

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

THIS AGREEMENT (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and Willdan Financial Services with an address at 27368 Via Industria, Suite 200, Temecula, CA 92590 (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

WHEREAS, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. DESIGNATED REPRESENTATIVE

Angela Hacker at phone number (805) 568-3515 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Mark J. Risco, at phone number (951) 587-3500, is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

2. NOTICES

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To COUNTY: Roc Lowry
Energy and Sustainability Initiatives Division
County of Santa Barbara
123 E. Anapamu Street, Rm 236
Santa Barbara, CA 93101
Email: lowryroc@co.santa-barbara.ca.us
Fax: (805) 568-3521

To CONTRACTOR: Chris Fisher, Vice President
Willdan Financial Services
27368 Via Industria, Suite 200
Temecula, CA 92590
Email: cfisher@willdan.com
Fax: (951) 587-3510

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

3. SCOPE OF SERVICES

CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

4. TERM

CONTRACTOR shall commence performance on May 10, 2016 and end performance upon completion, but no later than September 30, 2016 unless otherwise directed by COUNTY or unless earlier terminated. To allow for the completion of the Scope of Work, the Director of the County Community Services Department or designee is authorized to execute amendments on behalf of COUNTY to make changes extending the length of the Term up to a maximum of 6 months.

5. COMPENSATION OF CONTRACTOR

In full consideration for CONTRACTOR's services, CONTRACTOR shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2 NOTICES above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

6. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to COUNTY and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

7. STANDARD OF PERFORMANCE

CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

8. DEBARMENT AND SUSPENSION

CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

9. **TAXES**

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

10. **CONFLICT OF INTEREST**

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

11. **OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY**

COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any of such items to other parties except after prior written approval of COUNTY.

Unless otherwise specified in Exhibit A, CONTRACTOR hereby assigns to COUNTY all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by CONTRACTOR pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). COUNTY shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. CONTRACTOR agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. CONTRACTOR warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. CONTRACTOR at its own expense shall defend, indemnify, and hold harmless COUNTY against any claim that any Copyrightable Works or Inventions or other items provided by CONTRACTOR hereunder infringe upon intellectual or other proprietary rights of a third party, and CONTRACTOR shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by COUNTY in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

The CONTRACTOR must execute the Non-disclosure Agreements (NDA) attached hereto as Exhibit D1 and D2. COUNTY hereby notifies CONTRACTOR that the NDAs are incorporated herein by this reference with the same force and effect as if the NDA were specifically set out herein and CONTRACTOR agrees to comply with said NDA.

12. NO PUBLICITY OR ENDORSEMENT

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY.

13. COUNTY PROPERTY AND INFORMATION

All of COUNTY's property, documents, and information provided for CONTRACTOR's use in connection with the services shall remain COUNTY's property, and CONTRACTOR shall return any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. CONTRACTOR may use such items only in connection with providing the services. CONTRACTOR shall not disseminate any COUNTY property, documents, or information without COUNTY's prior written consent.

14. RECORDS, AUDIT, AND REVIEW

CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

15. INDEMNIFICATION AND INSURANCE

CONTRACTOR agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

16. NONDISCRIMINATION

COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

17. NONEXCLUSIVE AGREEMENT

CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

18. NON-ASSIGNMENT

CONTRACTOR shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

19. TERMINATION

- A. By COUNTY. COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of CONTRACTOR to fulfill the obligations herein.
1. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.
 2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or COUNTY governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.
 3. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be the date the notice is received by CONTRACTOR, unless the notice directs otherwise.
- B. By CONTRACTOR. Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.
- C. Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for satisfactory services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

20. SECTION HEADINGS

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

21. SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

22. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

23. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and each covenant and term is a condition herein.

24. NO WAIVER OF DEFAULT

No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

25. ENTIRE AGREEMENT AND AMENDMENT

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

26. SUCCESSORS AND ASSIGNS

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

27. COMPLIANCE WITH LAW

CONTRACTOR shall, at its sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

28. CALIFORNIA LAW AND JURISDICTION

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

29. EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

30. AUTHORITY

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

31. SURVIVAL

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

32. PRECEDENCE

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

Agreement for Services of Independent Contractor between the **County of Santa Barbara** and Willdan Financial Services.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

By: _____
Deputy Clerk

COUNTY OF SANTA BARBARA:

By: _____
Peter Adam, Chair, Board of Supervisors

Date: _____

RECOMMENDED FOR APPROVAL:

George Chapjian
Community Services Department

By: _____
Department Head

CONTRACTOR:

Willdan Financial Services

By: _____
Authorized Representative

Name: Mark J. Risco

Title: President and CEO

APPROVED AS TO FORM:

Michael C. Ghizzoni
County Counsel

By: _____
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:

Theodore Fallati, CPA,
Auditor-Controller

By: _____
Deputy

APPROVED AS TO FORM:

Risk Management

By: _____
Risk Management

EXHIBIT A

STATEMENT OF WORK

Overview of Work to Be Performed

CONTRACTOR shall develop a study to assess the feasibility of Community Choice Aggregation (CCA) for the Central Coast jurisdictions listed below (the "Study").

	SCE Service Territory		PG&E Service Territory	
Counties	Ventura County	Santa Barbara County		San Luis Obispo County
Cities	<ul style="list-style-type: none"> • Camarillo • Fillmore • Moorpark • Ojai • Oxnard • Port Hueneme • Santa Paula • Simi Valley • Thousand Oaks • Ventura 	<ul style="list-style-type: none"> • Carpinteria • Goleta • Santa Barbara 	<ul style="list-style-type: none"> • Buellton • Guadalupe • Santa Maria • Solvang 	<ul style="list-style-type: none"> • Arroyo Grande • Atascadero • Grover Beach • Morro Bay • Paso Robles • Pismo Beach • San Luis Obispo
27 TOTAL	11	4	5	8

CONTRACTOR shall complete a technical study that identifies and analyzes pertinent technical parameters of the CCA program as detailed below.

The Study shall determine alignment with CCA program goals as guiding principles. CONTRACTOR’s response to COUNTY’s Request for Proposals is incorporated by reference into this Statement of Work.

Description of Scope of Work

1. Kick-off Meeting and Finalization of Project Objectives:

CONTRACTOR will facilitate an initial meeting with the COUNTY and solicit input from COUNTY representatives and the Advisory Working Group (AWG), comprised of participating jurisdictions, to ensure that specific program objectives and criteria for determining feasibility are clear and built into the Study.

The kickoff meeting agenda will cover

- Project Team
- Project Objective
- Business Objectives and Goals
- Business Requirements and Constraints
- Project Tasks
- Project Schedule

The goal will be for the COUNTY and AWG to communicate the project objectives, goals, requirements and constraints to the CONTRACTOR in order to ensure that the CONTRACTOR is structuring the study in a way that aligns with the COUNTY and AWG expectations.

For example, objectives may include:

- Rate competitiveness
- Greenhouse gas (GHG) emission reductions
- Self-sufficiency and financial solvency
- Scale of energy efficiency program implementation

2. Load Study and 10-year Load Forecast

The foundation of the Study will be the underlying load analysis and 10 year load forecast for potential CCA constituent customers. The Study will separately identify the jurisdiction for each participating city and county to enable different combinations of city and county CCA participation or segmentation.

In the absence of interval load data from Southern California Edison (SCE) and Pacific Gas & Electric (PG&E), system average load profiles publically available from SCE and PG&E will be utilized for characterizing the load forecasts for customer groups by rate class.

The Study and forecast shall provide the necessary level of detail to be able to make initial estimates for energy, capacity and ancillary services needed to develop an initial energy supply portfolio model for the CCA. CONTRACTOR shall develop an energy supply portfolio model for various scenarios including customer opt-out rates, direct access participation, energy efficiency/distributed energy resource/demand response levels, and others. The Study shall include an estimate of not only the total energy required, but also the weekday/weekend and seasonal aggregated and subgroup forecast load profiles, the capacity requirements for resource adequacy (system, local and flexible), the potential for evaluating how energy storage requirements shall serve as the basis for developing more detailed strategies and structural strategies and options for required and optional renewable resource supplies to meet the CCA's Renewable Portfolio Standard (RPS) goals.

3. Procurement Scenarios

CONTRACTOR shall develop procurement scenarios that align with CCA goals for renewable energy, demand site management (DSM) including energy efficiency and demand response while also meeting State requirements including the California RPS, resource adequacy, and environmental impacts. These scenarios shall include the potential for California Public Utility Commission (CPUC) funding for DSM programs through Investor Owned Utilities (IOU) billed Public Purpose Goods charges.

CONTRACTOR will utilize a Monte Carlo simulation tool developed in Microsoft Excel by CONTRACTOR to simulate varying levels of customer energy demand, variable renewable generation output, California Independent System Operator (CAISO) wholesale energy market procurement and energy supply costs. The Monte Carlo simulation utilizes random sampling within specified simulation constraints in order to develop likely scenarios. The procurement scenarios shall be used to adjust the Monte Carlo simulation variables to understand the cost implication of the specified levels of renewable content in the portfolio (33%, 50% and a 100% voluntary option) as well as varying amounts of Category 1 and 2 resources. These scenarios shall include an assessment of the potential for GHG reductions, and an estimation of the costs for purchasing varying levels of renewable energy.

4. Electricity Rate Analysis

The CCA will procure the power supply currently provided by SCE and PG&E, the incumbent IOUs. Currently, the IOUs each have rate structures that vary by customer class, usage characteristics, and consumer behavior or choice, among other things. The CCA energy rate will need to generate revenue to pay for the supply portfolio developed for the CCA as well as the CCA operational costs. The Study will

focus on developing proposed CCA energy rates and structures and, utilizing best available market price proxies, also provide comparison to the corresponding SCE and PG&E energy rates.

CONTRACTOR shall develop an estimate of what constituents within the study area are currently paying SCE and PG&E for energy and capacity and determine if a different combination of energy rate and rate structure under the CCA can provide service at a competitive price. The rate scenarios shall consider the procurement scenarios for renewable energy and supply structures, a forecasted estimate of the Power Charge Indifference Amount (“exit fee”), as well as market conditions based on the results of the analyses and scenarios developed as part of this Study.

CONTRACTOR shall also provide recommendations for preliminary rate structures for consideration and outline the projected cost/benefit tradeoffs based on the rate, load, and supply assumptions and market scenarios developed as part of this Study.

5. Pro Forma Analysis

The financial pro forma shall include:

- Projected number of CCA Customers and resulting energy sales based on SCE and PG&E historical information provided through a CCA-Info request;
- Projected purchased power requirements;
- Projected CCA operating revenues; and
- Budgeted and projected CCA expenses including: personnel costs and operating expenses including such items as travel expenses, postage, office supplies, advertising, and other miscellaneous expenses; IOU CCA set up charges; IOU CCA monthly service charges; purchased power costs and escalators; customer care, data management and billing services; and total projected operating expenses and reserve fund.

6. Implementation Models

CONTRACTOR shall explore and analyze the following energy supply and service models for the CCA:

- Identification of outsource options for energy supply/portfolio management and customer care functions.
- Organizational and staffing plan options that consider initial outsourcing followed by internal staffing for energy supply/portfolio management and customer care functions.
- Suggested CCA organizational structures and staffing levels.
- Evaluation of various governance and management models for achieving program objectives.

7. Economic Impacts

CONTRACTOR shall conduct an assessment of public and private sector economic impacts associated with resources developed as part of the CCA, including investment, jobs, and supply sufficiency. In addition, CONTRACTOR shall evaluate the potential direct impacts of development, jobs and programs associated with establishment and ongoing operation of the CCA. Such impacts may include staffing, extent of outreach programs and the direct-install components of associated energy efficiency and demand side management programs, for example. CONTRACTOR shall use a combination of economic analysis tools, including the National Renewable Energy Laboratory’s (NREL’s) Jobs and Economic Development Impact (JEDI) models. This analysis shall evaluate the inherent trade-offs between development and local economic benefits and the goal of competitive rates.

8. Energy Efficiency and Demand Reduction

CONTRACTOR shall assess opportunities for demand reduction associated with conservation, energy efficiency and demand response (DR) programs that could be achieved with an aggressive but reasonably implementable program. To this end, the CONTRACTOR shall consider:

- Existing energy efficiency programs in the service region and how the CCA might build upon them with additional resources;
- Prospects for program funding from the CPUC and the California Energy Commission;
- The potential for demand reduction opportunities with demand response, microgrids and energy conservation programs; and
- Opportunities for energy efficiency and demand reduction that are identified from an analysis of load data, for example, large users that may be able to take advantage of new energy savings technologies.

Several factors need to be considered, refined and optimized for energy efficiency and demand response based on the COUNTY and AWG project objectives, goals, requirements and constraints:

- Energy efficiency results in decreased energy usage by customers, but also results in decreased energy sales and associated revenue for the CCA. CCA's can use energy efficiency funds collected from their own customers as well as funds collected from the IOU servicing their territory. The CPUC requires that energy efficiency programs be cost effective and lead to direct energy savings. In addition the CPUC will provide funding for unique programs proposed by the CCA that do not duplicate programs currently offered by PG&E or SCE.
- Demand response programs can be bifurcated into "load modifying" and "supply" demand response. It is anticipated that load modifying DR will serve to modify the load forecast and thereby reduce a load serving entity's resource adequacy requirement. Supply side demand response, which is bid into the CAISO wholesale energy market, will be considered on par with other generation resources used to satisfy customer demand and can qualify to meet CPUC Resource Adequacy Requirements.
- Additionally, CPUC R.10-12-007 requires adoption of procurement targets for viable and cost-effective energy storage systems.

9. Risk Analysis

Each of the items discussed in this scope of work has risk aspects for the CCA. CONTRACTOR shall provide risk inventory and risk assessment framework, and provide risk mitigation recommendations for areas such as:

- Organizational efficiency
- Power supply diversity
- Intermittent renewable resource impacts
- Environmental impacts
- Economic impacts
- Policy impacts
- Customer opt-out
- Customer costs
- Customer acceptance
- Identification of legal financial and market risks
- Regulatory and legislative risks
- Identification of anomalies, either challenges or opportunities, in the service area related to geographic, demographic or economic circumstances.

10. Peer Review Study

If requested by the COUNTY, CONTRACTOR will cooperate with any contractors that the COUNTY selects to review CONTRACTOR's work. CONTRACTOR will bill hours devoted to peer review study support and coordination at the amount and rates set forth in Exhibit B1.

11. Feasibility Report, Recommendation and Presentation

CONTRACTOR shall compile the analysis approach, process, results, conclusions and recommendations from all feasibility aspects listed above in a feasibility report and shall summarize in a presentation for consideration by local policy makers and decision makers.

Work Plan, Communication, Timeline, Status Update Reporting and Deliverables

12. Communications

CONTRACTOR shall regularly communicate with County designated representatives to both solicit input from representatives of the AWG and request feedback. At decision points with multiple options for proceeding with the analysis, CONTRACTOR must receive direction from COUNTY prior to continuing. For example, options for renewable portfolio content and rate options to be evaluated will be reviewed with COUNTY and AWG representatives prior to performing the procurement scenario and rate analysis tasks.

13. Facilitation

While CONTRACTOR shall communicate options to the County representatives and AWG, CONTRACTOR shall serve as a facilitator for the Study but shall not act as a facilitator to reach stakeholder consensus.

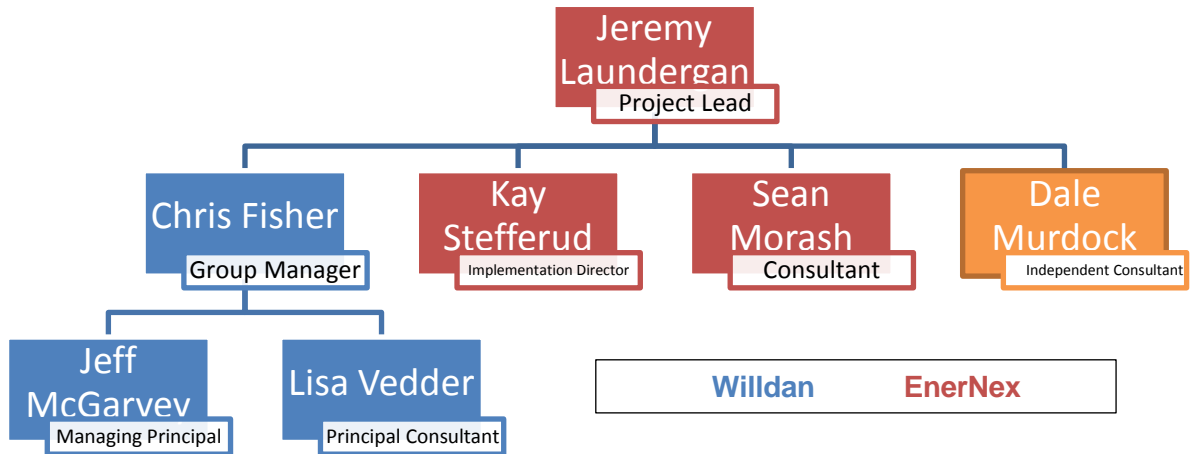
14. Timeline

The timeline below is dependent upon receiving the CCA-Info data request information from SCE and PG&E, and receipt of timely decisions from COUNTY where required. Week 1 shall be the week following the receipt of the CCA-Info request data from SCE and PG&E.

#	Deliverables and Tasks
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#	Deliverables and Tasks	Weeks	1	2	3	4	5	6	7	8	9
1	Kick-off Meeting and Finalization of Project Objectives	1									
2	Load Study and 10-year Load Forecast	4									
3	Procurement Scenarios	3									
4	Electricity Rate Analysis	4									
5	Pro Forma Analysis	4									
6	Implementation Models	4									
7	Economic Impacts	3									
8	Energy Efficiency and Demand Reduction	4									
9	Risk Analysis	4									
10	Feasibility Report, Recommendation and Presentation	4									

15. Contractor Roles



- **EnerNex (subcontractor)**
 - **Jeremy Laundergan** (jlaundergan@enernex.com) shall lead the team of experts and ensure the objective of evaluating the feasibility for a CCA program is completed as described herein.
 - **Kay Stefferud** (kay@enernex.com) shall provide renewable resource integration expertise.
 - **Sean Morash** (smorash@enernex.com) shall be supporting Jeremy Laundergan in the overall execution of this project including data analysis to develop the load profile and associated sensitivity analysis.
- **Willdan**
 - **Chris Fisher** shall share his knowledge and experience in utility financial planning and rate setting throughout the project and be the business point of contact for CONTRACTOR.
 - **Jeff McGarvey** shall be the lead in developing and refining the pro forma analysis.
 - **Lisa Vedder** shall be the lead in evaluating Cost of Service, ratemaking and financial evaluations of the CCA and shall support Dale Murdock with energy contract related analysis.
- **Dale Murdock (subcontractor)**
 - **Dale Murdock shall be the lead in developing** power procurement scenarios and portfolio assessment and risk management.

16. Status Update Reporting

CONTRACTOR shall provide a weekly update comparing the timeline and deliverable status to the work plan outlined herein. The report shall include:

- Activities and Accomplishments;
- Upcoming Key Milestones and Activities; and

- Issues, Concerns, and Help Needed.

17. Deliverables

As defined in the RFP, CONTRACTOR shall provide the following deliverables and reports:

- Verification/finalization of load data from SCE and PG&E, assessment and reconciliation of any data discrepancies, and execution of Non-Disclosure Agreement (Attachments D of the Agreement) for individuals who will be analyzing data;
- Verification/finalization of study scope, analytic assumptions, and the three power supply scenarios to be considered (see Section 3 Procurement Scenarios);
- Draft technical study in Microsoft Word, which may be provided for review incrementally as developed;
- Final version of Study will be submitted after review by COUNTY and CONTRACTOR. Final draft shall include all appendices, pro-forma analyses, Excel spreadsheets and documentation that are utilized in the development of the Study;
- Presentation of Study findings and results before staff of the COUNTY and AWG, and the Board of Supervisors of Santa Barbara County, Ventura County and San Luis Obispo Counties.

Jeremy Laundergan, Kay Stefferud, Sean Morash, Chris Fisher, Jeff McGarvey, Lisa Vedder and Dale Murdock shall be the individual(s) personally responsible for providing all services as described in Section 14, above r. CONTRACTOR may not substitute other persons without the prior written approval of COUNTY's designated representative.

Suspension for Convenience. COUNTY may, without cause, order CONTRACTOR in writing to suspend, delay, or interrupt the services under this Agreement in whole or in part for up to 60 days. COUNTY shall incur no liability for suspension under this provision and suspension shall not constitute a breach of this Agreement.

EXHIBIT B

PAYMENT ARRANGEMENTS

Compensation upon Completion (with attached Schedule of Fees)

- A. For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed \$220,756.
- B. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in **EXHIBIT A** as determined by COUNTY. Payment for services and/or reimbursement of costs shall be based upon the costs, expenses, overhead charges and hourly rates for personnel, as defined in **Attachment B1** (Schedule of Fees). Invoices submitted for payment that are based upon **Attachment B1** must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in **EXHIBIT A**.
- C. Upon completion of the work detailed in **EXHIBIT A** and/or delivery to COUNTY of item(s) specified therein, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed. This invoice or certified claim must cite the assigned Board Contract Number. COUNTY DESIGNATED REPRESENTATIVE shall evaluate the quality of the service performed and/or the item(s) delivered and if found to be satisfactory and within the cost basis of **Attachment B1** shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR.
- D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.

EXHIBIT B1

Schedule of Fees

Budget

The total budget is not to exceed \$220,756, which includes \$150,576 for this Scope of Work (Exhibit A), up to \$5,000 for optional peer review cooperation (Exhibit A Section 10) if requested by COUNTY (billed at the rates listed in the Rate Schedule below), and up to \$65,000 for optional additional pro forma analysis (see below) if requested by COUNTY.

	EnerNex	Willdan	Dale Murdock	TOTAL
Direct Labor Hours*	310	195	101	606
Direct Labor Costs*	\$44,249	\$26,772	\$16,363	\$87,384
Overhead Rate	63%	57.50%	54%	
Overhead Cost	\$27,877	\$15,394	\$8,836	\$52,107
<i>Subtotal Labor + Overhead</i>	<i>\$72,125</i>	<i>\$42,167</i>	<i>\$25,200</i>	<i>\$139,492</i>
Travel Expenses	\$7,213	\$2,108	\$1,764	\$11,085
Other Expenses	\$0	\$0	\$0	\$0
<i>Total</i>	<i>\$79,338</i>	<i>\$44,275</i>	<i>\$26,964</i>	<i>\$150,576</i>
Grand Total	\$150,576			

* Includes supplemental cost estimate for the 7 cities of San Luis Obispo County

Each additional pro forma analysis requested by geographic area (beyond the initial five geographic areas to be analyzed).	\$5,000	\$8,000	\$13,000
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RATE SCHEDULE

Firm	Resource	Labor Rate	Overhead Rate	Straight + Overhead Rate
EnerNex	<i>Jeremy Laundergan</i>	\$155.00	63%	\$250
	<i>Kay Stefferud</i>	\$145.00	63%	\$235
	<i>Sean Morash</i>	\$110.00	63%	\$180
Willdan	<i>Chris Fisher</i>	\$145.00	57.5%	\$230
	<i>Jeff McGarvey</i>	\$140.00	57.5%	\$220
	<i>Lisa Vedder</i>	\$135.00	57.5%	\$215
Dale Murdock	<i>Dale Murdock</i>	\$162.00	54%	\$250

EXHIBIT C

Indemnification and Insurance Requirements (For This Contract Only)

INDEMNIFICATION

A. Indemnification pertaining to other than Professional Services:

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, arising out of or related to the CONTRACTOR'S work or activities for the COUNTY and for any costs or expenses (including but not limited to reasonable attorneys' fees) incurred by COUNTY on account of any such claim except where such indemnification is prohibited by law. CONTRACTOR'S indemnification obligation does not apply to the COUNTY's sole negligence or willful misconduct.

B. Indemnification pertaining to Professional Services:

CONTRACTOR agrees to defend, indemnify and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of the negligent performance or attempted performance of the provisions hereof; including any willful or negligent act or omission to act on the part of the CONTRACTOR or its agents or employees or other independent contractors directly responsible to him to the fullest extent allowable by law.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, his agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Professional Liability (Errors and Omissions) Insurance** appropriate to the CONTRACTOR'S profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR'S insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR'S insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR'S insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best’s Insurance Guide rating of “A- VII”.
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR’s obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
 - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
 - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.
11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY

EXHIBIT D

Community Choice Aggregator Non-Disclosure Agreements (NDA)

EXHIBIT D-1

Pacific Gas and Electric NDA



Pacific Gas and Electric Company
San Francisco, California
U 39

Revised	Cal. P.U.C. Sheet No.	32646-E*
Revised	Cal. P.U.C. Sheet No.	32235-E

Electric Sample Form No. 79-1031
Community Choice Aggregator Non-Disclosure Agreement

Please Refer to Attached
Sample Form

Advice Letter No. 4221-E
Decision No. 12-11-015
D.12-08-045, D.11-07-056
1C7

Issued by
Brian K. Cherry
Vice President
Regulatory Relations

Date Filed	May 2, 2013
Effective	May 2, 2013
Resolution No.	



COMMUNITY CHOICE AGGREGATOR NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement ("Agreement") is entered into by and between Pacific Gas and Electric Company ("Utility") and _____ [name] _____, a _____ [describe political entity] _____ ("CCA") as of _____ ("Effective Date"). This Agreement is executed pursuant to California Public Utilities Commission ("CPUC") Order Instituted Rulemaking ("OIR") 03-10-003, California Public Utilities Code ("PU Code") Section 366.2 et seq., and applicable Utility tariffs (as modified hereafter from time to time). As used herein Utility and CCA may each be referred to individually as a "Party" and collectively as "Parties."

The CPUC has determined that CCA/Community may obtain specified confidential customer information from Utility pursuant to Tariff Schedules E-CCAINFO-Information (as modified hereafter from time to time) ("E-CCAINFO") as a community choice aggregator, as defined by PU Code Section 331.1, solely in order to investigate, pursue or implement community choice aggregation pursuant to PU Code Section 366.2, et seq. or confidential customer electric and gas consumption data to implement energy efficiency programs pursuant to PU Code section 381.1. The provisions of this Agreement and E-CCAINFO govern the disclosure of Utility's confidential customer information to CCA/Community ("Disclosure Provisions") under Schedules E-CCAINFO and E-CCA.

The Parties hereby mutually agree that:

1. Subject to the terms and conditions of this Agreement, current proprietary and confidential information of Utility regarding customers of Utility ("Utility Customers") may be disclosed to CCA from time to time in connection herewith as provided by the Disclosure Provisions and solely for the purpose of investigating, pursuing or implementing community choice aggregation pursuant to PU Code Section 366.2, et seq. as a community choice aggregator or to implement energy efficiency programs pursuant to PU Code section 381.1. Such disclosure is subject to the following legal continuing representations and warranties by CCA:
 - (a) CCA represents and warrants that, pursuant to PU Code Section 331.1,
 - (1) it is either (i) a city, county, or other entity as defined in PU Code Section 331.1 whose governing board has elected to combine the loads of its residents, businesses, and municipal facilities in a community wide electricity buyers program or (ii) a city, county, or other entity as defined in PU Code Section 331.1 that intends to actively investigate or pursue delivery of electric service to customers located within the geographic territory of the CCA, and
 - (2) that to investigate, pursue or implement community choice aggregation under PU Code Section 366.2 et seq., or to implement energy efficiency programs pursuant to PU Code section 381.1;

COMMUNITY CHOICE AGGREGATOR NON-DISCLOSURE AGREEMENT

- (b) CCA represents and warrants that it has all necessary authority to enter into this Agreement, and that it is a binding enforceable Agreement according to its terms;
 - (c) CCA represents and warrants that the authorized representative(s) executing this Agreement is authorized to execute this Agreement on behalf of the CCA; and
 - (d) CCA confirms its understanding that the information of Utility Customers is of a highly sensitive confidential and proprietary nature, and that such information will be used as contemplated under the Disclosure Provisions solely for the purposes of investigating, pursuing or implementing Community Choice Aggregation under PU Code Section 366.2 as a community choice aggregator or to implement energy efficiency programs pursuant to PU Code section 381.1, and that any other use of the information may permit Utility to suspend providing further information hereunder.
 - (e) CCA represents and warrants that it will implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure, and prohibits the use of the data for a secondary commercial purpose not related to community choice aggregation or energy efficiency purposes without the customer's prior consent to that use.
2. The confidential and proprietary information disclosed to CCA in connection herewith may include, without limitation, the following billing information about Utility Customers: Customer-specific information from the current billing periods as well as prior 12 months consisting of: service agreement number, name on agreement, service address with zip code, mailing address with zip code, telephone number, meter number, monthly kWh usage, monthly maximum demand where available, electrical or gas consumption data as defined in PU Code Section 8380, other data detailing electricity or gas needs and patterns of usage, Baseline Zone, CARE participation, End Use Code (Heat Source) Service Voltage, Medical Baseline, Meter Cycle, Bill Cycle, Balanced Payment Plan and other plans, HP Load and Number of Units and monthly rate schedule for all accounts within the CCA's territory. In addition, PG&E will provide the CCA the following additional information regarding customers currently enrolled in its CCA service: current and historical billing information for non-CCA services provided by PG&E or other electric service providers (collectively, "Confidential Information"). Confidential Information shall also include specifically any copies, drafts, revisions, analyses, summaries, extracts, memoranda, reports and other materials prepared by CCA or its representatives that are derived from or based on Confidential Information disclosed by Utility, regardless of the form of media in which it is prepared, recorded or retained.

COMMUNITY CHOICE AGGREGATOR NON-DISCLOSURE AGREEMENT

3. Except for electric and gas usage information provided to CCA pursuant to this Agreement, Confidential Information does not include information that CCA proves (a) was properly in the possession of CCA at the time of disclosure; (b) is or becomes publicly known through no fault of CCA, its employees or representatives; or (c) was independently developed by CCA, its employees or representatives without access to any Confidential Information.
4. From the Effective Date, no portion of the Confidential Information may be disclosed, disseminated or appropriated by CCA, or used for any purpose other than to investigate, pursue or implement community choice aggregation under PU Code Section 366.2 et seq. as a community choice aggregator or to implement energy efficiency programs pursuant to PU Code section 381.1 as permitted under this Agreement and the Disclosure Provisions.
5. CCA shall, at all times and in perpetuity, keep the Confidential Information in the strictest confidence and shall take all reasonable measures to prevent unauthorized or improper disclosure or use of Confidential Information. CCA shall implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure and prohibits the use of the data for a secondary commercial purpose not related to community choice aggregation or energy efficiency. Specifically, CCA shall restrict access to Confidential Information, and to materials prepared in connection therewith, to those employees or representatives of CCA who have a "need to know" such Confidential Information in the course of their duties with respect to the CCA program and who agree to be bound by the nondisclosure and confidentiality obligations of this Agreement, provided, however, that, an Energy Service Provider, agent, or any other entity, including entities that provide both direct access (as codified in Assembly Bill No. 1890, Stats. 1996, ch. 854) and community choice aggregation services shall limit their utilization of the information provided to the purposes for which it has been provided and shall not utilize such information, directly or indirectly, in providing other services, including but not limited to Direct Access services, in order to effectuate the obligations of this Agreement. Prior to disclosing any Confidential Information to its employees or representatives, CCA shall require such employees or representatives to whom Confidential Information is to be disclosed to review this Agreement and to agree in writing to be bound by the terms of this Agreement by signing the "Non-Disclosure Agreement for CCA Employees or Representatives" form attached as Exhibit A hereto. CCA shall provide Utility with copies of the signed Exhibit A forms at Utility request. CCA shall also provide Utility with a list of the names, titles, and addresses for all persons or entities to which Confidential Information is disclosed in connection herewith ("Disclosure List"). This Disclosure List shall be updated by CCA on a regular basis, and will be provided to Utility once each quarter at a minimum.

COMMUNITY CHOICE AGGREGATOR NON-DISCLOSURE AGREEMENT

6. CCA shall be liable for the actions of, or any disclosure or use by, its employees or representatives contrary to this Agreement; however, such liability shall not limit or prevent any actions by Utility directly against such employees or representatives for improper disclosure and/or use. In no event shall CCA or its employees or representatives take any actions related to Confidential Information that are inconsistent with holding Confidential Information in strict confidence. CCA shall immediately notify Utility in writing if it becomes aware of the possibility of any misuse or misappropriation of the Confidential Information by CCA or any of its employees or representatives. However, nothing in this Agreement shall obligate the Utility to monitor or enforce the CCA's compliance with the terms of this Agreement.
7. CCA shall comply with the consumer protections concerning subsequent disclosure and use that are in Attachment B to CPUC Decision No. 12-08-045.
8. CCA acknowledges that disclosure or misappropriation of any Confidential Information could cause irreparable harm to Utility and/or Utility Customers, the amount of which may be difficult to assess. Accordingly, CCA hereby confirms that the Utility shall be entitled to apply to a court of competent jurisdiction or the CPUC for an injunction, specific performance or such other relief (without posting bond) as may be appropriate in the event of improper disclosure or misuse of its Confidential Information by CCA or its employees or representatives. Such right shall, however, be construed to be in addition to any other remedies available to the Utility, in law or equity.
9. In addition to all other remedies, CCA shall indemnify and hold harmless Utility, its affiliates, subsidiaries, parent company, officers, employees, or agents from and against and claims, actions, suits, liabilities, damages, losses, expenses and costs (including reasonable attorneys' fees, costs and disbursements) attributable to actions or non-actions of CCA and/or its employees and/or its representatives in connection with the use or disclosure of Confidential Information.
10. If, at any time, CCA ceases its investigation, pursuit or implementation of community choice aggregation pursuant to PU Code Section 366.2 et seq., CCA shall promptly return or destroy (with written notice to Utility itemizing the materials destroyed) all Confidential Information then in its possession at the request of Utility. Notwithstanding the foregoing, the nondisclosure obligations of this Agreement shall survive any termination of this Agreement.
11. This Agreement shall be binding on and inure to the benefit of the successors and permitted assigns of the Parties hereto. This Agreement shall not be assigned, however, without the prior written consent of the non-assigning Party, which consent



COMMUNITY CHOICE AGGREGATOR NON-DISCLOSURE AGREEMENT

may be withheld due to the confidential nature of the information, data and materials covered.

- 12. This Agreement sets forth the entire understanding of the Parties with respect to the subject matter hereof, and supersedes all prior discussions, negotiations, understandings, communications, correspondence and representations, whether oral or written. This Agreement shall not be amended, modified or waived except by an instrument in writing, signed by both Parties, and, specifically, shall not be modified or waived by course of performance, course of dealing or usage of trade. Any waiver of a right under this Agreement shall be in writing, but no such writing shall be deemed a subsequent waiver of that right, or any other right or remedy.
- 13. This Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without reference to its principles on conflicts of laws.
- 14. This Agreement shall, at all times, be subject to such changes or modifications by the CPUC as it may from time to time direct in the exercise of its jurisdiction.

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

PACIFIC GAS AND ELECTRIC COMPANY

(Customer)

(Signature)

(Type/Print Name)

(Title)

(Date)

(Signature)

(Type/Print Name)

(Title)

(Date)



**COMMUNITY CHOICE AGGREGATOR
NON-DISCLOSURE AGREEMENT**

**EXHIBIT A
NON-DISCLOSURE AGREEMENT
FOR CCA EMPLOYEES OR REPRESENTATIVES**

I, _____, declare under penalty of perjury that

(1) I am employed as _____ (title) at _____
_____ (employer and address); and

(2) I have personally reviewed the attached **COMMUNITY CHOICE AGGREGATOR NON-DISCLOSURE AGREEMENT** relating to disclosure and use of Confidential Information (as defined therein) and I agree to be bound by its provisions.

Signed: _____

Print Name: _____

Dated: _____

EXHIBIT D-2

Southern California Edison NDA



Southern California Edison
Rosemead, California (U 338-E)

Revised Cal. PUC Sheet No. 57117-E
Cancelling Revised Cal. PUC Sheet No. 51040-E

Sheet 1

COMMUNITY CHOICE AGGREGATOR
NON-DISCLOSURE AGREEMENT

Form 14-769

(To be inserted by utility)
Advice 3243-E
Decision _____

Issued by
R.O. Nichols
Senior Vice President

(To be inserted by Cal. PUC)
Date Filed Jul 8, 2015
Effective Oct 1, 2015
Resolution _____

1016

COMMUNITY CHOICE AGGREGATOR

NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement ("Agreement") is entered into by and between Southern California Edison Company (SCE) ("Utility") and _____, a _____ (T)
 _____ [describe political entity] Community Choice Aggregator (T)
 ("CCA") as of _____, _____ ("Effective Date"). This Agreement is executed pursuant to California Public Utilities Commission ("CPUC") Order Instituted Rulemaking ("OIR") 03-10-003, California Public Utilities Code ("PU Code") Section 366.2 et seq., and applicable Utility tariffs (as modified hereafter from time to time). As used herein the Utility and CCA may each be referred to individually as a "Party" and collectively as "Parties." (T)

The CPUC has determined that CCA may obtain specified confidential customer information from Utility pursuant to Tariff Schedules Community Choice Aggregation – Information Fees ("CCA-INFO") and Community Choice Aggregation – Service Fees ("CCA-SF") (as modified hereafter from time to time) as a CCA, as defined by PU Code Section 331.1, solely in order to investigate, pursue or implement Community Choice Aggregation Services pursuant to PU Code Section 366.2, et seq. or solely to administer energy efficiency programs in the CCA's geographic territory upon CPUC authorization pursuant to PU Code section 381.1 ("CCA Service"). The provisions of this Agreement and Schedules CCA-INFO and CCA-SF govern the disclosure of Utility's confidential customer information to CCA ("Disclosure Provisions"). (T)

The Parties hereby mutually agree that:

1. Subject to the terms and conditions of this Agreement, current proprietary and confidential information of Utility regarding customers of Utility ("Utility Customers") may be disclosed to CCA from time to time in connection herewith as provided by the Disclosure Provisions and solely for the purpose of CCA Service. Such disclosure is subject to the following legal continuing representations and warranties by CCA: (D)
 - (a) CCA represents and warrants that, pursuant to PU Code Section 331.1, (1) it is either (i) a city, county, or other entity as defined in PU Code Section 331.1 whose governing board has elected to combine the loads of its residents, businesses, and municipal facilities in a community wide electricity buyers, or (ii) a city, county, or other entity as defined in PU Code Section 331.1 that intends to actively investigate or pursue delivery of electric service to customers located within the geographic territory of the CCA; and (2) that to investigate, pursue or implement CCA Service, it requires certain Confidential Information, as defined in Section 2, below; (D)

- (b) CCA represents and warrants that it has all necessary authority to enter into this Agreement, and that it is a binding enforceable Agreement according to its terms;
 - (c) CCA represents and warrants that the authorized representative(s) executing this Agreement is authorized to execute this Agreement on behalf of the CCA; and
 - (d) CCA confirms its understanding that the information of Utility Customers is of a highly sensitive confidential and proprietary nature, and that such information will be used as contemplated under the Disclosure Provisions solely for the purposes of investigating, pursuing or implementing CCA Service, and that any other use of the information may permit Utility to suspend providing further information hereunder. (T)
 - (e) CCA represents and warrants that it will implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the Confidential Information from unauthorized access, destruction, use, modification, or disclosure, and prohibits the use of the data for a secondary commercial purpose not related to CCA Service or energy efficiency purposes without the customer's prior consent to that use. (N)
2. The confidential and proprietary information disclosed to CCA in connection herewith may upon request include, without limitation, the following billing information about Utility Customers: Customer-specific information from the current billing periods as well as prior 12 months consisting of: service account number, name on service account, service address with zip code, mailing address with zip code, email address, telephone number, meter number, monthly kWh usage, monthly maximum demand where available, electrical or gas consumption data as defined in PU Code Section 8380, other data detailing electricity or needs and patterns of usage, Baseline Zone, CARE participation, End Use Code (Heat Source) Service Voltage, Medical Baseline, Meter Cycle, Bill Cycle, Level Pay Plan and/or other plans, Horse Power Load and Number of Units and monthly rate schedule for all accounts within the CCA's geographic territory (collectively, "Confidential Information"). Confidential Information shall also include specifically any copies, drafts, revisions, analyses, summaries, extracts, memoranda, reports and other materials prepared by CCA or its representatives that are derived from or based on Confidential Information disclosed by Utility, regardless of the form of media in which it is prepared, recorded or retained. (N)
 3. Except for electric usage information provided to CCA pursuant to this Agreement, Confidential Information does not include information that CCA proves (a) was properly in the possession of CCA at the time of disclosure; (b) is or becomes publicly known through no fault of CCA, its employees or representatives; or (c) was independently developed by CCA, its employees or representatives without access to any Confidential Information.
 4. From the Effective Date, no portion of the Confidential Information may be disclosed, disseminated or appropriated by CCA, or used for any purpose other thanfor CCA Service as permitted under this Agreement and the Disclosure Provisions. (T)

5. CCA shall, at all times and in perpetuity, keep the Confidential Information in the strictest confidence and shall take all reasonable measures to prevent unauthorized or improper disclosure or use of Confidential Information. CCA shall implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the Confidential Information from unauthorized access, destruction, use, modification, or disclosure and prohibits the use of the data for a secondary commercial purpose not related to CCA Service. Specifically, CCA shall restrict access to Confidential Information, and to materials prepared in connection therewith, to those employees or representatives of CCA who have a "need to know" such Confidential Information in the course of their duties with respect to the CCA Service and who agree to be bound by the nondisclosure and confidentiality obligations of this Agreement, provided, however, that, an Energy Service Provider, agent, or any other entity, including entities that provide both direct access (as codified in Assembly Bill No. 1890, Stats. 1996, ch. 854) and CCA Service shall limit their utilization of the information provided to the purposes for which it has been provided and shall not utilize such information, directly or indirectly, in providing other services, including but not limited to Direct Access services, in order to effectuate the obligations of this Agreement. Prior to disclosing any Confidential Information to its employees or representatives, CCA shall require such employees or representatives to whom Confidential Information is to be disclosed to review this Agreement and to agree in writing to be bound by the terms of this Agreement by signing the "Non-Disclosure Agreement for CCA Employees or Representatives" form attached as Exhibit A hereto. CCA shall provide Utility with copies of the signed Exhibit A forms at Utility request. CCA shall also provide Utility with a list of the names, titles, and addresses for all persons or entities to which Confidential Information is disclosed in connection herewith ("Disclosure List"). This Disclosure List shall be updated by CCA on a regular basis, and will be provided to Utility once each quarter at a minimum. (N) | (N) | (T) | (T)
6. CCA shall be liable for the actions of, or any disclosure or use by, its employees or representatives contrary to this Agreement; however, such liability shall not limit or prevent any actions by Utility directly against such employees or representatives for improper disclosure and/or use. In no event shall CCA or its employees or representatives take any actions related to Confidential Information that are inconsistent with holding Confidential Information in strict confidence. CCA shall immediately notify Utility in writing if it becomes aware of the possibility of any misuse or misappropriation of the Confidential Information by CCA or any of its employees or representatives. However, nothing in this Agreement shall obligate Utility to monitor or enforce CCA's compliance with the terms of this Agreement. (T) (T) (T)

7. CCA shall comply with the consumer protections and requirements concerning subsequent disclosure and use of Confidential Information pursuant to CPUC Decision No. 12-08-045. (N)
(N)
(N)
8. CCA acknowledges that disclosure or misappropriation of any Confidential Information could cause irreparable harm to Utility and/or Utility Customers, the amount of which may be difficult to assess. Accordingly, CCA hereby confirms that Utility shall be entitled to apply to a court of competent jurisdiction or the CPUC for an injunction, specific performance or such other relief (without posting bond) as may be appropriate in the event of improper disclosure or misuse of its Confidential Information by CCA or its employees or representatives. Such right shall, however, be construed to be in addition to any other remedies available to Utility, in law or equity. (T)
(T)
(T)
9. In addition to all other remedies, CCA shall indemnify and hold harmless Utility, its affiliates, subsidiaries, parent company, officers, employees, or agents from and against and claims, actions, suits, liabilities, damages, losses, expenses and costs (including reasonable attorneys' fees, costs and disbursements) attributable to actions or non-actions of CCA and/or its employees and/or its representatives in connection with the use or disclosure of Confidential Information. (T)
10. If, at any time, CCA ceases its investigation, pursuit or implementation of community choice aggregation pursuant to PU Code Section 366.2 et seq., CCA shall promptly return or destroy (with written notice to Utility itemizing the materials destroyed) all Confidential Information then in its possession at the request of Utility. Notwithstanding the foregoing, the nondisclosure obligations of this Agreement shall survive any termination of this Agreement. (T)
11. This Agreement shall be binding on and inure to the benefit of the successors and permitted assigns of the Parties hereto. This Agreement shall not be assigned, however, without the prior written consent of the non-assigning Party, which consent may be withheld due to the confidential nature of the information, data and materials covered. (T)
12. This Agreement sets forth the entire understanding of the Parties with respect to the subject matter hereof, and supersedes all prior discussions, negotiations, understandings, communications, correspondence and representations, whether oral or written. This Agreement shall not be amended, modified or waived except by an instrument in writing, signed by both Parties, and, specifically, shall not be modified or waived by course of performance, course of dealing or usage of trade. Any waiver of a right under this Agreement shall be in writing, but no such writing shall be deemed a subsequent waiver of that right, or any other right or remedy.

- 13. This Agreement shall be interpreted and enforced in accordance with the laws (T) of the State of California, without reference to its principles on conflicts of laws.
- 14. This Agreement shall, at all times, be subject to such changes or modifications (T) by the CPUC as it may from time to time direct in the exercise of its jurisdiction.

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

SOUTHERN CALIFORNIA EDISON COMPANY

BY: _____
TITLE: _____

_____ [CCA name]

BY: _____
TITLE: _____

**EXHIBIT A
NON-DISCLOSURE AGREEMENT
FOR CCA EMPLOYEES OR REPRESENTATIVES**

I, _____, declare under penalty of perjury that

(1) I am employed as _____ (title) at _____
_____ (employer and address); and

(2) I have personally reviewed the attached COMMUNITY CHOICE AGGREGATOR NON-DISCLOSURE AGREEMENT relating to disclosure and use of Confidential Information (as defined therein) and I agree to be bound by its provisions.

Signed: _____

Print Name: _____

Dated: _____