

REQUEST FOR PROPOSALS
FOR
SERVICES PROVIDING DATA MANAGEMENT
FOR PENINSULA CLEAN ENERGY
AND SILICON VALLEY CLEAN ENERGY



**PENINSULA
CLEAN ENERGY**



RFP Release Date: June 28th, 2024
Response Deadline: 5:00pm PDT on August 26th, 2024

Proposals will not be accepted after the response deadline.

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Overview

Background

Peninsula Clean Energy (PCE) is the official electricity provider of San Mateo County and the City of Los Banos. PCE is a public, locally controlled, community choice energy program, that provides all electricity customers in San Mateo County the choice of having electricity supplied from clean, renewable sources at competitive rates. Peninsula Clean Energy Authority (PCE), formed in 2016, is a joint powers authority made up of all 20 cities within the County of San Mateo and joined by the City of Los Banos in 2020. Across the two regions CCA serves approximately 315,000 accounts.

PCE employs and maintains its own customer contact center services and representatives. These representatives will require appropriate access to data management systems in order to fulfill the required standard of service to our customers.

Silicon Valley Clean Energy (SVCE), formed in 2016, is a joint powers authority providing clean electricity at competitive rates to 275,000 residential and business customers in Silicon Valley. SVCE is a public, locally controlled community choice energy agency, and serves as the official electricity provider for thirteen local communities, including Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Saratoga, Sunnyvale, and unincorporated Santa Clara County.

The primary services requested in this RFP include: (1) management of customer account data; (2) exchanging customer usage, billing, and payment data with PG&E; and (3) an interactive voice response (IVR) system with integration into provided data management platforms; (4) for SVCE a contact center service with designated subject matter experts specifically serving SVCE. PCE is looking for phone system support but not contact center staffing. Secondary requirements are outlined under the Scope of Work.

Statement of intent

As outlined in detail within the Scope of Work, this Request for Proposals (RFP) seeks a data management provider to oversee and manage services necessary for the operation of a Community Choice Aggregation (CCA) program. The target start date is January 2025.

This RFP seeks proposals from qualified service providers to address the full scope of services enumerated above. By way of this RFP, included parties intend to procure the aforementioned services in a manner that maximizes the quality of services while also maximizing value to their organizations and, by extension, their customers. **PCE and SVCE, (referenced hereafter as 'CCA') each reserve the right to sign and execute a contract independent of the others, with the same or separate providers.**

Prospective providers must be able to show they are capable of performing the services requested to a level of significant proficiency. Such evidence includes but is not limited to: the respondent's demonstrated competency and experience in delivering services of this scope as well as the bandwidth and capacity of the proposer's personnel and other requisite resources.

RFP Schedule and Timeline

Release of RFP	Friday June 28 th , 2024
Deadline for Questions Submitted	Thursday July 11 th , 2024
Responses to Questions Received	Friday July 26 th , 2024
Deadline for Proposals	Monday August 26 th , 2024
Review and Negotiation of Proposals	August 27 th - September 11 th , 2024
Notice of Awarded Proposal	Friday September 20 th , 2024
Contract Completion	Friday October 4 th , 2024

Scope of Work

Description

The requested services for each party are designated with a checkmark below:

Service	PCE	SVCE
Electronic Data Exchange	✓	✓
Qualified Reporting Services	✓	✓
Customer Information System	✓	✓
Interactive Voice Response System	✓	✓
Full Customer Contact Center	✗	✓
Billing Administration	✓	✓
Reporting	✓	✓
SQMD	✓	✓
Additional Services	✓	✓

1. Electronic Data Exchange Services:

- a. Process CCA Service Requests (CCASRs) from/to PG&E which specify the changes to a customer's choice of services such as enrollment in CCA

programs, customer initiated returns to bundled utility service or customer-initiated migration to direct access service (814 Electronic Data Interchange Files).

- b. Obtain all customer usage data from PG&E's Metered Data Management Agent (MDMA) server to allow for timely billing (according to PG&E requirements) of each customer (867 Electronic Data Interchange Files).
- c. Maintain and communicate the amount to be billed by PG&E for services provided by CCA (810 Electronic Data Interchange Files).
- d. Receive and maintain all data related to payment transactions toward CCA charges from PG&E after payment is received by PG&E from customers (820 Electronic Data Interchange Files).
- e. Reconcile cases of failed 814s to ensure timely enrollment in CCA service.
- f. Established fail safes to ensure prompt corrective action is taken when any EDI transaction process is disrupted or disconnected.

2. Qualified Reporting Entity (QRE) Services:

- a. Consistent with terms and conditions included in the Qualified Reporting Entity Services Agreement(s) between CCA and Data Management Provider, serve as QRE for certain locally situated, small-scale renewable generators or other distributed energy resources supplying electric energy to CCA through a feed-in tariff (FIT) or other mechanism.
- b. Submit a monthly generation extract file to Western Renewable Energy Generation Information System (WREGIS) on CCA's behalf, which will conform to the characteristics and data requirements set forth in the WREGIS Interface Control Document for Qualified Reporting Entities.
- c. Provider shall receive applicable electric meter data from PG&E for CCA distributed energy resource projects, consistent with PG&E's applicable meter servicing agreement, and shall provide such data to CCA for purposes of performance tracking and invoice creation.

3. Customer Information System:

- a. Maintain an accurate database of all eligible accounts who are located in the CCA service area and identify each account's enrollment status (opt out, program enrollment), rate tariff election(s), payment history, collection status, on-site generating capacity, if applicable, and any correspondence with customer as well as other information that may become necessary to effectively administer CCA as mutually agreed to by parties from time to time.
- b. Allow CCA and CCA contact center staff to have full functional access to all online databases to add customer interactions and other account notes.
- c. Allow CCA to view customer email or written letter correspondence within online database.
- d. Maintain and provide as-needed historical usage data on all customers for a time period equal to the lesser of either (a) the start of customer service to present or (b) minimum of five years, with preference for 7 to 10 years if available.

- e. Maintain viewing access, available to appropriate CCA staff, to view PG&E bills for CCA customers, including supporting the intuitive parsing and labeling of PG&E provided files. Maintain an accessible archive of billing records for all CCA customers from the start of CCA Service or a period of no less than five years.
- f. Maintain and communicate as needed record of customers who have been offered service with CCA but have elected to opt out, either before or after starting service with CCA.
- g. Maintain and communicate as needed records of Net Energy Metering credits and generation data for customers to be posted on bills and settled annually.
- h. When requested by CCA, place program charges and/or credits on the relevant customer account, identified by Service Agreement ID (SAID).
- i. Identify and provide tracking options for customers participating in various CCA programs in database.
- j. Include various program payment information in all relevant reports.
- k. Maintain all customer data according to CCA's customer privacy policy and the requirements of relevant California Public Utilities Commission Decisions including D.12-08-045, including a daily backup process.
- l. Maintain a Data Management Provider Security Breach Policy.
- m. Complete a System and Organization Controls (SOC) 1 Type II audit annually and make it available for review.

4. Interactive Voice Response (IVR) System:

- a. Provide platform for IVR self-service and track how many customers start and complete self-service options.
- b. Self-service program options should include opt outs, opt ups, opt downs, and re-enrollment in CCA service.
- c. Language translation options should include but are not limited to: Spanish, Chinese, and Tagalog for all opt actions.
- d. Evaluate customer satisfaction with IVR service through voluntary customer surveys that ask general questions about call resolution and how satisfied the customer was with the service received.
- e. Provide and track statistics from IVR calls received in all languages.
 - i. Daily or weekly reporting is preferred, in addition to ad-hoc reports as necessary.
- f. Create and maintain integrated forms for the CCA website so that customers may change their account status to enroll or opt out of various CCA programs.
- g. Allow for customization of website form content when needed.
- h. Full access profile to IVR platform for our Contact Center Manager.
- i. Update IVR scripts as requested.
- j. Outlined backup plan in the event of a system outage.

5. Customer Contact Center:

- a. Staff a call center with dedicated agents serving only SVCE between the hours of 8 AM and 5 PM PPT Monday through Friday, excluding SVCE and PG&E holidays.
- b. Provide sufficient call center staffing to meet the requirements set forth herein, including designating SVCE specific agents to the extent needed to provide for full functionality.
- c. Provide sufficient number of Subject Matter Experts available to manage escalated calls between the hours of 8 AM and 5 PM PPT Monday through Friday, excluding SVCE and PG&E holidays (“Regular Business Hours”).
- d. Ensure that a minimum of 75% of all calls will be answered within 20 seconds during Non-Enrollment Periods.
- e. 100% of voicemail messages answered within one (1) business day and provide report to SVCE that substantiates this requirement has been met.
- f. 100% of emails receive an immediate automated acknowledgement and provide report to SVCE that substantiates this requirement has been met.
- g. 95% of emails receive a customized response within one (1) business day and provide report to SVCE that substantiates this requirement has been met.
- h. 100% of emails receive a customized response within three (3) business days and provide report to SVCE that substantiates this requirement has been met.
- i. Achieve a no greater than 5% abandon rate for all Non-Enrollment Period calls.
- j. Provide callers with the estimated hold time, if applicable. Provide an automated ‘call back’ option for callers who will be put on hold for an estimated five minutes or longer.
- k. Record all inbound calls and make recordings available to SVCE staff upon request. Maintain an archive of such recorded calls for a minimum period of 24 months.
- l. Please outline training protocols for transfer of contact center services in the event CCA moves contact center staff in house.
- m. Track call center contact quality with criteria including:
 - i. Use of appropriate greetings and other call center scripts
 - ii. Courtesy and professionalism
 - iii. Capturing key customer data
 - iv. Providing customers with correct and relevant information
 - v. First-contact resolution
 - vi. Accuracy in data entry and call coding
 - vii. Grammar and spelling in text communication (email and chat)
 - viii. Evaluate customer satisfaction through voluntary customer surveys that ask general questions about call quality, call resolution, and how satisfied the customer was with the service received.

- ix. Respond to customer emails.
- x. Receive calls from SVCE customers referred to Provider by PG&E and receive calls from SVCE customers choosing to contact Provider directly without referral from PG&E.
- xi. Provide the call center number on PG&E invoice allowing SVCE customers to contact the call center. Collect and/or confirm current email, mailing address and phone number of customers and add to or update database during inbound call.

6. Billing Administration:

- a. Maintain a table of rate schedules offered by CCA to its customers.
- b. Send certain CCA program charges for non-CCA customers, when supported by PG&E, based on information provided to Provider by CCA.
- c. Send certain CCA program charges and/or credits as a separate line item to PG&E for placement on monthly bill during term of repayment.
- d. Apply PG&E account usage for all CCA customers against applicable rate to allow for customer billing.
- e. Review application of CCA rates to PG&E accounts to ensure that the proper rates are applied to the accounts.
- f. Complete cost verification of all 810 invoices before they are sent to PG&E for billing.
- g. Timely submit billing information for each customer to PG&E to meet PG&E's 10-day billing window.
- h. Maintain at least a 99% billing accuracy rate on a monthly basis.
- i. Use commercially reasonable efforts to remedy billing errors for any customer in a timely manner, no more than two billing cycles.
- j. Develop and support different rate versions based on Power Charge Indifference Adjustment (PCIA) vintage year.
- k. Develop and support billing accounts based on Town or Territory.
- l. Develop and implement custom rate amendments for various rates as needed.
- m. Develop and support billing special accounts on a contract savings discount.
- n. Billing support of Market Informed Demand Automation Server (MIDAS) program.
- o. Aggregate and deliver grouped invoice batches by request.
- p. Provider must be able to provide support during rate changes, such as validation of rate factors, and be able to provide support when discussing rate projects and issues with the IOUs.
- q. Assist with annual settlement process for Net Energy Metering (NEM) customers by identifying eligible customers, providing accrued charges and credits, and providing mailing list to CCA designated printer.

- r. Provide platform capability and support to bill both NEM and Solar Billing Plan (SBP) tariff structures.
- s. Provide and maintain a data portal platform that provides clients access to detailed customer data via query.
- t. Process and bill interval data required for special rate customers.
- u. Maintenance of data flows to third parties that provide secondary data services, such as Utility API.
- v. Provide customer mailing list to CCA designated printer for new move-in customer notices and opt out confirmation letters routinely within 7 days of enrollment or opt out.
- w. Send a CCA provided letter to customers that are overdue. If no payment is received from the customer after a certain amount of time, issue a CCASR to return customer to PG&E at CCA's direction.

7. Reporting:

Report	Frequency	Delivery Method
Aging	Weekly, Monthly	SFTP
IVR Statistics	Weekly	SFTP/Email
Contact Center Statistics	Weekly	SFTP/Email
Cash Receipts	Weekly, Monthly	SFTP
County Invoice Summary Reports	Monthly	SFTP
Days To Invoice	Weekly, Monthly	SFTP
Program Opt Up with Address	Weekly, Monthly	SFTP
Utility User Tax (UUT) where applicable	Monthly	SFTP
Invoice Summary Report	Weekly, Monthly	SFTP
Invoice Summary Report – Mid Month	Monthly	SFTP
Monthly Transaction Summary	Monthly	SFTP
Opt Out with Rate Class	Weekly, Monthly	SFTP
Retroactive Returns	Monthly	SFTP
Sent to Collections	Monthly	SFTP
Snapshot	Weekly	SFTP
Snapshot with Addresses	Weekly	SFTP
Unbilled Usage	Monthly	SFTP
Sheltering Shift	Weekly	SFTP

Full Volume Usage by Rate Class	Monthly	SFTP
CAISO MDEF Details with Rate Group (Initial) - Daily	Daily	SFTP
CAISO MDEF Details with Rate Group (Final) - Daily	Daily	SFTP
CAISO MDEF Details with Rate Group (Initial) - Monthly	Monthly	SFTP
CAISO MDEF Details with Rate Group (Final) - Monthly	Monthly	SFTP
MDEF_SIP_All	Daily	SFTP

- a. All report formatting will need to be configured to match existing structures.
- b. Provider shall also assist CCA, as needed, in compiling various customer sales and usage statistics that may be necessary to facilitate CCA's completion of requisite external reporting activities. Such statistics will likely include annual retail sales statistics for CCA customers, including year-end customer counts and retail electricity sales (expressed in kilowatt hours) for each retail service option offered by CCA. Some examples include:
 - i. Calendar Year Annual Savings Report
 - ii. Disadvantaged Communities Green Tariff (DACGT) Reporting
 - iii. ECOPlus/ECO100 Sales by Load Profile
 - iv. On-Bill Financing Reporting
 - v. EV Charging Pilot Program Reporting

8. Settlement Quality Meter Data:

- a. Provider shall provide CCA or CCA's designated Scheduling Coordinator (SC) with Settlement Quality Meter Data (SQMD) as required from SC's by the California Independent System Operator (CAISO).
- b. Provide Advanced Metering Infrastructure based SQMD settlements for improved accuracy.
- c. Upon CCA's request, Provider shall submit the SQMD directly to the CAISO on behalf of CCA or CCA's designated SC.

9. Additional Services:

- a. CCA is interested in a data management provider that can provide additional value over what has traditionally been offered to CCA's. For example, CCA finds value in a service that can utilize Advanced Meter Infrastructure (AMI) data, for load forecasting and the evaluation of demand side program impacts and or other customer offerings. This data enables CCA to conduct analytics for pilot programs including automated demand response, energy storage, load shifting, and bidding demand response resources into the CAISO market. Specifically, CCA needs the ability to access customer data to the level that they can see overall

electricity usage and daily peak demand. In addition, CCA needs to be able to have the data analytics that can identify energy usage patterns among different classes of customers, different areas of CCA's service territory and other analysis that can help CCA design energy and demand management programs that target energy "hotspots" or substantial peaks that are coincident with CCA's peak demand.

- b. Provider shall provide a description of how it can provide the individual and aggregated customer load data described above and if there would be an additional cost. This separate pricing (if applicable) could either be an add-on to the per-meter cost or provided on a lump sum basis.
- c. Provider should describe its ability to provide a user-friendly platform that can capture and analyze such data, such as Microsoft's PowerBi platform. Ideally such a platform would be integrated with all other provided systems.
- d. Provider should describe any customer Relationship Management (CRM) tools that can support staff and consultant customer engagement and sales, as well as program participation and outcome tracking.
- e. Rate and system development for custom programs is vital as well, from financial assistance programs to state mandated tariffs that require CCA's participation. Reporting and tracking of related requirements are of great importance.

Length of Agreement

- f. The anticipated duration of the Agreement will be for 3-5 years, with the term of agreement tentatively commencing in January 2025 and ending dependent on the agreed upon term.
- g. An option to negotiate an extension to the Agreement will be considered in the last year of the contract based on provider performance.
- h. An early exit contract option should be considered in the event deliverables are not met to the expectation of the contract, at latest in year three.

Pricing Structure

- i. Proposals shall specify pricing as a combination of fixed monthly fees and monthly per-meter fees. Sufficient information should be provided in each response to facilitate our evaluation and comparison of proposed service pricing.
- j. Please provide two pricing options: one based on a 3-year term and the other a 5-year term. An annual exit clause option may be considered for

- the 3-year term, and an exit option in year 3 may be considered in the 5-year term.
- k. Prices should be detailed to show costs that both include and exclude a complete contact center service with staff. The full contact center option will be available to each client but not required to execute a contract.
 - l. PCE is only looking for support via customer contact platforms, not full staffing.

Submission Procedure

- m. Proposal: The RFP response will be submitted electronically to Box after respondents have received a link in response to their email to info@peninsulacleanenergy.com by 5:00 p.m. Pacific Daylight Time on August 26th, 2024.
- n. All responses must be received by the stated date and time in order to be considered for award. CCA will not be responsible for and may not accept late proposals due to slow internet connection, or for any other electronic failure (including but not limited to information transmission and internet connectivity failures).
- o. By submitting a proposal, each proposer certifies that its submission is not the result of collusion or any other activity which would tend to directly or indirectly influence the selection process. The proposal will be used to determine the proposer's capability of rendering the services to be provided. The failure of a proposer to comply fully with the instructions in this RFP may eliminate its proposal from further evaluation as determined in the sole discretion of CCA. CCA reserves the sole right to evaluate the contents of proposals submitted in response to this RFP and to select a contractor, if any.
- p. Proposals received late will not be opened or given any consideration for the proposed services unless doing so is deemed to be in the best interest of CCA, as determined in the sole discretion of CCA.
- q. **Confidentiality of Proposals**
 - i. California Government Code Sections 6250 et seq. (the "California Public Records Act" or the "Act") defines a public record as any writing containing information relating to the conduct of the public business. The Act provides that public records shall be disclosed upon written request and that any citizen has a right to inspect any public record unless the document is exempted from disclosure. The materials submitted in response to this RFP are subject to the California Public Records Act.
 - ii. Be advised that any contract that eventually arises from this RFP is a public record in its entirety. Also, all information submitted in

response to this RFP is itself a public record without exception. Submission of any materials in response to this RFP constitutes a waiver by the submitting party of any claim that the information is protected from disclosure. By submitting materials, (1) you are consenting to release of such materials by the County if requested under the Public Records Act without further notice to you and (2) you agree to indemnify and hold harmless the County for release of such information.

- iii. If the County receives a request for any portion of a document submitted in response to this RFP, the County will not assert any privileges that may exist on behalf of the person or entity submitting the proposal, and the County reserves the right to disclose the requested materials without notice to the party who originally submitted the requested material. To the extent consistent with the Public Records Act and applicable case law interpreting those provisions, the County and/or its officers, agents, and employees retain discretion to release or withhold any information submitted in response to this RFP.
- iv. Submission of a proposal constitutes a complete waiver of any claims whatsoever against the County and/or its officers, agents, or employees that the County has violated a proposer's right to privacy, disclosed trade secrets, or caused any damage by allowing the proposal to be inspected.

r. Proposal Evaluation

- i. All proposals received will be evaluated by an RFP Evaluation Committee. During the evaluation process, CCA may require a proposer's representative to answer specific questions orally and/or in writing. CCA may also require a visit to the proposer's offices, other field visits or observations by CCA representatives, or demonstrations as part of the overall RFP evaluation. Once a finalist or group of finalists is selected, additional interactions or information may be required. The most qualified individual or firm will be recommended by the RFP Evaluation Committee based on the overall strength of each proposal, and the evaluation is not restricted to considerations of any single factor such as cost.
- ii. Responses to this RFP must adhere to the format for proposals detailed in Section 16 - Proposal Submission Requirements. The criteria used as a guideline in the evaluation will include, but not be limited to, the following:
 - 1. Qualifications and experience of the entity, including capability and experience of key personnel and experience

with other public or private agencies to provide these services

2. Proposed approach, including clarity of understanding of the scope of services to be provided and appropriateness of the proposed solution/services
 3. Customer service
 4. History of successfully performing services for public or private agencies
 5. Ability to meet any required timelines or other requirements
 6. Claims and violations against you or your organization
 7. Cost to CCA for the primary services described by this RFP
 8. References
 9. Compliance with CCA RFP and contractual requirements
- iii. CCA may consider any other criteria it deems relevant, and the Evaluation Committee is free to make any recommendations it deems to be in the best interest of CCA. Inaccuracy of any information supplied within a proposal or other errors constitute grounds for rejection of the proposal. However, CCA may, in its sole discretion, correct errors or contact a proposer for clarification.
 - iv. Note that CCA reserves the right to evaluate proposals solely based on each provider's written submission. In relation to written materials, evaluation will be performed only on the material included directly in the proposal itself unless otherwise indicated or requested by CCA. Your proposal must be complete without relying on external websites, sales brochures, marketing materials or white papers.
 - v. CCA reserves the right to accept proposals other than those with lowest costs.

s. Proposal Recommendation

- i. The Evaluation Committee will recommend a provider or providers or may recommend that the proposals be rejected. CCA will then make its own decision as to whether to accept or reject the recommendations from the Evaluation Committee. Ultimate acceptance or rejection of the recommended proposal and execution of a contractual agreement is the independent prerogative of CCA, notwithstanding any recommendations made by the Evaluation Committee. CCA reserves the right to negotiate with any provider to finalize an agreement in relation to the proposer's response.

t. Notice to Proposers

- i. CCA is not required to give notice to proposers in any specific format or on any particular timeline. At some point prior to execution of a final agreement for the requested services, CCA will notify those who submitted proposals of their non-selection. Proposers may be notified at different times depending on the needs of CCA.
- ii. PCE is asking all responding vendors to indicate their willingness to extend the terms of resulting contracts, inclusive of price, to other interested California-based municipalities, municipally owned utilities and community choice energy programs. While this clause in no way commits these agencies to contract with PCE's awarded consultant, nor does it guarantee any additional orders will result, it does allow other agencies, at their discretion, to make use of PCE's competitive process (provided said process satisfies their own procurement guidelines) and purchase directly from the awarded contractor. All purchases made by other agencies shall be understood to be transactions between that agency and the awarded vendor; PCE shall not be responsible for any such purchases.

Proposal Submission Requirements

The proposal should be submitted in the following format:

u. General Instructions

- i. All proposals should be typewritten or prepared on a computer and have consecutively numbered pages, including any exhibits, charts, and/or other attachments.
- ii. All proposals should adhere to the specified content and sequence of information described by this RFP.
- iii. Submit one (1) complete electronic (PDF, Microsoft Word document, etc.) version of your proposal and any required attachments to CCA via info@peninsulacleanenergy.com per the instructions found on the [peninsulacleanenergy.com/solicitations/](https://www.peninsulacleanenergy.com/solicitations/) website.

v. Cover Letter

- i. Provide a one-page cover letter on your letterhead that includes the address, voice and facsimile numbers, and e-mail address of the contact person or persons. List the name and title of each person authorized to represent the proposer in negotiations.
- ii. Unless the proposer is an individual, all proposals must be signed with a firm/company/partnership/entity name and by a responsible

officer or employee indicating that officer or employee's authorization to commit the proposer to the terms of the proposal. Obligations assumed by such signature must be fulfilled.

w. **Specified Content and Detailed Sequence of Information in the RFP**

- i. Each proposal should include sections addressing the following information in the order shown in the following section. The proposer should be sure to include all information that it feels will enable the Evaluation Committee and, ultimately, CCA to make a decision. Failure of the proposer to provide specific, detailed information may result in its proposal being rejected in favor of a sufficiently detailed proposal. Any necessary exhibits or other information, including information not specifically requested by this RFP but that you feel would be helpful, should be attached to the end of the proposal. The party submitting the materials should keep in mind the limitations on confidential information described in Section IV.

x. **Experience with Investor-Owned Utilities (IOU)**

- i. Please share your organization's experience in working with PG&E or another IOU, including best practices in negotiations and billing requirements.

y. **Breakout of Sections**

i. **Tab 1 - Qualifications and Experience:**

1. Provide a statement of qualifications for your organization, including an organization chart, a statement of the size of firm, a description of services provided by your organization, and a statement of the extent of experience/history providing the services requested by this RFP.
2. How many full time employees (FTEs) do you plan to assign to this project if you are selected?
3. How many people in total are employed by your company? Delineate between employees and consultants.
4. If applicable, list the professional qualifications for each individual that would be assigned to provide services requested by this RFP, including date and educational institutions of any applicable degrees, additional applicable training, and any professional certifications and/or licensing. In lieu of listing this information, you may submit a resume or curriculum vitae for each such individual if the resume/CV includes all the requested information.

ii. **Tab 2 - Philosophy and Service Model:**

1. This section describes your philosophy and service model for meeting the services required by this RFP. Relevant considerations include the quality and feasibility of your approach to meeting these needs, the manner in which you plan to provide adequate staffing (including planning for absences and back-up coverage, training, background checks, and staff monitoring, etc.), and equipment or other resources provided by you (if applicable). Keep these considerations in mind as you respond to the following:
2. Describe how you will fulfill the needs of CCA described in this RFP. Attach a project plan, if appropriate.
3. Identify how you will meet all other aspects of the scope of work and related requirements stated above. List any items that you cannot provide.
4. Describe the measurements/metrics/deliverables/assessments that you will provide on at least an annual basis to allow CCA to assess the services you will provide.
5. Provide information on any other pertinent services, if any, that you will offer that will reduce costs or enhance revenue for CCA.

iii. **Tab 3 - Customer Service:**

1. How will your services meet the needs of CCA customers and/or the public?
2. In the event of a routine problem, who is to be contacted within your organization?
3. In the event of the identification of a problem by CCA, its customers, and/or other applicable constituents, describe how you will address such problems and the timeframe for addressing them.

iv. **Tab 4 - Cost Analysis and Budget for Primary Services:**

1. Provide a detailed explanation for all costs associated with your providing the requested services if you are selected.
2. Is travel time to CCA expected to be billable? If so, how will travel time invoices be calculated? Generally, proposals that do not include travel time or expenses are preferred unless the services requested require travel as part of the service.
3. Advise of standard rates for additional development projects or custom offerings that are not included in base of service.
4. Include start-up costs if any.

v. **Tab 5 - Quality/Program Evaluation:**

1. Each program may have specific quality/evaluation issues, below are some examples:
 - a. Describe the Quality Improvement plan. The plan should include a description of utilization review, co-occurring capability development, case documentation, peer review, and other issues pertaining to quality improvement mandates and policies.
 - b. Describe a contingency emergency plan.
 - c. Describe credentialing/licensing.

vi. **Tab 6 - References:**

1. List at least three business references for which you have recently provided similar services. Include contact names, titles, phone numbers and e-mail addresses for all references provided.
2. Provide at least three client references, if applicable and appropriate, for whom you have provided more than occasional services. Include names, titles, e-mail addresses and phone numbers for these individuals.

vii. **Tab 7 - Statement of Compliance with CCA Contractual Requirements:**

1. A sample of CCA's standard contract (including Exhibits A and B) is attached to this RFP. Each proposal must include a statement of the proposer's commitment and ability to comply with each of the terms of CCA's standard contract and all CCA policies which can be found at www.peninsulacleanenergy.com/key-documents/.
 2. In addition, the proposer should include a statement that it will agree to have any disputes regarding the contract administered in San Mateo County or the Northern District of California.
 3. The proposal must state any objections to any terms in CCA's contract template and provide an explanation for the inability to comply with the required term(s). If no objections are stated, CCA will assume the proposer is prepared to sign CCA standard contract template as-is.
- viii. NOTE: The sample standard contract enclosed with this RFP is a template and does not constitute the final agreement to be prepared for the selected service provider. Do not insert any

information or attempt to complete the enclosed sample contract template. Once a provider is selected, CCA will work with the selected provider to draft a provider-specific contract using the template. However, each proposal should address the general terms of the standard contract as requested within this RFP.

Enclosures

Enclosure 1 Standard CCA (PCE) Agreement template with Contractor:

AGREEMENT BETWEEN THE PENINSULA CLEAN ENERGY AUTHORITY AND [CONTRACTOR]

This Agreement is entered into this [day] day of [month], [year], by and between the Peninsula Clean Energy Authority, a joint powers authority of the state of California, hereinafter called "PCEA," and [Contractor], hereinafter called "Contractor."

* * *

Whereas, pursuant to Section 6508 of the Joint Exercise of Powers Act, PCEA may contract with independent contractors for the furnishing of services to or for PCEA; and

Whereas, it is necessary and desirable that Contractor be retained for the purpose of [purpose].

Now, therefore, it is agreed by the parties to this Agreement as follows:

1. Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A—Services

Exhibit B—Payments and Rates

2. Services to be performed by Contractor

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall perform services for PCEA in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, PCEA shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. PCEA reserves the right to withhold payment if PCEA determines that the quantity or quality of the work performed is unacceptable. In no event shall PCEA's total fiscal obligation under this Agreement exceed [write out dollar amount] (\$_____). In the event that the PCEA makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the PCEA at the time of contract termination or expiration.

4. Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be from [date], through [date].

5. Termination; Availability of Funds

This Agreement may be terminated by Contractor or by the Chief Executive Officer of the PCEA or his/her designee at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement that are consistent with those services described in Exhibit A and performed to the satisfaction of PCEA. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

PCEA may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or PCEA funds by providing written notice to Contractor as soon as is reasonably possible after PCEA learns of said unavailability of outside funding.

6. Intellectual Property and Ownership of Work Product

PCEA shall and does own all titles, rights, and interests in all materials, tangible or not, created in whatever medium pursuant to this Agreement, including without limitation publications, promotional or educational materials, reports, manuals, specifications, drawings and sketches, computer programs, software and databases, schematics, marks, logos, graphic designs, notes, matters and combinations therefore, and all forms of intellectual property ("Work Products") created by Contractor and any subcontractors under this Agreement. Contractor hereby assigns all titles, rights, and interests in all Work Products to PCEA. At the end of this Agreement, or in the event of termination, all Work Products shall be promptly delivered to PCEA.

Contractor may not sell, transfer, or permit the use of any Work Products without the express written consent of PCEA. Contractor shall not dispute, directly or indirectly,

PCEA's exclusive right and title to the Work Products, nor the validity of the intellectual property embodied therein.

Contractor may (1) retain its rights to and ownership of pre-existing or open-source materials and/or (2) retain one copy of Work Products for archival use, but in either instance must notify PCEA and identify any such materials in writing prior to the commencement of work under this Agreement.

7. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of PCEA and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of PCEA employees.

8. Hold Harmless

a. General Hold Harmless

Contractor shall indemnify and save harmless PCEA and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

(A) injuries to or death of any person, including Contractor or its employees/officers/agents;

(B) damage to any property of any kind whatsoever and to whomsoever belonging;

(C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or

(D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of PCEA and/or its officers, agents, employees, or servants. However, Contractor's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which PCEA has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

9. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of PCEA. Any such assignment or subcontract without PCEA's prior written consent shall give PCEA the right to automatically and immediately terminate this Agreement without penalty or advance notice.

10. Payment of Permits/Licenses

Contractor bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Contractor's own expense prior to commencement of said work/services. Failure to do so will result in forfeit of any right to compensation under this Agreement.

11. W-9 Form and Submission of Invoices

Invoices shall only be submitted by electronic form by sending an email to both the **PCEA project contact's email address** and to **PCEA's Finance email address** (finance@peninsulacleanenergy.com). Contractor shall submit a completed W-9 form electronically to the same email addresses. Contractor understands that no invoice will be paid by PCEA unless and until a W-9 Form is received by PCEA.

12. Insurance

a. General Requirements

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by PCEA, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish PCEA with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to PCEA of any pending change in the limits of liability or of any cancellation or modification of the policy.

b. Workers' Compensation and Employer's Liability Insurance

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions

of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

c. Liability Insurance

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor’s operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

Yes	Comprehensive General Liability (Applies to all agreements)	\$1,000,000
Yes/No	Motor Vehicle Liability Insurance (Yes, if motor vehicle is used in performing services)	\$1,000,000
Yes/No	Professional Liability Insurance (Yes, if Contractor is a licensed professional)	\$1,000,000

PCEA and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to PCEA and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the PCEA or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, PCEA, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

13. Compliance With Laws

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the

basis of disability in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

14. Non-Discrimination and Other Requirements

a. General Non-discrimination

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

b. Equal Employment Opportunity

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to PCEA upon request.

c. Section 504 of the Rehabilitation Act of 1973

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

d. Employee Benefits

With respect to the provision of benefits to its employees, Contractor shall ensure that employee benefits provided to employees with domestic partners are the same as those provided to employees with spouses.

e. Discrimination Against Individuals with Disabilities

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60–741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

f. History of Discrimination

Contractor must check one of the two following options, and by executing this Agreement, Contractor certifies that the option selected is accurate:

- No finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other investigative entity.
- Finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. If this box is checked, Contractor shall provide PCEA with a written explanation of the outcome(s) or remedy for the discrimination.

g. Reporting; Violation of Non-discrimination Provisions

Contractor shall report to the Chief Executive Officer of PCEA the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or Section 13, above. Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the Chief Executive Officer, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Contractor from being considered for or being awarded a PCEA contract for a period of up to 3 years;
- iii. liquidated damages of \$2,500 per violation; and/or
- iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the Chief Executive Officer.

To effectuate the provisions of this Section, the Chief Executive Officer shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and PCEA.

15. Confidential Information

(a) Contractor shall maintain in confidence and not disclose to any third party or use in any manner not required or authorized under this Agreement any and all Confidential Information held by PCEA.

(b) The term “Confidential Information” includes all information, documents, and materials owned by PCEA, including technical, financial, business, or PCEA customer information, which is not available to the general public, as well as information derived from such information. Information received by Contractor shall not be considered Confidential Information if: (i) it is or becomes available to the public through no wrongful act of Contractor; (ii) it is already in the possession of Contractor and not subject to any confidentiality agreement between the Parties; (iii) it is received from a third party without restriction for the benefit of PCEA and without breach of this Agreement; (iv) it is independently developed by Contractor; (v) it is disclosed pursuant to a requirement of law, including, but not limited to, the California Public Records Act (Cal. Gov’t Code Section 6250, et seq.); or (vi) is disclosed to or by a duly empowered government agency, or a court of competent jurisdiction after due notice and an adequate opportunity to intervene is given to PCEA, unless such notice is prohibited.

(c) As practicable, PCEA shall mark Confidential Information with the words “Confidential” or “Confidential Material” or with words of similar import, or, if that is not possible, PCEA shall notify the Contractor (for example, by cover e-mail transmitting an electronic document) that the material is Confidential Information. PCEA’s failure or delay, for whatever reason, to mark or notify Contractor at the time the material is produced shall not take the material out of the coverage of this Agreement.

(d) Contractor will direct its employees, contractors, consultants, and representatives who have access to any Confidential Information to comply with the terms of this Section.

(e) Upon termination or expiration of this Agreement, Contractor shall, at PCEA’s exclusive direction, either return or destroy all such Confidential Information and shall so certify in writing, provided, however, any Confidential Information (i) found in drafts, notes, studies, and other documents prepared by or for PCEA or its representatives, or (ii) found in electronic format as part of Contractor’s off-site or on-site data storage/archival process system, will be held by Contractor and kept subject to the terms of this provision or destroyed at Contractor’s option. The obligations of this provision will survive termination or expiration of this Agreement.

16. Data Security

If, pursuant to this Agreement, PCEA shares with Contractor personal information as defined in California Civil Code Section 1798.81.5(d) about a California resident (“Personal Information”), Contractor shall maintain reasonable and appropriate security procedures to protect that Personal Information and shall inform PCEA immediately upon learning that there has been a breach in the security of the system or in the security of the Personal Information. Contractor shall not use Personal Information for direct marketing purposes without PCEA’s express written consent. For purposes of this provision, security procedures are “reasonable and appropriate” when they (i) adequately address all reasonably foreseeable threats to Personal Information, (ii) are appropriate to the quantity, sensitivity, and type of Personal Information accessed and the way that information will be accessed, and (iii) comply with all laws, regulations, and government rules or directives applicable to the Contractor in connection with its access of Personal Information.

17. Retention of Records; Right to Monitor and Audit

(a) Contractor shall maintain all required records relating to services provided under this Agreement for three (3) years after PCEA makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by PCEA, a Federal grantor agency, and the State of California.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by PCEA.

(c) Contractor agrees upon reasonable notice to provide to PCEA, to any Federal or State department having monitoring or review authority, to PCEA’s authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

18. Merger Clause; Amendments

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document’s date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

19. Controlling Law; Venue

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

20. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of PCEA, to:

Name/Title: Shawn Marshall, Chief Executive Officer
Address: 2075 Woodside Road, Redwood City, CA 94061
Telephone: 650-474-5002
Email: smarshall@peninsulacleanenergy.com

In the case of Contractor, to:

Name/Title:
Address:
Telephone:
Email:

21. Electronic Signature

PCEA and Contractor wish to permit this Agreement, and future documents executed pursuant to this Agreement, to be digitally signed in accordance with California law. Any party that agrees to allow digital signature of this Agreement may revoke such agreement at any time in relation to all future documents by providing notice pursuant to this Agreement.

22. No Recourse Against PCEA's Member Agencies

Contractor acknowledges and agrees that PCEA is a Joint Powers Authority, which is a public agency separate and distinct from its member agencies. All debts, liabilities, or obligations undertaken by PCEA in connection with this Agreement are undertaken solely by PCEA and are not debts, liabilities, or obligations of its member agencies. Contractor waives any recourse against PCEA's member agencies.

* * *

In agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

PENINSULA CLEAN ENERGY AUTHORITY

By: _____

Chief Executive Officer, Peninsula Clean Energy Authority

Date: _____

[CONTRACTOR NAME]

Contractor's Signature

Date: _____

Exhibit A

In consideration of the payments set forth in Exhibit B, Contractor shall provide the following services:

[Complete]

Exhibit B

In consideration of the services provided by Contractor described in Exhibit A and subject to the terms of the Agreement, PCEA shall pay Contractor based on the following fee schedule and terms:

[Complete]

Enclosure 2 Standard CCA (SVCE) Agreement template with Contractor:

AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND

CLICK TO ENTER CONSULTANT'S NAME

FOR

CLICK TO ENTER SERVICES THAT WILL BE PROVIDED

THIS AGREEMENT ("Agreement"), is entered into this **Click here to enter DAY.** day of **ENTER MONTH., ENTER YEAR.,** by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and **Click here to enter Consultant's name.,** a **Click here to enter entity type (California corporation, partnership, etc.).** whose address is **Click here to enter address.** (hereinafter referred to as "Consultant") (collectively referred to as the "Parties" and individually as a "Party").

RECITALS:

A. Authority is an independent public agency duly organized under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 *et seq.*) ("Act") with the power to conduct its business and enter into agreements.

B. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement pursuant to the terms and conditions described herein.

C. Authority and Consultant desire to enter into an agreement for **Click here to enter a description of work to be performed.** upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on **Click here to enter beginning of term.,** and shall terminate on **Click here to enter end of term.,** unless terminated earlier as set forth herein.

2. **SERVICES TO BE PERFORMED**

Consultant shall perform each and every service set forth in Exhibit "A" pursuant to the schedule of performance set forth in Exhibit "B," both of which are attached hereto and incorporated herein by this reference.

3. **COMPENSATION TO CONSULTANT**

Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed [Click here to enter amount of compensation in words.](#) dollars ([Click here to enter amount of compensation in numerals.](#).00) based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

4. **TIME IS OF THE ESSENCE**

Consultant and Authority agree that time is of the essence regarding the performance of this Agreement.

5. **STANDARD OF CARE**

Consultant agrees to perform all services required by this Agreement in a manner commensurate with the prevailing standards of specially trained professionals in the San Francisco Bay Area under similar circumstances and in a manner reasonably satisfactory to Authority and agrees that all services shall be performed by qualified and experienced personnel. Consultant shall be responsible to Authority for any errors or omissions in the performance of work pursuant to this Agreement. Should any errors caused by Consultant be found in such services or products, Consultant shall correct the errors at no additional charge to Authority by redoing the professional work and/or revising the work product(s) called for in the Scope of Services to eliminate the errors. Should Consultant fail to make such correction in a reasonably timely manner, such correction may be made by Authority, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, Authority may deduct the cost of such correction from any retention amount held by Authority or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction.

6. **INDEPENDENT PARTIES**

Authority and Consultant intend that the relationship between them created by this Agreement is that of an independent contractor. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Consultant's services. None of the benefits provided by Authority to its employees, including but not limited to, unemployment insurance, workers' compensation plans, vacation and sick leave are available from Authority to Consultant, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any fees due

Consultant. Payments of the above items, if required, are the responsibility of Consultant. Consultant shall indemnify and hold harmless Authority and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of Authority officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Consultant's personnel practices. Authority shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to Authority from Consultant as a result of Consultant's failure to promptly pay to Authority any reimbursement or indemnification arising under this section.

7. **NO RECOURSE AGAINST CONSTITUENT MEMBERS OF AUTHORITY**

Authority is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.) pursuant to a Joint Powers Agreement dated March 31, 2016, and is a public entity separate from its constituent members. Authority shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Consultant shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Authority's constituent members in connection with this Agreement.

8. **NON-DISCRIMINATION**

In the performance of this Agreement, Consultant, and any subconsultant under the Consultant, shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information, sexual orientation, military or veteran status, or other basis prohibited by law, except as provided in Government Code section 12940. Consultant shall have responsibility for compliance with this Section.

9. **HOLD HARMLESS AND INDEMNIFICATION**

A. General Indemnification. To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify Authority and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those Authority agents serving as independent contractors in the role of Authority officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, subcontractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by

the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

B. Intellectual Property Indemnification. Consultant hereby certifies that it owns, controls, or licenses and retains all right, title, and interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and other technology relating to any part of the services and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as "IP Rights"), except as otherwise expressly provided by this Agreement. Consultant warrants that the services to be provided pursuant to this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Consultant shall indemnify, defend, and hold Indemnitees, harmless from and against any Liabilities by a third party that the services to be provided pursuant to this Agreement infringe or violate any third-party's IP Rights, provided any such right is enforceable in the United States. Such costs and expenses shall include reasonable attorneys' fees of counsel of Authority's choice, expert fees and all other costs and fees of litigation.

C. The acceptance of the services by Authority shall not operate as a waiver of these rights of indemnification. The hold harmless and indemnification provisions of this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liability.

D. Consultant's indemnifications and obligations under this section shall survive the expiration or termination of this Agreement.

10. **INSURANCE**

A. General Requirements. On or before the commencement of the term of this Agreement, Consultant shall furnish Authority with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with the requirements listed in Exhibit "D," which is attached hereto and incorporated herein by this reference. Such insurance and certificates, which do not limit Consultant's indemnification obligations under this Agreement, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the Authority by certified mail, Attention: Chief Executive Officer." Consultant shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to Authority and licensed to do insurance business in the State of California. Endorsements naming the Authority as additional insured shall be submitted with the insurance certificates.

B. Subrogation Waiver. Consultant agrees that in the event of loss due to any of the perils for which he/she has agreed to provide comprehensive general and automotive liability insurance, Consultant shall look solely to his/her/its insurance for recovery. Consultant hereby grants to Authority, on behalf of any insurer providing comprehensive general and automotive liability

insurance to either Consultant or Authority with respect to the services of Consultant herein, a waiver of any right to subrogation which any such insurer of Consultant may acquire against Authority by virtue of the payment of any loss under such insurance.

C. Failure to Secure or Maintain Insurance. If Consultant at any time during the term hereof should fail to secure or maintain the foregoing insurance, Authority shall be permitted to obtain such insurance in the Consultant's name or as an agent of the Consultant and shall be compensated by the Consultant for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

D. Additional Insured. Authority, its members, officers, employees and volunteers shall be named as additional insureds under all insurance coverages, except any professional liability insurance, required by this Agreement. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

E. Sufficiency of Insurance. The insurance limits required by Authority are not represented as being sufficient to protect Consultant. Consultant is advised to confer with Consultant's insurance broker to determine adequate coverage for Consultant.

F. Maximum Coverage and Limits. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the additional insureds. Furthermore, the requirements for coverage and limits shall be the minimum coverage and limits specified in this Agreement, or the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever is greater.

11. **CONFLICT OF INTEREST**

Consultant warrants that it, its officers, employees, associates and subcontractors, presently have no interest, and will not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any way with the performance of this Agreement, and that it, its officers, employees, associates and subcontractors, will not employ any person having such an interest. Consultant and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar services for other clients, but Consultant and its officers, employees, associates and subcontractors shall not, without the Authority Representative's prior written approval, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a

clause substantially similar to this section into any subcontract that Consultant executes in connection with the performance of this Agreement. Consultant understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require Consultant to make certain governmental decisions or serve in a staff Authority, as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. **PROHIBITION AGAINST TRANSFERS**

Consultant shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of Authority. Any attempt to do so without such consent shall be null and void, and any assignee, sublessee, pledgee, or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money by Consultant from Authority under this Agreement may be assigned to a bank, trust company or other financial institution without prior written consent. Written notice of such assignment shall be promptly furnished to Authority by Consultant.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Consultant, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Consultant is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Consultant, shall be construed as an assignment of this Agreement. Control means fifty percent (50%) or more of the voting power of the corporation.

13. **SUBCONTRACTOR APPROVAL**

Unless prior written consent from Authority is obtained, only those persons and subcontractors whose names are attached to this Agreement shall be used in the performance of this Agreement.

In the event that Consultant employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance in substantial conformity to the insurance carried by Consultant. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

Consultant agrees to include within their subcontract(s) with any and all subcontractors the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by Consultant shall agree to be bound to Consultant and Authority in the same manner and to the same extent as Consultant is bound to Authority under this Agreement. Subcontractors shall agree to include these same provisions within any sub-subcontract. Consultant shall provide a copy of the Indemnity and Insurance provisions of this Agreement to any subcontractor. Consultant shall require all subcontractors to provide valid certificates of insurance and the required endorsements prior to commencement of any work and will provide proof of compliance to Authority.

14. **REPORTS**

A. Each and every report, draft, work product, map, record and other document, hereinafter collectively referred to as "Report", reproduced, prepared or caused to be prepared by Consultant pursuant to or in connection with this Agreement, shall be the exclusive property of Authority. Consultant shall not copyright any Report required by this Agreement and shall execute appropriate documents to assign to Authority the copyright to Reports created pursuant to this Agreement. Any Report, information and data acquired or required by this Agreement shall become the property of Authority, and all publication rights are reserved to Authority. Consultant may retain a copy of any Report furnished to the Authority pursuant to this Agreement.

B. All Reports prepared by Consultant may be used by Authority in execution or implementation of: (1) The original project for which Consultant was hired; (2) Completion of the original project by others; (3) Subsequent additions to the original project; and/or (4) Other Authority projects as Authority deems appropriate in its sole discretion.

C. Consultant shall, at such time and in such form as Authority may require, furnish reports concerning the status of services required under this Agreement.

D. All Reports shall also be provided in electronic format, both in the original file format (e.g., Microsoft Word) and in PDF format.

E. No Report, information or other data given to or prepared or assembled by Consultant pursuant to this Agreement that has not been publicly released shall be made available to any individual or organization by Consultant without prior approval by Authority.

F. Authority shall be the owner of and shall be entitled upon request to immediate possession of accurate reproducible copies of Reports or other pertinent data and information gathered or computed by Consultant prior to termination of this Agreement or upon completion of the work pursuant to this Agreement.

15. **RECORDS**

Consultant shall maintain complete and accurate records with respect to costs, expenses, receipts and other such information required by Authority that relate to the performance of services under this Agreement, in sufficient detail to permit an evaluation of the services and costs. All such records shall be clearly identified and readily accessible. Consultant shall provide free access to such books and records to the representatives of Authority or its designees at all proper times, and gives Authority the right to examine and audit same, and to make transcripts therefrom as necessary, and to allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a minimum period of five (5) years after Consultant receives final payment from Authority for all services required under this agreement

16. **PARTY REPRESENTATIVES**

The Chief Executive Officer (“Authority Representative”) shall represent the Authority in all matters pertaining to the services to be performed under this Agreement. [Click here to enter the name of Consultant representative.](#) (Consultant Representative”) shall represent Consultant in all matters pertaining to the services to be performed under this Agreement.

17. **CONFIDENTIAL INFORMATION AND DOCUMENTS**

A. Consultant covenants that all data, reports, documents, discussion, or other information (collectively “Data”) developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed or released by Consultant without prior written authorization by Authority. Authority shall grant such authorization if applicable law requires disclosure. Consultant, its officers, employees, agents, or subcontractors shall not without written authorization from the Authority Representative or unless requested in writing by the Authority’s General Counsel, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the Authority. Response to a subpoena or court order shall not be considered “voluntary,” provided Consultant gives Authority notice of such court order or subpoena.

B. Consultant shall promptly notify Authority should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the Authority. Authority may, but has no obligation to, represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with Authority and to provide Authority with the opportunity to review any response to discovery requests provided by Consultant. However, Authority’s right to review any such response does not imply or mean the right by Authority to control, direct or rewrite the response.

C. It is understood that Authority is subject to the California Public Records Act (Gov. Code § 7920.000 *et seq.*). If a request under the California Public Records Act is made to view any documents Consultant provided to Authority, Authority shall notify Consultant of the request and the date that such records will be released to the requester unless Consultant obtains a court order enjoining that disclosure. If Consultant fails to obtain a court order enjoining that disclosure, Authority will release the requested information on the date specified.

D. In the event Authority gives Consultant written notice of a “litigation hold” or request under the Public Records Act, then as to all data identified in such notice or request, Consultant shall, at no additional cost to Authority, isolate and preserve all such data pending receipt of further direction from the Authority.

E. Consultant agrees to comply with the confidentiality and data protection provisions set forth in Exhibit “E,” attached hereto and incorporated herein by this reference.

F. Consultant's covenants under this section shall survive the expiration or termination of this Agreement.

18. **NOTICES**

Any notice, consent, request, demand, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on personal delivery, (b) on confirmed delivery by courier service during Consultant's and Authority's regular business hours, or (c) three Business Days after deposit in the United States mail, by first class mail, postage prepaid, and addressed to the Party to be notified as set forth below:

TO AUTHORITY:

333 W. El Camino Real

Suite 330

Sunnyvale CA 94087

Attention: Chief Executive Officer

TO CONSULTANT:

[Click here to enter consultant name.](#)

[Click here to enter company name.](#)

[Click here to enter street number and street name.](#)

[Click here to enter city, state, and zip code.](#)

19. **TERMINATION**

In the event Consultant fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Consultant shall be deemed in default in the performance of this Agreement. If Consultant fails to cure the default within the time specified (which shall be determined by the Authority but shall be not less than 10 days) and according to the requirements set forth in Authority's written notice of default, and in addition to any other remedy available to the Authority by law, the Authority Representative may terminate the Agreement by giving Consultant written notice thereof, which shall be effective immediately. The Authority Representative shall also have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) calendar days' prior written notice to Consultant as provided herein. Upon receipt of any notice of termination, Consultant shall immediately discontinue performance.

In the event of Authority's termination of this Agreement due to no fault or failure of performance by Consultant, Authority shall pay Consultant for services satisfactorily performed up to the effective date of termination. Upon termination, Consultant shall immediately deliver to the

Authority any and all copies of studies, sketches, drawings, computations, and other material or products, whether or not completed, prepared by Consultant or given to Consultant, in connection with this Agreement. Such materials shall become the property of Authority. Consultant shall have no other claim against Authority by reason of such termination, including any claim for compensation.

20. COMPLIANCE WITH LAWS

Consultant shall keep itself informed of all applicable federal, state and local laws, ordinances, codes, regulations and requirements which may, in any manner, affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. Consultant shall, at all times, observe and comply with all such laws and regulations, including, but not limited to the Americans with Disabilities Act, the Stored Communications Act, 18 U.S.C. Section 2701, et seq., California Civil Code Sections 1798.80 through 1798.84, and the California Consumer Privacy Act, Civil Code Section 1798.100 *et seq.* Authority, and its officers and employees, shall not be liable at law or in equity by reason of the failure of the Consultant to comply with this paragraph.

Consultant represents and agrees that all personnel engaged by Consultant in performing services are and shall be fully qualified and are authorized or permitted under state and local law to perform such services. Consultant represents and warrants to Authority that it has all licenses, permits, certificates, qualifications, and approvals required by law to provide the services and work required to perform services under this Agreement, including a business license. Consultant further represents and warrants that it shall keep in effect all such licenses, permits, and other approvals during the term of this Agreement.

21. CONFLICT OF LAW

This Agreement shall be interpreted under, and enforced by the laws of the State of California. The Agreement and obligations of the Parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). Any suits brought pursuant to this Agreement shall be filed with the Superior Court of the County of Santa Clara, State of California.

22. ADVERTISEMENT

Consultant shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, show bills, lithographs, posters or cards of any kind pertaining to the services performed under this Agreement unless prior written approval has been secured from Authority to do otherwise.

23. WAIVER

A waiver by Authority of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

24. **INTEGRATED CONTRACT**

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the Parties, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by a written document signed by both Authority and Consultant.

25. **AUTHORITY**

The individual(s) executing this Agreement represent and warrant that they have the legal Authority and authority to do so on behalf of their respective legal entities.

26. **INSERTED PROVISIONS**

Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein, and the Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion on application by either Party.

27. **CAPTIONS AND TERMS**

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

28. **AUTHORITY'S RIGHTS TO EMPLOY OTHER CONSULTANTS**

Authority reserves the right to employ other consultants in connection with the subject matter of the Scope of Services.

29. **EXHIBITS**

The Exhibits referenced in this Agreement are attached hereto and incorporated herein by this reference as though set forth in full in the Agreement. If any inconsistency exists or arises between a provision of this Agreement and a provision of any exhibit, or between a provision of this Agreement and a provision of Consultant's proposal, the provisions of this Agreement shall control.

30. **FORCE MAJEURE**

Consultant shall not be liable for any failure to perform its obligations under this Agreement if Consultant presents acceptable evidence, in Authority's sole judgment, that such failure was due to acts of God, embargoes, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond Consultant's reasonable control and not due to any act by Consultant.

31. **FINAL PAYMENT ACCEPTANCE CONSTITUTES RELEASE**

The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of Authority from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's work or services. Acceptance of payment shall be any negotiation of Authority's check or the failure to make a written extra compensation claim within ten calendar days of the receipt of that check. However, approval or payment by Authority shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, subcontractors and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by Authority for any defect or error in the work prepared by Consultant, its employees, subcontractors and agents.

32. **ATTORNEY FEES**

In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party shall be entitled to recover all attorneys' fees, experts' fees, and other costs actually incurred in connection with such litigation or other proceeding, in addition to all other relief to which that Party may be entitled.

33. **SEVERABILITY**

If any provision in this Agreement is held by a court of competent jurisdiction to be illegal, invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

34. **SUCCESSORS AND ASSIGNS**

The terms and conditions of this Agreement shall be binding on the successors and assigns of the Parties to this Agreement.

35. **NO THIRD PARTY BENEFICIARIES INTENDED**

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

36. **COUNTERPARTS; FACSIMILE/PDF/ELECTRONIC SIGNATURE**

This Agreement may be executed in multiple counterparts, all of which shall be deemed an original, and all of which will constitute one and the same instrument. The Parties agree that a facsimile, PDF or electronic signature may substitute for and have the same legal effect as the original signature.

37. **DRAFTING PARTY**

This Agreement shall be construed without regard to the Party that drafted it. Any ambiguity shall not be interpreted against either Party and shall, instead, be resolved in accordance with other applicable rules concerning the interpretation of contracts.

IN WITNESS WHEREOF, the Parties have caused the Agreement to be executed as of the date set forth above.

RECOMMENDED FOR APPROVAL

Enter Your Name, Enter Your Title

RECOMMENDED FOR APPROVAL

Amrit Singh, Chief Financial Officer/Director of Administrative Services

CONSULTANT NAME

Enter Consultant's Name

By: _____

Name: _____

Title: _____

Date: _____

SILICON VALLEY CLEAN ENERGY

AUTHORITY

A Joint Powers Authority

By: _____

Name: Monica Padilla

Title: Chief Executive Officer

Date: _____

APPROVED AS TO FORM:

Counsel for Authority

ATTEST:

Authority Clerk

Exhibit A
Scope of Services

[Click here to enter text.](#)

Exhibit B
Schedule of Performance

[Click here to enter text.](#)

This schedule may be modified with the written approval of the Authority.

Task	Begin	Complete
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		

10.		
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Exhibit C

Compensation

Authority shall compensate Consultant for professional services in accordance with the terms and conditions of this Agreement based on the rates and compensation schedule set forth below. Compensation shall be calculated based on the hourly rates set forth below up to the not to exceed budget amount set forth below.

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit “A” and reimbursable expenses shall not exceed a total of **Click here to enter dollar amount in words.** dollars (**\$Click here to enter dollar amount in numerals.**), as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

Task	Estimated Budget
1.	\$ XX,000
2.	\$ XX,000
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
Total	

Rates

Personnel	Title	Hourly

Invoices

Monthly Invoicing: In order to request payment, Consultant shall submit monthly invoices to the Authority describing the services performed and the applicable charges (including a summary of the work performed during that period, personnel who performed the services, hours worked, task(s) for which work was performed). Authority shall pay all undisputed invoice amounts within thirty (30) calendar days after receipt up to the maximum compensation set forth herein. Authority does not pay interest on past due amounts.

Reimbursable Expenses

Administrative, overhead, secretarial time or overtime, word processing, photocopying, in house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. Travel expenses must be authorized in advance in writing by Authority

Additional Services

Consultant shall provide additional services outside of the services identified in Exhibit A only by advance written authorization from Authority Representative prior to commencement of any additional services. Consultant shall submit, at the Authority Representative's request, a detailed written proposal including a description of the scope of additional services, schedule, and proposed maximum compensation. Any changes mutually agreed upon by the Parties, and any increase or decrease in compensation, shall be incorporated by written amendments to this Agreement.

[Review insurance coverage and amounts to confirm they are appropriate for each scope of service]

Exhibit D

Insurance Requirements and Proof of Insurance

Consultant shall maintain the following minimum insurance coverage:

A. **COVERAGE:**

(1) **Workers' Compensation:**

Statutory coverage as required by the State of California.

(2) **Liability:**

Commercial general liability coverage with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage.

ISO occurrence Form CG 0001 or equivalent is required.

(3) **Automotive:**

Comprehensive automotive liability coverage with minimum limits of \$1,000,000 per

accident for bodily injury and property damage. ISO Form CA 0001 or equivalent is required.

(4) **Professional Liability**

Professional liability insurance which includes coverage for the professional acts, errors and omissions of Consultant in the amount of at least \$1,000,000.

(5) **Privacy and Cybersecurity Liability** **[May be reduced or eliminated based on scope of services]**

Privacy and cybersecurity liability (including costs arising from data destruction, hacking or intentional breaches, crisis management activity related to data

breaches, and legal claims for security breach, privacy violations, and notification costs of at least \$5,000,000 US per occurrence.

Exhibit E

Confidentiality and Data Security Requirements

Subject to the terms and conditions of the Agreement, current proprietary and confidential information of Authority regarding customers of Authority (“Authority Customers”) and/or other confidential information (collectively “Confidential Information”) may be disclosed to Consultant from time to time in connection herewith solely for the purposes set forth in the Agreement. Such disclosure is subject to the following legal continuing representations and warranties by Consultant:

1. The Confidential Information disclosed to Consultant in connection herewith may include, without limitation, the following information about Authority Customers: (a) names; (b) addresses; (c) telephone numbers and email addresses; (d) service agreement numbers and account numbers; (e) meter and other identification numbers; (f) Authority-designated account numbers; (g) electricity and gas usage (including monthly usage, monthly maximum demand, electrical or gas consumption, HP load, and other data detailing electricity or gas needs and patterns of usage); (h) billing information (including rate schedule, baseline zone, CARE participation, end use code (heat source) service voltage, medical baseline, meter cycle, bill cycle, balanced payment plan and other plans); (i) payment / deposit status; (j) number of units; and (k) other similar information specific to Authority Customers individually or in the aggregate. Confidential Information shall also include specifically any copies, drafts, revisions, analyses, summaries, extracts, memoranda, reports and other materials prepared by Consultant or its representatives that are derived from or based on Confidential Information disclosed by Authority, regardless of the form of media in which it is prepared, recorded or retained.
2. Except for electric and gas usage information provided to Consultant pursuant to this Agreement, Confidential Information does not include information that Consultant proves (a) was properly in the possession of Consultant at the time of disclosure; (b) is or becomes publicly known through no fault of Consultant, its employees or representatives; or (c) was independently developed by Consultant, its employees or representatives without access to any Confidential Information.
3. From the Effective Date, no portion of the Confidential Information may be disclosed, disseminated or appropriated by Consultant, or used for any purpose other than the purposes set forth in the Agreement.
4. Consultant 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. Consultant 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 purposes not set forth in the Agreement. Specifically, Consultant shall restrict access to Confidential Information, and to materials prepared in connection therewith, to those employees or representatives of Consultant who have a “need to know” such Confidential Information in the course of their duties with respect to the Consultant program and who agree to be bound by the nondisclosure and confidentiality obligations of this Agreement. Prior to disclosing any Confidential Information to its employees or representatives, Consultant shall require such employees or representatives to whom Confidential Information is to be disclosed to review this Agreement and to agree to be bound by the terms of this Agreement.

Consultant shall not disclose Confidential Information or otherwise make it available, in any form or manner, to any other person or entity that is not Consultant's employee or representative (a "Third Party"), except where that Third Party has separately entered into a nondisclosure agreement with Authority. Without limiting Consultant's obligation of confidentiality as further described herein, Consultant shall be responsible for establishing, maintaining, and providing a written description to Authority of, a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that comply with or are substantial similar to the security controls identified in the current version of NIST SP800-53, and that is designed to: (a) ensure the security and confidentiality of the Authority's Data; (b) protect against any anticipated threats or hazards to the security or integrity of the Data; (c) protect against unauthorized disclosure, access to, or use of the Data; (d) ensure the proper disposal of Data; and, (e) ensure that all employees, agents, and subcontractors of Consultant, if any, comply with all of the foregoing. In no case shall the safeguards of Consultant's data privacy and information security program used to protect Data be less stringent than the safeguards used by Consultant for its own data. If the services include handling credit card information, then the Consultant shall comply at all times with all applicable Payment Card Industry Data Security Standards (PCI-DSS). Consultant agrees and warrants that it is responsible for the security of "cardholder data" that Consultant possesses, stores, processes or transmits on behalf of the Authority, and for any impact on the security of Authority's cardholder data environment adversely affected by any failure of Company to maintain compliance with provisions of the PCI-DSS applicable to the services. No less than annually, Consultant shall conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to Authority. The required audit shall be a SAS-70 (or successor standard) compliant audit, and Consultant shall provide the audit findings in the form of an SAS-70 Type II report.

5. Notwithstanding the above, Consultant may disclose Confidential Information to the extent required by an order, subpoena, or lawful process requiring the disclosure of such Confidential Information issued by a court or other governmental authority of competent jurisdiction, provided that Consultant notifies Authority immediately upon receipt thereof to allow Authority to seek protective treatment for such Confidential Information.
6. In the event of any act, error or omission, negligence, misconduct, or breach that permits any unauthorized access to, or that compromises or is suspected to compromise the security, confidentiality, or integrity of the Authority's Data or the physical, technical, administrative, or organizational safeguards put in place by Consultant that relate to the protection of the security, confidentiality, or integrity of the Data, Consultant shall, as applicable: (a) notify Authority as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with Authority in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by Authority; (c) in the case of Confidential Information, at Authority's sole election, (i) notify the affected individuals who comprise the Confidential Information as soon as practicable but no later than is required to comply with applicable law including, but not limited to, the provisions of California Civil Code Section 1798.82, or, in the absence of any legally required notification period, within five (5) calendar days of becoming aware of the occurrence; or, (ii) reimburse Authority for any costs in notifying the affected individuals; (d) in the case of Confidential Information, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the Confidential

Information for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twelve (12) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) without limiting Consultant's obligations of indemnification as further described in this Agreement, indemnify, defend, and hold harmless Authority for any and all Claims (as defined herein), including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from Authority in connection with the occurrence; (g) be responsible for recreating lost Data in the manner and on the schedule set by Authority without charge to Authority; (h) provide to Authority a detailed plan within ten (10) calendar days of the occurrence describing the measures Consultant will undertake to prevent a future occurrence and (i) upon conclusion of the occurrence, or at Authority's request, provide to Authority a comprehensive summary of the occurrence, including reason for occurrence, details of occurrence, how occurrence was addressed and any other information required by Authority, which shall be executed by Consultant and may be relied upon by Authority as a true and accurate account of the occurrence. Notification to affected individuals, as described above, shall comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Consultant's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Consultant has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Consultant. This Section shall survive the termination of this Agreement.

7. It shall be considered a material breach of this Agreement if Consultant engages in a pattern or practice of accessing, storing, using, or disclosing the Confidential Information in violation of the contractual obligations described herein. Consultant understands that if Authority finds that Consultant is engaged in a pattern or practice of accessing, storing, using, or disclosing Confidential Information in violation of this Agreement Authority shall promptly cease all disclosures of Confidential Information to Consultant. Consultant further understands that if Authority receives a customer complaint about Consultant's misuse of data or other violation of the Disclosure Provisions, Authority shall promptly cease disclosing that customer's information to Consultant and shall notify the California Public Utilities Commission of the complaint.
8. Consultant 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 Authority directly against such employees or representatives for improper disclosure and/or use. In no event shall Consultant or its employees or representatives take any actions related to Confidential Information that are inconsistent with holding Confidential Information in strict confidence. Consultant shall immediately notify Authority in writing if it becomes aware of the possibility of any misuse or misappropriation of the Confidential Information by Consultant or any of its employees or representatives. However, nothing in this Agreement shall obligate the Authority to monitor or enforce the Consultant's compliance with the terms of this Agreement.
9. Consultant shall comply with the consumer protections concerning subsequent disclosure and use set forth in Attachment B to California Public Utilities Commission (CPUC) Decision No. 12-08-045.

10. In addition to any other requirements set forth in the Agreement, within ten (10) business days of receipt of Authority's written request, and at Authority's option, Consultant will either return to Authority all tangible Confidential Information, including but not limited to all electronic files, documentation, notes, plans, drawings, and copies thereof, or will provide Authority with written certification that all such tangible Confidential Information of Authority has been destroyed.
11. Consultant acknowledges that disclosure or misappropriation of any Confidential Information could cause irreparable harm to Authority and/or Authority Customers, the amount of which may be difficult to assess. Accordingly, Consultant hereby confirms that the Authority shall be entitled to apply to a court of competent jurisdiction or the California Public Utilities Commission 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 Consultant or its employees or representatives. Such right shall, however, be construed to be in addition to any other remedies available to the Authority, in law or equity.
12. In addition to all other remedies, Consultant shall indemnify and hold harmless Authority, its 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 Consultant and/or its employees and/or its representatives in connection with the use or disclosure of Confidential Information.
13. When Consultant fully performs the purposes set forth in the Agreement, or if at any time Consultant ceases performance or Authority requires Consultant cease performance of the purposes set forth in the Agreement, Consultant shall promptly return or destroy (with written notice to Authority itemizing the materials destroyed) all Confidential Information then in its possession at the direction of Authority. Notwithstanding the foregoing, the nondisclosure obligations of this Agreement shall survive any termination of this Agreement.