenic vistas would occur as a result of the proposed project.

b. The project site is not located along a State Scenic Highways and there are no historic buildings, trees, or rock outcroppings on the site. The project site is currently vacant. Therefore, no impacts would occur.

c. Development of the proposed project would change the visual character of the project site from a vacant parcel to a commercial lot with two buildings, a fuel island, pavement, and landscaping. This would change the character of the existing site but this change would be compatible with the other commercial and industrial uses in the area. The proposed project is also in conformance with the City’s

General Plan and zoning requirements for the area. Therefore, it has been determined that impacts associated with the proposed project would be less than significant.

d. Ambient lighting in the vicinity of the project site is relatively high due to its location adjacent to two major roadways. Light output at the project site would increase with the construction of the proposed project as a result of building/security lighting and vehicle headlights. The project does not make use of highly reflective materials so no daytime glare would be produced. Nighttime lighting for the project would be directed down to the ground and should produce little glare. The photometric plan submitted with the application shows very little light trespass beyond the parcel boundaries, therefore, impacts would be less than significant.

II. a-b. The California Department of Conservation, Division of Land Resource Protection, Farmland Mapping and Monitoring Program (FMMP), tracks and categorizes land with respect to agricultural resources. Land is designated as one of the following; and each has a specific definition: Prime Farmland, Farmland of Statewide Importance, Unique Farmland, Farmland of Local Importance, Grazing Land, Urban and Built-Up Land, and Other Land.

The Los Angeles County Farmland Map was updated in 2014. On the 2014 map, the project site is designated as Other Land. Other Land is defined as “land not included in any other mapping category; common examples include low density rural developments, brush, timber, wetland, and riparian areas not suitable for livestock grazing, confined livestock, poultry, or aquaculture facilities, strip mines, borrow pits, and water bodies smaller than 40 acres.” The project site and surrounding parcels are designated Urban Residential, in which agriculture is not an allowed use. There is no existing farmland in the immediate vicinity of the project site and no existing Williamson Act contracts attached to nearby land. As the project site is not designated as farmland of importance by the State nor is it currently utilized for agricultural purposes, no impacts to agricultural resources would occur.

c-d. According to the City of Lancaster’s General Plan, there are no forests or timberlands located within the City of Lancaster. Therefore, the proposed project would not result in the rezoning of forest or timberland and would not cause the loss of forest land or the conversion of forest land to non-forest land. Therefore, no impacts would occur.

e. See responses to Items IIa-d.

III. a. Development proposed under the City’s General Plan would not create air emissions that exceed the Air Quality Management Plan (GPEIR p. 5.5-21 to 5.5-22). The proposed project is consistent with the General Plan and Zoning Code. Therefore, the project itself would not conflict with or obstruct implementation of the Air Quality Management Plan and no impacts would occur.

b. Construction of the proposed project would generate emissions associated with grading, use of heavy equipment, construction worker vehicles, etc. However, these emissions are not anticipated to exceed the construction emission thresholds established by the Antelope Valley Air Quality Management District (AVAQMD) due to its small scale. Therefore, construction emissions would be less than significant.

The project would generate approximately 3,057 daily trips. After accounting for pass-by trips, the proposed project would generate 1,529 net new daily vehicle trips according to the traffic impact analysis provided by TJW Engineering. These trips would generate air emissions; however, the emissions associated with the proposed project would not be sufficient to create or significantly

contribute towards violations of the air quality standards. Therefore, emissions associated with the operation of the proposed development would be less than significant.

c. The project would, in conjunction with other development as allowed by the General Plan, result in a cumulative net increase of pollutants. However, since emissions associated with the proposed project would be less than significant; contribution would not be cumulatively considerable. Therefore, impacts would be less than significant.

d-e. Construction and occupancy of the proposed mini-mart with ABC Type No. 20 Alcohol License and the accompanying fueling station and car wash is not anticipated to produce substantial pollutant concentrations or objectionable odors. There are residences and various community facilities within a quarter mile of the project site, and the Penny Lane Family Center, which provides family counseling services, is south of the project site in the adjacent parcel, however, this facility does not fit the definition of a sensitive receptor. There are no activities in the daily operation of the proposed facility that would produce substantial pollutant concentrations. Vehicles parked for fueling do not idle, and based on the amount of traffic expected to be generated by the proposed project no significant traffic impacts that would cause excessive idling would be anticipated. Additionally, it is not anticipated that the air emissions from construction or occupancy of the proposed project would exceed the thresholds established by the AVAQMD. Though the fueling station will produce some odors when in use, the amount of odors produced when an auto is being fueled are minor, the odors very local, and they dissipate quickly. Prevailing winds in Lancaster come from the west and southwest which will push any odors toward Avenue K. Therefore, there will be no significant impacts from objectionable odors, nor exposure of sensitive receptors to substantial pollutant concentrations; in summation impacts will be less than significant.

IV. a. A biological resources survey was conducted for the proposed project by Circle Mountain Biological Consultants, and documented in a report entitled "Focused Resurvey for Agassiz's Desert Tortoise, Habitat Assessments for Burrowing Owl and Mohave Ground Squirrel, and General Biological Resource Assessment for a 3.8± acre site (APNs 3126-031-34 & -35) in the City of Lancaster, Los Angeles County, California" dated June, 2016.

A field survey of the site was conducted on May 19, 2016. The project site is characteristic of a highly disturbed field. A total of seventeen plant species were observed on the project site: rubber rabbitbrush (*Chrysothamnus nauseosus*), Mare's tail (*Conyza canadensis*), telegraph weed (*Heterotheca grandiflora*), fiddleneck (*Amsinckia tessellata*), Saharan mustard (*Brassica tournefortii*), tumble mustard (*Sisymbrium altissimum*), four-winged saltbush (*Atriplex canescens*), Russian thistle (*Salsola tragus*), sweetclover (*Melilotus* sp.), red-stemmed filaree (*Erodium cicutarium*), plantain (*Plantago major*), jimson weed (*Datura wrightii*), red brome (*Bromus madritensis* ssp. *Rubens*), cheat grass (*Bromus tectorum*), Bermuda grass (*Cynodon dactylon*), rabbitfoot grass (*Polypogon monspeliensis*) and split grass (*Schismus* sp.). No sensitive plant species were observed during the survey.

A total of nine wildlife species or their sign were observed during the survey: western whiptail (*Cnemidophorus tigris*), mourning dove (*Zenaida macroura*), ash-throated flycatcher (*Myiarchus cinerascens*), horned lark (*Eremophila alpestris*), common raven (*Corvus corax*), northern mockingbird (*Mimus polyglottos*), house finch (*Carpodacus mexicanus*), Audubon cottontail (*Sylvilagus audubonii*), and California ground squirrel (*Otospermophilus beecheyi*). No special status species or their sign were observed during the survey.

No evidence of burrowing owls, desert tortoise or Mohave ground squirrel was observed on the project site. Desert tortoise and Mohave ground squirrel are not expected to occur on the project site as it is not designated as critical habitat for desert tortoise and suitable habitat for the desert tortoise and Mohave ground squirrel is not located on site or is highly fragmented. Therefore, no impacts to these species would be expected to occur. While burrowing owls were not observed on the project site, it is possible that burrowing owls or nesting birds could move onto the site prior to the start of construction. Therefore, in order to ensure that all impacts to biological resources remain less than significant, the following mitigation measure is required.

1. A nesting bird/burrowing owl survey shall be conducted within 30 days prior to the start of construction/ground disturbing activities. If nesting birds are encountered, all work in the area shall cease until either the young birds have fledged or the appropriate permits are obtained from the California Department of Fish and Wildlife

b. The project site does not contain any riparian habitat or other sensitive natural communities identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service. Therefore, no impacts would occur.

c. There are no federally protected wetlands on the project that fall under the provisions of Section 404 of the Clean Water Act. Therefore, no impacts would occur.

d. The project sites are not part of an established migratory wildlife corridor. Therefore, no impacts would occur.

e-f. The project site is not located within an area designated under an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State Habitat Conservation Plan. Additionally, there are no local policies or ordinances protecting biological resources which are applicable to this site. Therefore, no impacts would occur.

V. a-d. A cultural resource survey was conducted by RT Factfinders in August 2016 titled "Phase 1 Cultural Resource Investigation for Approximately 4 Acres Southeast of the Intersection of Division Street and East Avenue K Lancaster, Los Angeles County, California."

A field survey was conducted on August 16, 2016 by walking transects of the property spaced approximately 10 meters apart. No prehistoric or historic period sites or artifacts were identified. A sacred lands file search did not identify any potential resources. Development of the project site would not directly or indirectly destroy a unique paleontological resource, site, or geologic feature. No human remains, including those interred outside of formal cemeteries, were discovered on the project site. However, in the event that cultural resources are encountered during the course of construction activities, all work shall cease until a qualified archaeologist determines the proper disposition of the resource.

VI. a. The site is not identified as being in or in proximity to a fault rupture zone (LMEA p. 2-12 and Figure 2-5). According to the Seismic Hazard Evaluation of the Lancaster East and West Quadrangles, the project site may be subject to intense seismic shaking (LMEA pg. 2-16). However, the proposed project would be constructed in accordance with the seismic requirements of the Uniform Building Code (UBC) as adopted by the City, which would render any potential impacts to less than significant level. The project site is generally level and is neither subject to landslides nor liquefaction, according to the California Geological Survey Seismic Hazard Zones Map for Lancaster (SSHZ). Therefore, impacts would be less than significant.

b. The site is rated as having a moderate risk for soil erosion (USDA SCS Maps) when cultivated or cleared of vegetation. However, there is a potential for water and wind erosion during construction. The project would be required, under the provisions of the Lancaster Municipal Code (LMC) Chapter 8.16, to adequately wet or seal the soil to prevent wind erosion. Additionally, standard conditions of approval require the applicant submit a Dust Control Plan to the Antelope Valley Air Quality Management District (AVAQMD) for review and approval in accordance with Rule 403, Fugitive Dust, prior to the issuance of any grading and/or construction permits.

Water erosion controls must be provided as part of the project grading plan to be reviewed and approved by the City's Engineering Division. These provisions, which are part of the project, would reduce any impacts to less than significant levels.

c. Subsidence is the sinking of the soil caused by the extraction of water, petroleum, etc. Subsidence can result in geologic hazards known as fissures. Fissures are typically associated with faults or groundwater withdrawal, which results in the cracking of the ground surface. According to the City of Lancaster's Master Environmental Assessment, the project site is not known to be within an area subject to fissuring, sinkholes, or subsidence (LMEA Figure 2-3), nor liquefaction (SSHZ). Therefore, there would be no impacts.

d. The soil on the project site is characterized by a low shrink-swell potential (LMEA p. 2-5 to 7 and Figure 2-3), which is not an expansive soil as defined in Table 18-1-B of the Uniform Building Code. A soils report for the project site shall be submitted to the City by the project developer prior to grading of the project site and the recommendations of the report shall be incorporated into the development of the property. Therefore, impacts would be less than significant.

e. Sewer would be available to serve the project site from Los Angeles County Sanitation District No. 14 and would be utilized by the proposed project (ref. Item XVII.b and letter from the Sanitation District). The use of septic tanks or other alternative waste water disposal systems is not necessary and would not be incorporated into the development. Therefore, no impacts would occur.

VII. a-b. As discussed in Item III.b, the proposed project would generate GHG emissions during construction activities and operation. These emissions are anticipated to be less than the thresholds established by the Antelope Valley Air Quality Management District (AVAQMD) due to the size of the project and therefore would not prevent the State from reaching its greenhouse gas reduction targets. Therefore, impacts would be less than significant.

The proposed project would be in compliance with the greenhouse gas goals and policies identified in the City of Lancaster's General Plan (LMEA p. 2-19 to 2-24). Therefore, impacts with respect to conflicts with an agency's plans, policies and regulations would be less than significant.

VIII. a-b. The proposed project includes construction of 10 fuel stations (20 stalls) and accompanying Underground Storage Tanks. Operation of the fuel stations requires the routine delivery and storage of hazardous materials (gasoline and diesel fuel). Any handling, transporting, use, or disposal would comply with all applicable federal, State, and local agencies and regulations, including the U.S. Environmental Protection Agency (EPA); the California Department of Transportation (Caltrans); the California Department of Toxic Substances Control (DTSC); the California Department of Industrial Relations (Cal/OSHA); the Resource Conservation and Recovery Act (RCRA); and the Los Angeles County Fire Department (LACFD), which is the Certified Unified Program Agency (CUPA) for Los Angeles County.

Underground storage tanks (UST) will store gas and diesel fuel on the project site. Permitting for the USTs will be obtained from the Los Angeles County Department of Public Works (LACDPW) Environmental Programs Division. The LACDPW UST Program and LACFD ensure the equipment and installation of equipment conforms to all applicable Federal, State, and local guidelines. The gas station will be subject to routine inspection by federal, State, and local regulatory agencies with jurisdiction over fuel dispensing facilities. In order to remain operational it must comply with all applicable federal, State, and local regulation, including, but not limited to those provisions established by Section 2540.7, Gasoline Dispensing and Service Stations, of the California Occupational Safety and Health Regulations; Chapter 38, Liquefied Petroleum Gases, of the California Fire Code; RCRA; and the LACFD. USTs and associated piping are required to provide primary and secondary containment (double-walled), and to have EPA-approved leak detection equipment. Collectively, the routine inspection of the gas station, the USTs and all associated fuel delivery infrastructure, along with the continued mandated compliance with all federal, State, and local regulations, will ensure that the proposed project is operated in a non-hazardous manner. Therefore, impacts associated with handling, storing, and dispensing of hazardous materials will be less than significant.

c. The project site is not within a quarter mile of an existing or proposed school. The closest school, Joshua Elementary School, is approximately .3 miles from the project site. Therefore, no impacts would occur.

d. A Phase I Environmental Site Assessment was prepared for the proposed project and documented in a report titled "Phase I Environmental Site Assessment, Proposed Circle K Store – Lancaster, SE Corner East Avenue K and Division Street, Lancaster, Los Angeles County, California" and dated May 16, 2016. As part of the environmental site assessment, a site visit was conducted on May 4, 2016, during which no sign of any structures or features that would constitute a recognized environmental condition (REC) were observed.

In addition to the site visit, a historical and regulatory records review was conducted for the project site. The records search includes historical aerial photographs, historical topographic maps, regulatory databases, and other documentation. There is no record or evidence of past structures on the site; it was used for agriculture from approximately the turn of the century into the 1970s. The site is also not listed in any regulatory databases.

The property 100 feet to the north, Bootleggers Mini-Mart, was previously a gas station from approximately 1980 to 1999, and contained three 10,000 Underground Storage Tanks (USTs). This property is listed in multiple environmental regulatory databases due simply to the fact it contained USTs. No violations or releases were ever reported or recorded. Because it is at a lower elevation than the project site, there is no history of violations, and depth to groundwater in the area is over 200 feet, the former gas station to the north does not constitute a REC to the project site. The property 225 feet to the northwest, an Arco AM/PM gas station, is listed in multiple environmental regulatory databases, again simply for containing USTs. The facility is registered to operate three 10,000 gallon gasoline USTs and two 5,000 gallon fuel USTs. An above-ground release of gasoline due to a drive-off accident was reported on September 19, 2001. Only soils were affected, and during a piping upgrade minimal contamination was noted. A site investigation was completed and the case was closed and a letter of no further action issued on November 4, 2003. Because it is at a lower elevation than the project site, the previous release minimally affected soils, and depth to groundwater in the area is over 200 feet, the current gas station to the northwest does not constitute a REC to the project site either.

Additional sites were identified in the Phase I on a variety of regulatory database. However, due to the regulatory status, topographic gradient between the project site and the listed site and/or the distance from the project site, they are not considered to be environmental concerns.

Based on this research there is no evidence of recognized environmental conditions associated with the site that would create a significant hazard to the public or the environment, therefore impacts would be less than significant.

e-f. The project site is not within 2 miles of an airport. There would be no impacts.

g. The project site is located at the intersection of Avenue K and Division Street, both of which are identified as evacuation routes (LMEA Figure 9.1-3). However, the traffic generated by the proposed project is not sufficient to cause significant impacts at any of the intersections in the area. Therefore, the proposed project would not impair or physically block any identified evacuation routes and would not interfere with any adopted emergency response plan, and impacts would be less than significant.

h. The new use would be unlikely to introduce fire hazards, and required yards, walls, and irrigated landscaping reduce the risk of potential grass fires spreading from the adjacent vacant parcels, and vice versa. In addition there are three Los Angeles County Fire Stations within 2 miles of the project site: Stations 135, 129, and 33. Therefore, impacts would be less than significant.

IX. a. The proposed project would not normally generate wastewater which would violate water quality standards during regular operation. The project site is not located in an area with an open body of water or watercourse or aquifer recharge area. Therefore there would be no discharge into a water body or the aquifer as a result of surface runoff from the project. Additionally, although the City of Lancaster is not subject to MS4 permitting under the National Pollutant Discharge Elimination System (NPDES) program, the project will be required to treat runoff in a manner consistent with NPDES requirements, before it enters the City stormwater system. Therefore, impacts would be less than significant.

b. The proposed project would not include any groundwater wells or pumping activities. All water supplied to the proposed project would be obtained from Los Angeles County Waterworks District No. 40 (LACWD). Additionally, the proposed project is not in an area identified as having a high potential for infiltration (LMEA p. 10.1-5 to 6). Therefore, the proposed project would not deplete groundwater supplies or interfere with groundwater recharge and impacts would be less than significant.

c-e. There are no natural drainages on the subject site that are being altered, and all impervious surfaces are being designed to drain to two detention basins. Surface runoff will be slowed in the basins, a good portion will infiltrate on-site, and the remainder allowed to travel to the curb. The amount of new runoff generated from the site should therefore be minimal, and any potential impacts less than significant.

f-g. The project site is designated as Zone X-Shaded per the Flood Insurance Rate Map (FIRM) No. 060672, Panel 0420 (2008), which is outside the 100-year flood zone but within the 500-year flood zone. Therefore building the proposed project would not result in any impacts from flooding.

h. The project site does not contain and is not downstream from a dam or levee. Therefore, no impacts would occur from flooding as a result of the failure of a dam/levee.

i. The project site is not located within a coastal zone. Therefore, tsunamis are not a potential hazard. The project site is relatively flat and does not contain any enclosed bodies of water and is not located in close proximity to any other large bodies of water. Therefore, the proposed project would not be subject to inundation by seiches or mudflows and there would be no impact.

X. a. The proposed project is not of the scale or nature that could physically divide an established community. The proposed project would not block a public street, trail or other access route or result in a physical barrier that would divide any community. Therefore, no impacts would occur.

b. The proposed project is consistent with the City's General Plan and must be in conformance with the Lancaster Municipal Code. The project will also be in conformance with the Los Angeles Underground Storage Tank (UST) program. Therefore, no impacts would occur.

c. As noted under Item IV.e-f., the project site is not subject to and would not conflict with a habitat conservation plan or natural communities conservation plan. Therefore, no impacts would occur.

XI. a-b. The project site does not contain any current mining or recovery operations for mineral resources and no such activities have occurred on the project site in the past. It is not likely that the Lancaster area has large, valuable mineral and aggregate deposits. Therefore, no impacts to mineral resources would occur.

XII. a. The City's General Plan EIR (Table 5.6-2) establishes an outdoor maximum CNEL of 70 dBA for commercial uses. Table 8-11 of the LMEA provides existing roadway noise levels in the vicinity of the project site. The current noise level on Avenue K between Division Street and 5th Street East is estimated at 66.3 dBA. The noise level on Division Street from Avenue K to Avenue K-8 is estimated at 65.4 dBA. This noise level is consistent with the standards of the General Plan. Operation of the proposed mini-mart and gas station would not create a new source of significant noise, and any potential increase in traffic would be unlikely to increase existing noise levels. Construction activities would increase noise levels for a temporary period, however there are no occupied structures immediately adjacent to the construction area. Therefore, potential noise impacts from the proposed project would be less than significant.

b. The proposed project will require the use of excavation equipment during construction. This is not an activity associated with significant ground-borne noise or vibration, and construction activities will be limited to daylight hours. The operation of the proposed project does not include any equipment that causes ground-borne noise or vibration. Therefore, there would be no impacts associated with ground-borne vibration/noise.

c. Permanent increases in area noise levels would occur through an increase in traffic coming to and from the proposed gas station, mini-mart, and car wash. A 3 dBA increase in noise levels is generally required for an individual to perceive a change. In order to reach a 3 dBA increase from traffic noise, volume on a street would need to double. It is estimated that 119 new net a.m. peak hour trips and 139 net new p.m. peak hour trips would be associated with the proposed project. This increase is far below the threshold needed to increase noise levels significantly, therefore, impacts would be less than significant.

d. There would be a temporary increase in noise levels in the area during construction of the project. This noise would be generated by construction vehicles and equipment. Construction activities of the project are regulated by Section 8.24.040 of the Lancaster Municipal Code, which limits the hours

of construction work to between sunrise and 8:00 p.m. Monday through Saturday. These effects are not considered significant because they are temporary and construction times are limited to daylight hours; impacts would be less than significant.

e-f. The site is greater than 2 miles from an airport and is not near a private airstrip, therefore there would be no impacts.

XIII. a-c. The proposed project would not displace any people or housing units, nor would it create a significant new source of employment that would generate additional population growth in the immediate area. Therefore there would be no impacts.

XIV. The project would not induce population growth (see Item XIII) and, therefore, would not increase demand on schools or parks. The project will increase the need for fire and police services, however the site is within the current service area of both these agencies and due to the size and scope of the project any additional time and cost to service the site would be minimal. Thus, impacts would be less than significant.

XV. a-b. The proposed project would not generate additional population growth and would not contribute to the use of the existing park and recreational facilities. Therefore, no impacts would occur.

XVI. a. A traffic study was prepared for the proposed project by TJW Engineering, Inc., and documented in a report entitled "Circle K – Avenue K & Division Traffic Impact Analysis, City of Lancaster, California" dated January 30, 2017. This document is draft as minor administrative changes are being made; however, the conclusions of the report remain unchanged. The proposed project is anticipated to generate approximately 3,057 trips per day. After accounting for pass-by trips, the proposed project would generate approximately 1,529 net new vehicle trips per day with 119 net new a.m. peak hour trips and 139 net new p.m. peak hour trips.

A total of ten intersections and two roadway segments were analyzed to determine potential traffic impacts. The results of this analysis show that all intersections operate at acceptable levels with the exception of the intersection of Division Street and Avenue J-8. However, this is an existing condition that the project did not create and the addition of project traffic would not substantially change the level of service. The proposed project is required to pay traffic impact fees and these fees are utilized to make improvements to necessary intersections. Therefore, project impacts are less than significant.

b. There are no county congestion management agency designated roads or highways in the vicinity of the project. No impacts would occur.

c. The project site does not contain any aviation related uses, and the proposed project would not include the development of any aviation related uses. Thus, the proposed project would not have an impact on air traffic patterns.

d. A new entrance into the project site will be constructed on Avenue K approximately 220 feet from the intersection of Division Street. The separation distances conform to the LMC requirements and the designs will be consistent with current Lancaster engineering standards. Therefore, impacts will be less than significant.

e. The project would have adequate emergency access from Avenue K and Division Street. Interior circulation allows proper clearances and access per Los Angeles County Fire Department requirements; therefore, no impacts would occur.

f. The proposed project does not conflict with or impede any of the General Plan policies or specific actions related to alternative modes of transportation (Lancaster General Plan p. 5-18 to 5-24). Therefore, no impacts would occur.

XVII.a-b. No tribal cultural resources have been identified either through the sacred lands file search conducted by the Native American Heritage Commission or by any of the Native American Tribes with cultural affiliations to the area. Therefore, no impacts would occur.

XVIII. a-b. The proposed project would discharge to a local sewer line and conveyed to the District's Division Street Trunk Sewer, located in Avenue K at Division Street. According to the letter dated 10/28/2016 from the County Sanitation District of Los Angeles (LACSD), this 12-inch diameter trunk sewer has a design capacity of 1.1 million gallons per day (mgd) and conveyed a peak flow of 0.1 mgd when last measured in 2014. The project's wastewater would be treated at the Lancaster Water Reclamation Plant upon connection which has a design capacity of 18 mgd and currently processes an average flow of 12.9 mgd. The expected average wastewater flow from the proposed project is 497 gallons per day. Therefore, impacts would be less than significant.

c. See Items IX.c and IX.d

d. The Los Angeles County Waterworks District (LACWD) No. 40 has indicated in a letter dated November 21, 2016, that there is either sufficient potable water available for the project or that a process is in place where potable water can be secured for the project. Securing sufficient potable water for the project is the sole responsibility of the applicant. No new construction of water treatment facilities or new or expanded entitlements would be required. Therefore, water impacts would be less than significant.

e. See Item XVIII.a-b.

f-g. The project would generate additional solid waste, which would contribute to an overall cumulative impact on the landfill service to the site (GPEIR p. 5.9-20 to 21); although this project's individual contribution is considered minimal. The proposed project would be required to have trash collection services in accordance with City contracts with waste haulers over the life of the project. These haulers are required to be in compliance with applicable regulations on solid waste transport and disposal, including waste stream reduction mandated under Assembly Bill (AB) 939, which was enacted to reduce, recycle, and reuse solid waste generated in California to the maximum extent feasible. Therefore, impacts would be less than significant.

XIX. a-c. Other projects have been approved or are undergoing review in the City of Lancaster. Multiple projects, especially in close proximity, if constructed, could result in a number of acres being converted from desert to developed uses which could generate cumulative impacts. Table 2 provides a list of all projects within a 1 mile radius of the project site.

Table 2					
Case No.	Location	APN	Acres	Description	Status
DR 16-10	SWC Avenue K-6 and Gingham Avenue	3126-032-085 and 086	3±	Construction of a 43,000 sf industrial building	Approved
DR 16-12	SEC Avenue K-6 and Gingham Avenue	3126-032-090	1.39±	Construction of a 14,000 sf industrial building	Approved
SPR 16-06	NWC of 10th St West and Avenue K	3123-028-042, 046, 048	1.39±	Commercial shopping center with 3 pads totaling 20,500sf	Approved
SPR 16-07	NEC of 10th Street West and Avenue K-8	3128-003-909	6.23±	Construction of new Ram Truck dealership	Approved
CUP 14-12	Adjacent parcel to the SEC of the project site	3126-031-037, 039	2.4±	Construction of a 78,737sf complex with 75 multi-family units and support services for veterans and low-income residents	Approved
TM 39437 & TM 39438	Park Avenue at West Avenue J-14		3.75±	51 subdivided lots for single-family townhomes	Existing tracts w/ unbuilt units
TTM 54406	5 th St East at East Avenue J-13		1.7±	9 subdivided lots for single-family homes	Existing tracts w/ unbuilt units

Cumulative impacts are the change in the environment which results from the incremental impact of the project when added to other closely related past, present and reasonably foreseeable probable future projects. The proposed project is not on a scale or an intensity of use great enough to produce significant new impacts. The construction of the proposed project will produce temporary, but not significant, impacts. If construction of the proposed project was concurrent with construction of the other projects listed, combined impacts would still not reach a significant level as any potential construction-related impacts generated by these projects are site specific and would be very unlikely to influence other impacts at other sites. All projects undergo environmental review and have required mitigation measures to reduce impacts when warranted. These mitigation measures reduce environmental impacts to less than significant impacts whenever possible. All impacts associated with the proposed project are less than significant with incorporation of mitigation measures. Therefore, the project's contribution to cumulative impacts would not be cumulatively considerable.

List of Referenced Documents and Available Locations*:

BRR:	Focused Resurvey for Agassiz's Desert Tortoise, Habitat Assessments for Burrowing Owl and Mohave Ground Squirrel, and General Biological Resource Assessment for a 3.8± acre site (APNs 3126-031-34 & -35) in the City of Lancaster, Los Angeles County, California. June 2016, Circle Mountain Biological Consultants, Inc.	DSD
CRS:	Phase 1 Cultural Resource Investigation for Approximately 4 Acres Southeast of the Intersection of Division Street and East Avenue K Lancaster, Los Angeles County, California August 2016, Richard Norwood	DSD
ESA:	Phase I Environmental Site Assessment Proposed Circle K Store Lancaster, SE Corner East Avenue K and Division Street Lancaster, Los Angeles County, California, May 16, 2016, Terracon Consultants, Inc.	DSD
TRA:	Circle K – Avenue K & Division Traffic Impact Analysis City of Lancaster, California, (Draft) January 30, 2017, TJW Engineering, Inc.	DSD
FIRM:	Flood Insurance Rate Map	DSD
GPEIR:	Lancaster General Plan Environmental Impact Report	DSD
LACW:	County of Los Angeles Department of Public Works November 21, 2016	DSD
LACSD:	County Sanitation Districts of Los Angeles County, October 28, 2016	DSD
LGP:	Lancaster General Plan	DSD
LMC:	Lancaster Municipal Code	DSD
LMEA:	Lancaster Master Environmental Assessment	DSD
SSHZ:	State Seismic Hazard Zone Maps	DSD
USDA SCS:	United States Department of Agriculture Soil Conservation Service Maps	DSD
USGS:	United States Geological Survey Maps	DSD

* DSD: Development Services Department
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 44933 Fern Avenue
 Lancaster, California 93534

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Lancaster, CA 93534



APPEAL FORM

MAR2017AM06:58:29-CLERY

PLEASE PRINT OR TYPE:

HRES Lancaster LLC

Lori Gafner
Dillon Tidwell

(970) 980-9688
(970) 691 5054

Name of Appellant

Home Telephone Number

5100 W. Kennedy Blvd, Ste 100

Tampa, FL

33609

(970) 691 5054

Home Address of Appellant

City & State

Zip Code

Business Telephone Number

Send Correspondence and Notices to the following party:

Lori Gafner c/o HRES Lancaster, LLC

P O Box 1006, Fort Collins, CO 80522

LGafner@tatumre.com (970) 980.9688

Name and Address

Circle K Gas Station, Car Wash, and Store

SEC (south east corner) of East Ave K & Division St

Address and Description of Real Property Involved

Planning Commission

Commission, Board, Official or Department whose action is being appealed

Date of action/decision from which appeal is taken:

3/20/2017

Case Number:

CUP 16-08

Specific Action or Decision being appealed:

Denial of the Conditional Use Permit to allow the sale of beer and wine

Grounds for Appeal:

- * The Planning Commission did not offer a compelling reason for denial other than general concern over alcohol sales
- * Other mini-marts in the City offer beer and wine, inclusion of which is anticipated by customers. This store would be at a competitive disadvantage if it were to open without the beer and wine offering
- * The Project has support of its neighbor, Penny Lane
- * The Project has support of the Planning Staff and has met all conditions requested
- * With the required addition of a median on Ave K and the current median on Division, the main access into this project is Right-in / Right-out thus the customers would be traveling east on Ave K or north on Division St, with a limited number of customers utilizing the left-in from Ave K. The mini-mart caddy corner and the liquor store across Ave K are generally accessed by customers traveling in the opposite directions. A mini-mart in this location would be a convenience to customers traveling in the east and north directions

Appellant Signature

Date

3-27-17

If applicable, a duplicate set of mailing labels submitted for the original Planning Commission consideration shall be provided by the appellant at the time of the appeal filing.

Hunt Real Estate

5100 W. Kennedy Blvd.
Suite 100
Tampa, FL 33609
Tel: 813.289.5511
Fax: 813.289.4800

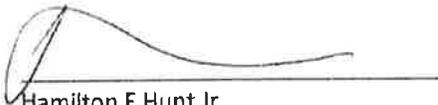
September 16, 2016

Re: HRES Lancaster, LLC

To Whom It May Concern,

Please accept this letter as authorization for Lori Gafner, representative of Hunt Real Estate Services, Inc., to act on behalf of the property owner regarding correspondence and representation of all notices, approvals and permitting matters required for the above referenced project.

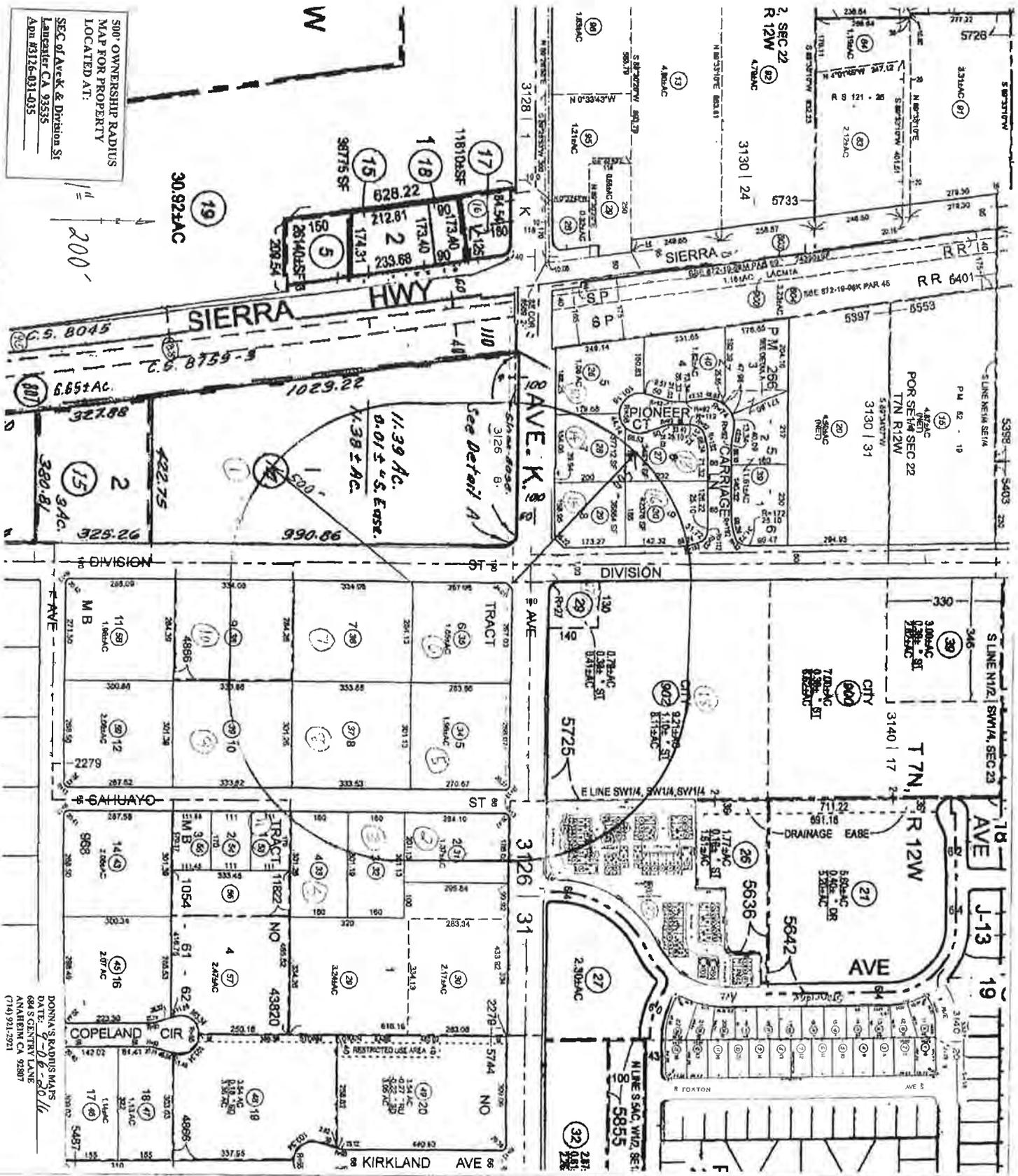
Sincerely,



Hamilton E Hunt Jr
President of Hunt Real Estate Services, Inc.
Manager of HRES Lancaster, LLC

500' OWNERSHIP RADIUS
 MAP FOR PROPERTY
 LOCATED AT:
 SEC of Avek & Division St
 Lancaster CA 93535
 App #3126-031-035

1" = 200'



DONNA SPADUS MAPS
 DATE: 7-08-2011
 685 S CENTRAL LANE
 ANAHEIM CA 92807
 (714) 921-5251

STAFF REPORT
City of Lancaster

PH 2
05/09/17
MVB

Date: May 09, 2017

To: Mayor Parris and City Council Members

From: Elizabeth Brubaker, Director Housing & Neighborhood Revitalization

Subject: **Approval of the Community Development Block Grant (CDBG) 2017 Program Year Action Plan**

Recommendation:

Approve the proposed projects described herein for the City of Lancaster's 2017 One-Year Action Plan application to be submitted to the United States Department of Housing and Urban Development.

Fiscal Impact:

Fiscal impact is estimated at \$1,291,581 in new Community Development Block Grant (CDBG) entitlement funds and \$304,426 of reprogrammed CDBG funds.

Background:

The City of Lancaster has been a CDBG entitlement community since 1986 and receives an annual grant for developing viable urban communities that encompasses decent housing and a suitable living environment, and expanded economic opportunities, primarily for low- and moderate-income persons. The proposed One-Year Action Plan is intended to provide a summary of proposed program activities, eligibility criteria, and funding levels for the 2017 CDBG program year. All programs and/or projects submitted in the Plan are in compliance with the U.S. Department of Housing and Urban Development (HUD) guidelines for eligible activities.

The Annual Action Plan Executive Summary for CDBG entitlement funds for the 2017 program year is available for review in the Department of Housing and Neighborhood Revitalization. In accordance with Title 24 CFR part 91, this Annual Action Plan Executive Summary outlines the needs, resources, priorities and proposed activities to be undertaken with respect CDBG funding.

In order to proceed with the City's One-Year Action Plan Application, which serves as the formal document to the U.S. Department of Housing and Urban Development for CDBG funding, it is necessary for the City Council to take public testimony on proposed projects.

Proposed Projects for the 2017 Program Year:

1. Planning / Administration	\$200,000
2. Fair Housing Services	\$35,000
3. Repayment of Section 108 Loan –	\$251,604
a. Industrial Infrastructure (Fox Field);	
b. Housing Site Property Acquisition- (Fairgrounds);	
c. Recreational Facilities -(Soccer Complex)	
4. Repayment of Section 108 Loan - (Industrial Corridor Infrastructure)	\$27,134
5. Repayment of Section 108 Loan - (Mental Health Association)	\$93,478
6. Repayment of Section 108 Loan - (Children’s Center)	\$96,495
7. Code Enforcement Officers	\$219,152
8. Homelessness Services	\$194,834
9. Master Plan Community Development Avenue I - Tentative and Final Maps	\$52,626
10. Master Plan Community Development Avenue I/Division Street - Tentative and Final Maps	\$35,084
11. Master Plan Community Development Avenue J/15 th Street West - Tentative and Final Maps	\$59,714
12. Master Plan Community Development Sierra Highway - Tentative and Final Maps	\$27,000
2017-2018 CDBG Entitlement Funding:.....	\$1,291,581
Reprogrammed Funding*:.....	\$304,426
Total Project Funding:.....	\$1,596,007

The public was given the opportunity to review and comment on the Draft Consolidated Annual Action Plan which outlined the proposed use of funds for the 2017-18 program year for a period of at least 30-days starting on April 9, 2017 and ending May 9, 2016 in accordance with HUD guidelines.

The list of proposed projects for the 2017 CDBG One-Year Action Plan is in compliance with the City's Five-Year Consolidated Plan and Strategy along with U.S. Department of Housing and Urban Development (HUD) project eligibility criteria and program guidelines. Approval of the proposed list of projects will enable CDBG funding availability as of July 1, 2017, the start of the 2017 program year. Action to delay submission of the current project application to HUD will substantially delay the receipt of monies and implementation of projects and activities dependent on such monies. Funds related to projects that are revised or canceled during the program year will be reprogrammed.