

AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

THIS AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES is made and entered into this 14th day of December 2022 by and between the CALIFORNIA CHOICE ENERGY AUTHORITY, a joint powers authority (“CalChoice”) and PACIFIC ENERGY ADVISORS, INC. (“Consultant”) (collectively, sometimes referred to hereinafter as the “Parties”).

RECITALS

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

California Choice Energy Authority Partner City Technical Support Services (the “Services”):
City of Santa Barbara

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 to the Agreement.**

The parties to this Agreement are:

- A. OWNER: California Choice Energy Authority
- 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: California Choice Energy Authority
Attn: Jason Caudle, Executive Director
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.** CalChoice hereby engages Consultant, and Consultant accepts such engagement, to perform the professional services set forth in the “Scope of Services,” attached hereto as Exhibit “A” and incorporated herein by reference. Consultant shall perform and complete, in a manner satisfactory to CalChoice, all work and services set forth in Exhibit “A.” The Executive Director or his 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 designee.

5. **Obligations of CalChoice.**

A. CalChoice shall pay Consultant an amount not to exceed \$202,000 annually for all work necessary to complete the Services, as described in the Scope of Services. Payments shall be due within thirty (30) days following Consultant’s submittal of an invoice detailing the services performed. CalChoice shall reimburse Consultant for travel expenses, in amounts not to exceed those detailed in the Scope of Services for each phase of the Services. In the event the Parties mutually agree in writing that additional work is required beyond the not-to-exceed fee set forth above, Consultant shall submit invoices detailing the additional task(s) performed and the time spent on each task.

B. No payment made hereunder by CalChoice to Consultant, other than the final payment, shall be construed as an acceptance by CalChoice 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 and in accordance with the Scope of Services set forth in Exhibit A.

B. Consultant shall not commence any new phase as set forth in Exhibit A without a prior written notice to proceed from CalChoice.

C. Consultant shall be responsible for payment of all employees’ wages and benefits, and shall comply with all requirements pertaining to employer’s liability, workers’ compensation, unemployment insurance, and Social Security.

D. Consultant shall not subcontract any of the work required to perform the Services without the express prior written approval of CalChoice.

7. **Hold Harmless and Indemnification.** Consultant agrees to indemnify and hold harmless CalChoice, its officers and employees, from and against any and all third party claims, losses, obligations, or liabilities whatsoever, including reasonable attorney’s fees, incurred to the extent 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 CalChoice, its officers and employees, using counsel of CalChoice’s choosing, from and against any and all claims covered by the indemnity in the preceding sentence.

CalChoice agrees to indemnify and hold harmless Consultant, its employees and agents, from and against any and all third party claims, losses, obligations, or liabilities whatsoever, including reasonable attorney's fees, incurred to the extent arising out of or related to CalChoice's negligent or willful wrongful acts, errors or omissions, or those of its officers or employees in relation to this Agreement. CalChoice agrees to defend Consultant, its employees and agents, using counsel of Consultant's choosing, from and against any and all claims covered by the indemnity in the preceding sentence; 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.

8. **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 CalChoice and Consultant.

9. **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, gender, national origin, sexual orientation, 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. CalChoice 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.

10. **Term; Effective Date.** This Agreement shall be effective October 1, 2021 and shall be in full force and effect upon the execution of the Agreement by CalChoice and the Consultant. This Agreement shall continue in full force and effect through June 30, 2023 (the "Term"), unless the Agreement is sooner terminated in accordance with this Agreement; provided, however, that CalChoice and the Consultant may mutually agree in writing to extend the Term of this Agreement.

11. **Termination.**

A. For Convenience. CalChoice 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, whether for convenience or cause, Consultant will be paid for work completed through the date of termination within thirty (30) days following submittal of a final invoice.

B. For Cause. 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,

Consultant shall correct such failure within ten (10) days (or such longer period that CalChoice may authorize in writing) after receipt of notice from the City specifying such failure. Should the failure not be corrected within this time period, CalChoice may immediately terminate the Agreement by written notice to Consultant.

C. In the event of termination, whether for convenience or cause, reports, plans, studies and other documents related to the Services that have been delivered to CalChoice shall become CalChoice's property.

12. **Independent Contractor.** Consultant is an independent contractor and shall have no power or authority to incur any debt, obligation or liability on behalf of CalChoice. It is expressly understood between the Parties to this Agreement that no employee/employer relationship is intended; Consultant is an independent contractor.

13. **Insurance.**

A. (1) The Consultant, at its expense, shall maintain in effect at all times during the performance of work under this Agreement 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
General Aggregate	\$2,000,000
Including Products/Completed Operations	
Including Contractual Liability/Independent Contractors	
Including Property Damage	

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	\$2,000,000
General Aggregate	\$2,000,000

B. 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 CalChoice. At CalChoice's option, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CalChoice and its officers, employees and representatives (collectively, for purposes of this Section, "CalChoice"), 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 CalChoice. Any insurance or self-insurance maintained by CalChoice 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 CalChoice.

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 CalChoice 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 CalChoice 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 CalChoice before work commences. CalChoice 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 CalChoice.

L. Certificates of Insurance must be deposited with CalChoice 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) to CalChoice.

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

“California Choice Energy Authority Partner City Support”

FOR PROFESSIONAL CONSULTANT SERVICES

California Choice Energy Authority, its board of directors, officers, employees, contractors and representatives are included as additional covered parties, but only insofar as the operations under this contract are concerned.

(3) List in the “Certificate Holder” section:

California Choice Energy Authority, 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 CalChoice.

14. **Ownership of Documents.** All plans, specifications, reports, studies, maps and other documents prepared or obtained by Consultant in the course of performing the work and are required by this Agreement to be delivered to CalChoice shall be the property of CalChoice. Basic sketches, charts, computations and similar data prepared or obtained by Consultant under this Agreement shall, upon request, be made available to CalChoice without restriction or limitation on their use. Notwithstanding the foregoing, CalChoice shall not obtain or retain any rights in or ownership to any of Consultant’s systems, documents, and/or intellectual property developed, produced, discover, or created by Consultant before the execution of the Agreement or in connection with service performed outside of this Agreement.

15. **Data Provided to Consultant.** CalChoice shall provide to Consultant, without charge, all data, including reports, records, maps and other information, now in CalChoice’s possession which may facilitate the timely performance of the work described in Exhibit A.

16. **Consultant’s Warranties and Representations.**

Consultant warrants and represents to CalChoice 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, CalChoice 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 CalChoice 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 CalChoice, 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.

18. **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.

19. **Exhibits.**

The following exhibits to which reference is made in this Agreement are deemed incorporated herein in their entirety:

Exhibit "A" Scope of Services

20. **Governing Law.**

This Agreement shall be governed by the laws of the State of California.

21. **Effective Date.**

This Agreement shall become effective as of October 1, 2021.

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

PACIFIC ENERGY ADVISORS, INC.

By: _____
John P. Dalessi, President

Dated: _____

CALIFORNIA CHOICE ENERGY AUTHORITY

By: _____
Jason Caudle, Executive Director
By: Barbara Boswell, Treasurer

Dated: _____

ATTEST:

Andrea Alexander, City Clerk

APPROVED AS TO FORM:

Allison E. Burns, Authority Counsel

EXHIBIT A SCOPE OF SERVICES

PHASE 3: ON-GOING ADMINISTRATIVE SUPPORT

PEA will provide consulting and technical services to CalChoice in support of the respective CCA programs of its Members. The proposed services cover the essential tasks related to managing the power supply and rate-setting functions for these programs. The proposed scope of services is described below.

1) Power Resources Management

Working with CalChoice leadership as well as its designated Scheduling Coordinator, PEA will manage the power resources portfolios of the Members in accordance with CalChoice's adopted policies and all applicable regulatory requirements. PEA will perform Middle Office functions for CalChoice encompassing the areas of resource planning, portfolio management, electric procurement, and the variety of regulatory compliance activities related to electric power supply. The following tasks are included within this service area:

(a) Maintain Annual and Long-Term Sales Forecast:

- Prepare and maintain CalChoice Member customer and electric sales forecasts, including forecasts of: 1) monthly enrolled accounts, megawatt hours ("MWh") and megawatts ("MW") by load profile group; and 2) monthly coincident peak MW and hourly MW for the CalChoice Member systems.
- Update long-term sales forecasts, as necessary, to maintain accuracy; monitor accuracy of load forecasts on a monthly basis; consider adjustments to such forecasts if observed variance exceeds threshold of 5% forecast error.

(b) Electric Supply Management:

- Maintain load and resource balance models to identify incremental electric procurement needs in consideration of quantified open positions, CalChoice resource and risk management policies, and applicable regulatory requirements; coordinate with management to develop and implement procurement strategies to address electric resource needs.
- Support procurement and/or sales of energy and capacity products including preparing requisite solicitation documents, participating in supplier/developer communications, providing analytical support during proposal/bid evaluation, negotiating commercial contract terms, and other related, as-needed activities.
- Annually, prepare and update internal resource plans, including ten-year load and resource projections, encompassing both supply and demand side resources.

- Review and validate periodic invoices received from CalChoice’s Scheduling Coordinator and electric suppliers to ensure charges are consistent with contract terms; bring any identified discrepancies to management’s attention; and support attempts to resolve issues with counterparties.
- Monitor energy market activities, including pricing trends and forward curves related to market energy, renewable energy and capacity.
- Maintain/manage relationships with qualified suppliers of requisite energy products: participate in periodic calls, email exchanges and other communications with and/or on behalf of CalChoice and its Members.

(c) Regulatory Compliance:

- Manage renewable energy portfolio per state/program standards; prepare Renewable Portfolio Standards (“RPS”) compliance filings and serve as CalChoice’s liaison with pertinent regulatory agencies for matters related to RPS compliance.
- Manage CalChoice Members’ Western Renewable Energy Generation Information System (“WREGIS”) accounts and various subaccounts, including report preparation, certificate transfer review and retirement (to facilitate mandatory and regulatory compliance), as-needed generator registration (example: Feed-In Tariff projects under contract with CalChoice) and other account management activities. Provide support during third-party audit processes, if applicable, including data gathering and analysis, reporting and liaison activities with CalChoice’s selected auditor and pertinent regulatory agencies.
- Manage Resource Adequacy portfolios per state/program standards; prepare year-ahead and month-ahead peak demand forecasts and resource adequacy compliance demonstration filings; coordinate with CalChoice’s Scheduling Coordinator and regulatory agencies to resolve any discrepancies that may arise during compliance review.
- Provide data analysis and assist in preparing reports related to the California’s Power Source Disclosure Program, including technical elements of Power Content Label development and review; such support may also entail regulatory liaison activities required to successfully complete applicable reports.
- Prepare compliance filings pursuant to the California Energy Commission’s biennial Integrated Energy Policy Report, Quarterly Fuels and Energy Report, and the U.S. Energy Information Agency monthly EIA-826 and annual EIA-861 reports.
- Prepare all required compliance documentation under this task and coordinate with CalChoice’s regulatory personnel or contractors, who will be responsible for formal submission of filings to the appropriate regulatory body.

2) Rate Setting, Financial Modeling & Performance Reporting

PEA will maintain a working pro forma financial model for each CalChoice Member program for use in budgeting, cash flow planning, financial performance monitoring, and scenario analyses. PEA will design customer electric rates and update rates for approval by each of the Member's respective governing boards on an annual basis – such rates will be established at sufficient levels to meet adopted financial targets. PEA will provide technical rate support including monitoring SCE rate changes as they impact customer cost comparisons and also provide assistance with the preparation of joint cost comparison models. The following tasks are included within this service area:

(a) Rate-setting

- Annually, develop proposed CalChoice Member rate schedules; cost of service modeling; SCE benchmarking; billing determinant (e.g., TOU energy) forecast; present and proposed rate revenue forecast.
- Collaborate with staff, CalChoice, and CalChoice Member governing bodies, as necessary, in regards to rate changes, including necessary new rate designs or options.
- Support for development and administration of certain CCA customer programs, including Net Energy Metering, green energy, and Feed-In Tariffs, if desired by CalChoice or the Members.
- Monitor realized rate revenue vs. projections to identify necessary rate changes.
- Monitor SCE rates and surcharges and assist CalChoice with preparation of mandated joint cost comparisons reports.

(b) Maintain Financial Model (pro forma)

- Maintain pro forma financial models of monthly income/expense projections, cash flow and cash balances.
- Update pro forma models as necessary to incorporate current load, resource and market data; monitor accuracy of financial projections on monthly basis; assist in reconciling budget variances.
- Prepare forecast of power supply and other expenses for annual budget.
- Prepare draft annual budget for each CalChoice Member program in cooperation with CalChoice management and accountants.
- As necessary, coordinate with CalChoice, its Members, and its financial advisors with regard to matters that may impact CalChoice's financial standing, debt levels, electric rates, annual budget, resource planning and other key concerns.

(c) Performance monitoring and reporting

- Prepare monthly executive summary reports containing information on key program performance metrics related to enrolled customer accounts, customer opt-out rates, electricity sales volumes,

revenues, comparisons to forecasts/budgets, comparisons to previous periods, and highlighting noteworthy operational insights.

- Monitor net open positions and provide monthly reporting of net open positions pursuant to adopted CalChoice risk management policies.

Fee for Performance of Phase 3 Services: \$16,000.00 per month, with a not to exceed amount of \$192,000 over a (12) month period.

Consultant will be reimbursed for actual travel expenses incurred in the performance of the work for all travel explicitly requested by CalChoice, not to exceed \$10,000 annually.