



REQUEST FOR PROPOSALS
FOR
CUSTODIAL BANKING SERVICES

RFP Release Date: January 20, 2023

**RFP Submittal Deadline: February 8, 2023 at 5:00PM Pacific
Time**

Send PDF Proposal to solicitations@svcleanenergy.org

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2 Silicon Valley Clean Energy Overview

Silicon Valley Clean Energy (SVCE), a Community Choice Energy agency, is redefining the local electricity market and providing our residents and businesses with new clean energy choices—renewable and carbon-free electricity at competitive rates. SVCE was formed as a Joint Powers Authority in 2016, and now serves approximately 270,000 residential and commercial electricity customers across a service area comprised of the following thirteen communities: Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Saratoga, Sunnyvale and Unincorporated Santa Clara County. 97% of electricity customers in SVCE's service area receive their electricity from SVCE. For more information on SVCE, please visit: <https://www.svcleanenergy.org/>.

As SVCE was formed to support our communities in reducing their greenhouse gas emissions, we aim to provide our customers with resources that can help them understand their energy use and how it relates to their carbon footprint, discover ways to reduce their carbon footprint and find products and contractors to help them save energy and money. To reduce carbon emissions from within its communities, SVCE requires stable financial footing to stabilize rates and fund programs, and custodial banking services help SVCE maintain that position.

3 RFP Overview

SVCE has recently updated its Investment Policy (Exhibit B) to expand its investment options and is seeking a custodial bank to provide custodial banking services for SVCE's portfolio. With this request for proposals (RFP), SVCE is seeking a chartered financial institution that will provide high quality custodial banking services. SVCE, along with its investment advisor, PFM Asset Management (PFMAM), will be transitioning a portion of its reserves from current bank held accounts to appropriate investment funds. Currently, SVCE's cash balance for investment is \$110 million USD.

This RFP:

- Describes the scope of custodial banking services sought by SVCE
- Outlines key dates and the proposed timeline
- Asks custodial bank ("Proposer(s) or Firm(s)") to describe their relevant qualifications and capabilities
- Provides an opportunity for Proposers to identify any key topics or areas not identified in the RFP

4 RFP Tentative Timeline

This tentative schedule is provided for the convenience of Proposers, but may be subject to change at any time by SVCE. Any such changes will be stated in an addendum to this RFP or otherwise communicated to Proposers.

Date	Event
January 19, 2023	RFP issued
January 27, 2023 at 5:00PM PT	Deadline for questions, clarifications (see below)
January 31, 2023	Question responses posted online
February 8, 2023 at 5:00PM PT	Deadline for Proposers to submit proposals
February 9 – 17, 2023	Window for follow-up questions / clarifications
February 20, 2023	Anticipated date SVCE will notify awardees
March 3, 2023	Anticipated date contract finalized (to be sent to Board for approval)

Notes:

- Questions: Proposers may submit questions concerning the RFP to solicitations@svcleanenergy.org. All questions and answers will be shared with all Proposers and will be posted in the same location as the RFP, at <https://www.svcleanenergy.org/solicitations/>. Questions must be emailed and received by SVCE no later than January 27, 2023 at 5:00PM PT. SVCE shall not be responsible for nor be bound by any oral instructions, interpretations or explanations issued by SVCE or its representatives.
- Proposal Review: SVCE may request clarifications of submitted proposals by email or phone from February 16 - 24. Prompt responses will be requested.
- Proposer Interviews: SVCE may choose to conduct in-person/phone interviews with selected Proposers from February 21 - 24.

5 Proposal Submittal

This section describes the information to be submitted in the proposal.

Proposals must be received on or before the above deadline and submitted by email to solicitations@svcleanenergy.org with the subject "Proposal - <Organization> - **CUSTODIAL BANKING SERVICES**".

Only electronic submittals in PDF format will be accepted.

Proposals must include the following sections (to be submitted in this order only):

SECTION	CONTENTS
1.	Transmittal / Administrative Information (1 pg)
2.	Proposal Summary (2 pg)
3.	Firm description and qualifications (6 pg. max)
4.	Legal Proceedings (2 pgs max)
5.	Minimum Requirements (3 pg max)
6.	References (1 pg)
7.	Proposed solution (10 pg. max /accompanying slide deck - 30 slides max)
8.	Proposed work plan and schedule (4 pg. max; table or chart for the schedule)
9.	Cost proposal (2 pg. max)
10.	Confirmation of acceptance of contract terms or explanation of proposed contract modifications (see Section 7 of this RFP)
11.	Inclusion of non-participating agencies (see Section 8 of this RFP)

1. Transmittal / Administrative Information (1 pg. max)

- A cover letter providing administrative information, and including at a minimum: legal name, mailing address, phone number, and email of designated point of contact.
- Provide a certification stating that:
 - All information submitted in the proposal is true and correct
 - The person signing the proposal has the full authority to do so on behalf of the Firm
 - Statement that the Firm is registered with the SEC and MSRB.

2. Proposal summary (2 pg. max)

- Discuss the highlights, key features and distinguishing points of the proposal.

3. Firm description and qualifications (6 pg. max)

- Provide an overview of your Firm. Include overall organizational structure, number of employees, legal structure and ownership.
- Describe resources and organizational structure with respect to custodial banking services. Provide a brief bio for key staff that will work on this project and highlight their credentials. Attach full resumes of key staff, including the account relationship manager.
- Provide a general description of the Firm's financial condition and identify any

conditions (e.g. bankruptcy, pending litigation, planned office closures, impending merger) that may impede Proposer's ability to complete the scope of services. If the Firm has defaulted on a contract, provide details of the default and the resolution. If the Firm has not defaulted on a contract, please state that.

- Provide, if available, current audited Financial Statements, credit rating reports from S&P Global Ratings and/or Fitch and/or Moody's, and other indicators regarding Firm's capitalization. Provide a current client list. (These statements / items are not included in the maximum proposal submittal length.)
- A description summarizing the Firm's experience over the past five years in providing custodial banking services to clients in the State of California (and in particular the energy / utility industry) and highlight the participation in such work by the key financial personnel proposed for this assignment. Provide the aggregate market value of assets for each client that is listed. When did your Firm first start providing custodial banking services?
- A description of the type of services offered.
- A statement identifying the Account Relationship Manager and other qualified and available staff that will be dedicated to SVCE. What would be their specific roles and responsibilities? Describe the Firm's available resources that would be available to assist the Account Relationship Manager in performing the above scope of work. How many other accounts do they currently service?
- Describe how your Firm adds value to the client.
- How does your Firm comply with rules, laws and regulations regarding gifts, gratuities, and political contributions?
- Complete this information for all Proposers that are included in the proposal.

4. Legal Proceedings

- State whether your Firm or any of the owners or principals is currently subject to any pending or threatened litigation or sanctions. Describe the action or include a statement that no litigation or sanctions are pending.
- Indicate whether your Firm is currently or in the past five years has been the subject of a SEC, NASD, MSRB, federal, state, or local government inquiry or investigation. If so, describe the nature and disposition of any and all such inquiries or investigations. Have any of these entities invoked sanctions against your Firm or your staff in the past five years?
- Include any information about any criminal indictments or convictions against the Firm or its employees where the charges involved an offering or municipal securities, and any material pending legal action, settlement, judgment involving claim or fraud, whether civil or criminal. Have any employees ever been investigated over any claims of fraud?
- Has your Firm been a party to any lawsuit, including suits involving misfeasance or professional negligence, with the last ten years? If so, please describe the substance and results of each suit. Has your Firm ever been subject to a regulatory (state or Federal) agency investigation for alleged improper, fraudulent, disreputable, or unfair securities activities?

5. Minimum Requirements

- Has your Firm been engaged in providing custodial banking services for public agencies for ten (10) years or more?

- Do you possess all permits, licenses and professional credentials necessary to perform services specified in this RFP?
- Are you currently a member of the Depository Trust and Clearing Corporation (DTC) to provide clearance, settlement and information services for corporate and municipal bonds and government securities?
- Does your Firm maintain appropriate control of securities through its own independent safekeeping department, through any corresponding bank with which it regularly deals, or through the Federal Reserve Bank of San Francisco?
- Does your Firm maintain standing as a state or federally chartered bank with account insurance through an appropriate federally insured agency of the United States?
- Does your Firm have at least \$1 billion in custody assets?
- Is your Firm bonded? If so, what is the dollar amount?
- Is your Firm able to provide a collateralization level of 110% on certificates of deposits?
- Is your Firm able to sustain long-term stability and endure market-driven volatility and also have the ability to monitor and manage risk?
- Confirm your Firm can maintain minimum requirements as specified under the RFP during the life of the contract with SVCE.
- Upon contract award, securities owned by SVCE will be delivered free of charge into the safekeeping of the chosen custodial bank. Clearing securities will be on a "Delivery versus Payment" basis.
- A list of primary broker/dealers used by SVCE may be made available in the future. Those primary broker/dealers may coordinate with the chosen custodial bank on the settlement of transactions.

6. References (1 pg)

- Public Sector Experience
 - Describe public sector service experience. Include resources dedicated exclusively to public sector work.
 - List the number and market value of public custodial accounts currently handled by your Firm.
 - Has a public-sector client ever claimed in writing that the Firm was responsible for investment losses? Explain.
 - List at least three (3) public sector clients currently under contract whose safekeeping, clearance, and reporting services are comparable to or greater in size than SVCE's accounts. Include the contract value, scheduled contract completion date, and the contact person and telephone number for each public sector client.
 - Preferably, at least one reference should be from a public energy / utility agency for custodial banking services provided within the past five (5) years. Include the entity name, assets under contract, contact person's name and title, email address, and telephone number for each reference.

7. Proposed solution (10 pg. max / accompanying slide deck - 30 slides max)

- The Scope (see Section 17 of the RFP) describes SVCE's high-level needs. Please describe your ability to address them, and respond to the following questions:
 - Describe any sub-custodian arrangements that would be used for securities belonging to SVCE. Fully describe the roles and responsibilities of each sub- custodian.
 - What are the key features and benefits of your Firm's accounting system? Who is responsible for maintaining and enhancing this system? Was the system developed in house? How are your Firm's

systems backed up?

- What systems are in place to ensure all income is collected and credited in a timely manner?
- How frequently are internal audits conducted on accounts?
- What security procedures are in place to ensure the integrity of sensitive information?
- Are there set-up or conversion charges? Are there any annual account maintenance charges? Are there any additional charges for customized reporting? How long will your Firm commit to providing the services for the indicated cost?
- Does your Firm have any recommendations for additions or corrections to the Scope of Services? Are there any other tasks that your Firm would perform that are not specified?
- Describe any reporting, analysis, or tracking tools provided:
 - From time to time, analyses of earnings, other performance areas for the various funds invested and controlled by SVCE, and detailed performance computations may be requested. State capability and experience in providing such requests and include sample(s).
 - What reports, transactions, confirmation, and paper trail are provided to clients? How does your Firm verify the accuracy of the reports? Are reports fully accrued? Are customized reports available at no additional fee?
- Suggest any additions or modifications to the scope that SVCE prepared.

8. Proposed work plan and schedule (4 pg. max; table or chart for the schedule)

- Present a well-conceived work plan. Include a full description of each task.
- Illustrate how the work plan would proceed and what the key milestones or benchmarks would be, along with required levels of SVCE staff and stakeholder engagement.

9. Cost proposal (2 pg. max)

- Compensation will be based on the average balance of the assets held in custody.
- SVCE is seeking a three-year initial term, with the option to extend for two additional years. Pricing should be provided for both the initial term, along with any proposed escalation for the optional years.
- Proposers must include costs for any additional tasks not covered through the fee structure that the Proposer recommends or requires be added to the scope of services in order to implement custodial banking services. Cost for reimbursable items to be compensated shall be identified and provided in Proposer's proposal.

10. Confirmation of acceptance of contract terms or explanation of proposed contract modifications (see Section 8 of this RFP)

- List all exceptions or requested changes that Proposer has to SVCE's standard contract. Items not excepted will not be open to later negotiation.

11. Inclusion of non-participating agencies (see Section 9 of this RFP)

- Indicate Proposer's willingness to extend the terms of resulting contracts to other similar entities.

6 Review and Selection Process

In addition to, or in reiteration of, the aforementioned minimum proposal requirements, all of which are mandatory, proposals will be evaluated based on the following non-exclusive list of criteria:

- Qualifications and experience of the Proposer providing similar products and services, including the capability and experience of key personnel as well as experience with other public and/or private agencies in similar capacities
- History of successfully performing services for public and/or private agencies and other Community Choice Energy agencies
- Financial viability of the Proposer
- Cost to SVCE for the products and services identified in this RFP
- Proposed approach, including a clearly-demonstrated understanding of the intended scope of products and services to be provided
- Ability to meet any required timelines or other requirements
- Existence of and circumstances surrounding any claims or violations of law or governmental regulations against the Proposer, its representatives and/or partners
- Pertinent references
- Acceptance of SVCE's standard contract terms and conditions

SVCE reserves the right to consider factors other than those specified above and to request additional information from any/all Proposers as a part of the selection process.

7 Supplier Diversity

All qualified Firms are encouraged to respond.

SVCE is an equal opportunity employer. All responses will be evaluated under the same criteria. Pursuant to Proposition 209, a government entity such as SVCE is prohibited from granting preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment or public contracting.

Proposers that execute a contract with SVCE will be asked to complete a supplier diversity questionnaire. As a public agency and consistent with state law, SVCE will not use any provided information in any part of its selection process. Rather, SVCE will use the information to comply with the California Public Utilities Commission (CPUC) reporting requirements. Pursuant to General Order 156 (GO156), SVCE is required to submit a detailed and verifiable annual plan and report on the utilization of women-owned, minority-owned, disabled veteran-owned and LGBT-owned business enterprises' procurement. Consistent with the California Public Utilities Code and State policy objectives, SVCE will collect information regarding supplier diversity and labor practices from Firms regarding past, current and/or planned efforts and policies.

SVCE encourages businesses that qualify for diverse business enterprise status to obtain certification through CPUC's [Supplier Diversity Clearinghouse](#). The certification is voluntary and cannot be used as a criterion for proposal evaluation. For information on the certification process and requirements, please visit SVCE's [Supplier Diversity page](#).

8 Agreement Terms

The selected Firm will be required to enter into a contract using SVCE's standard contract terms. Modification of the contract terms may be proposed by the Proposer for consideration by SVCE but are not guaranteed to be accepted. Rejection of the final terms from SVCE is grounds for disqualification.

SVCE's standard contract terms are available for review in Appendix A.

9 Inclusion of Non-Participating Agencies

SVCE is asking all responding Proposers 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 SVCE's awarded Firm, nor does it guarantee any additional orders will result, it does allow other agencies, at their discretion, to make use of SVCE's competitive process (provided said process satisfies their own procurement guidelines) and enter into a contract directly with the awarded Firm. All contracts entered into by other agencies shall be understood to be transactions between that agency and the awarded Firm; SVCE shall not be responsible or liable in any manner for any such contracts.

10 California Public Records Act

All parties acknowledge that SVCE is a public agency subject to the requirements of the California Public Records Act, Cal. Gov. Code section 6250 et seq. ("CPRA"). SVCE will not disclose any part of any proposal before it announces a recommendation for an award, on the ground that there is a substantial public interest in not disclosing proposal during the evaluation process. After the announcement of a recommended award, all proposals received in response to this RFP will be subject to public disclosure, with the exception of those elements in each proposal which are exempt from disclosure pursuant to the CPRA.

If a Proposer believes there are portion(s) of the proposal which are exempt from disclosure, the Proposer must plainly mark it as "Confidential", "Proprietary", or "Trade Secret." SVCE may also request that the Proposer state the specific provision of the CPRA which provides the exemption, and the factual basis for claiming the exemption. Any proposal which contains language purporting to render all or significant portions of the proposal as "Confidential," "Trade Secret," or "Proprietary," will be considered non-responsive and a public record in its entirety.

Although the CPRA recognizes that certain confidential trade secret information may be protected from disclosure, SVCE may not be in a position to establish that the information a Proposer submits is a trade secret. If a public records request is made for information marked "Confidential," "Proprietary," or "Trade Secret," SVCE will provide the Proposer(s) who submitted the information with reasonable notice to seek protection from disclosure by a court of competent jurisdiction. The Proposer shall be solely responsible for taking such legal steps; if the Proposer takes no such action after receiving notice of the public records request, SVCE will disclose all records it deems subject to disclosure, even if marked "Confidential," "Trade Secret," or "Proprietary."

11 Ex Parte Communication

Please note that to insure the proper and fair evaluation of a proposal, SVCE prohibits ex parte communication (i.e., unsolicited) initiated by the Proposer to an SVCE official or employee evaluating or considering the proposals prior to the time a decision has been made. Communication between Proposer and SVCE will be initiated by the appropriate SVCE official or employee in order to obtain information or clarification needed to develop a proper and accurate evaluation of the proposal. Ex parte communication may be grounds for disqualifying the offending Proposer from consideration or award of the proposal, then in evaluation, or any future proposal.

12 Insurance Requirements

All insurance shall be secured from or countersigned by an agent or surety company recognized in good standing and authorized to do business in the State of California.

The Proposer shall, within thirty (30) days of notification of award and prior to commencement of work, take out and maintain in full force and effect minimum insurance coverage as specified in the attached requirements. This insurance shall remain in force and effect throughout the duration of the contract.

A certificate of existing insurance coverage should be submitted with the proposal as proof of insurability. If the current coverage does not meet the RFP requirements, then the Proposer should request an affidavit of insurability from the Proposer's insurance agent that certifies the

requirements can and will be met. Failure to provide adequate insurance coverage may be cause for disqualification as non-responsive to the RFP requirements.

In a table, provide a summary of the Firm's insurance coverage (including comprehensive general liability, automotive liability, worker's compensation, employer's liability, professional liability and errors and omissions), and compare to requirements stated in Exhibit A to this RFP, Sample Agreement.

13 Conflict of Interest/Statement of Non-Collusion

All Proposers must disclose with their proposal the name of any officer, director, or agent who is also an employee of SVCE. Further, all Proposers must disclose the name of any SVCE employee who owns, directly or indirectly, an interest of five percent (5%) or more of the Proposer's Firm or any of its branches.

The Proposer shall certify that the Proposer, and any of its officers or employees have not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive assessment in connection with the proposal and that the Proposer is not financially interested in, or otherwise affiliated in a business way with any other Proposer on the same land or improvements.

14 Addenda

It is the Proposer's responsibility to contact SVCE prior to submitting a proposal to ascertain if any addenda have been issued, to obtain all such addenda and return executed addenda with the proposal.

The failure of a Proposer to submit acknowledgement of any addenda that affects the proposal price(s) may be considered an irregularity and may be cause for rejection of the proposal.

15 Certifications

The submission of a proposal shall be deemed a representation and certification by the Proposer that it:

- Has read, understands and agrees to the information and requirements set forth in this RFP;
- Has the capability to complete the responsibilities and obligations of the proposal being submitted;
- Represents that all information contained in the proposal is true and correct;
- Acknowledge that SVCE has the right to make any inquiry it deems appropriate to substantiate or supplement information supplied by Proposer, and Proposer hereby grants SVCE permission to make these inquiries;
- Will provide any and all documentation related to the proposal in a timely manner;
- Is eligible to submit a proposal because the Proposer, and any of its officers or employees is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in a transaction by any Federal, State, or local department or agency

16 Rights of SVCE

SVCE is not obligated to respond to any proposal submitted as part of the RFP. **SVCE, in its sole discretion, reserves the right to waive technicalities or irregularities, to reject any or all proposals, and/or to accept that proposal which is in the best interest of SVCE.** SVCE, in its sole discretion, reserves the right to select multiple Proposers or no Proposers at all, and/or reduce, change, or otherwise adjust the scope of work specified in this RFP. SVCE may at any time and for any reason decline to enter into a contract with any Proposer, terminate negotiations with any Proposer, or abandon the RFP. The award of a contract, if made, may be based on considerations other than total cost and may be awarded based on various considerations, including without limitation Proposer's experience and/or qualifications, past experience, administrative cost, standardization, technical evaluation and oral and/or written presentations as required. SVCE reserves the right to accept all or part, or to decline the whole, and to award this RFP to one (1) or more Proposers. There is no obligation for SVCE to buy, to select a Proposer or enter into a contract. The contract, if awarded, will be, in the judgement of SVCE, to the most responsive Proposer to SVCE's needs. Each Proposer's costs related to the submission of a Proposal are entirely the responsibility of the Proposer, and SVCE shall have no responsibility or liability for such costs.

17 High Level Scope of Work

A. OVERVIEW

SVCE is requesting a custodial bank to provide the following services including but not limited to:

1. Provide custody services, which includes the receipt and holding of securities. The securities should be segregated from the assets of others and shall be and remain the sole property of SVCE.
2. Settle securities transactions on a timely basis and upon receipt of instructions from authorized personnel. Provide contractual settlement of securities in case of a failed trade.
3. All security trades must be handled on a delivery versus payment (DVP) basis.
4. Processing of security purchases, sales, calls, and maturities.
5. Collection of investment income, coupons, maturity and sale proceeds when due, and processed per instructions received from authorized personnel.
6. Provide adequate accounting services, including all GASB requirements and obligations, and the monitoring and recording of the collection of funds in accounts maintained by the custodian for SVCE.

7. Provide useful, accurate, and timely investment reporting services. Detailed monthly reports to include cost, par value, and market value of the investments, listing of transactions, holdings, market pricing and other pertinent information on a monthly basis. Provide a web-based portal for access to account information and on-line inquiry/reporting services.
8. Create, maintain and retain all records relating to securities held in client accounts to meet the requirements and obligations under generally accepted accounting principles and specifically, Government Accounting Standards Board (GASB) Statement No. 40 – Deposit and Investment Risk Disclosures and GASB Statement No. 72-Fair Value Measurement and Application.
9. The ability to maintain two separate custody accounts (1) short-term portfolio and a (2) long-term portfolio.
10. The custodian must be a direct participant of the Depository Trust Company of New York (DTC) and participate in the Fed wire and security system.
11. Provide an overnight investment vehicle (sweep) that complies with the California Government Code sections that regulate the investment of public funds.

EXHIBIT A

SVCE Standard Consulting Agreement (2023) – Confidential Information with Data Breach Provisions

EXHIBIT B
SVCE Investment Policy

EXHIBIT A

SVCE Standard Consulting Agreement (2023) – Confidential Information with Data Breach Provisions

**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: Girish Balachandran
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.		

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 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.

EXHIBIT B
SVCE Investment Policy

INVESTMENT POLICY**1. Policy**

Silicon Valley Clean Energy ("SVCE") shall invest public funds in such a manner as to comply with state and local laws; ensure prudent money management; provide for daily cash flow requirements; and meet the objectives of the Policy, in priority order of Safety, Liquidity and Return on investment.

2. Scope

This investment policy applies to all investment activities and financial assets of SVCE.

3. Objective

The primary objectives, in priority order, of the investment activities of SVCE shall be:

a. With respect to all investments:

- i. To be in compliance with all Federal, State and local laws as well as all SVCE policies and procedures.
- ii. All investments of SVCE shall be undertaken in a manner which seeks the preservation of principal.
- iii. To remain sufficiently liquid to enable SVCE to meet all operating requirements which might be reasonably anticipated.
- iv. To maximize return consistent with risk limitations identified herein and prudent investment principles.

b. With respect to short-term Cash Management objectives:

- i. To accelerate receipt of all funds due to SVCE.
- ii. To accurately monitor and forecast expenditures and revenues, thus enabling SVCE to invest funds to the fullest extent possible.
- iii. The investment portfolio shall be designed with the objective of obtaining a rate of return throughout

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budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow needs.

4. Standard of Care

SVCE will manage funds in accordance with the Prudent Investor Standard pursuant to California Government Code 53600.3.1. The “prudent investor” standard shall be applied in the context of managing the overall portfolio. Persons authorized to make investment decisions on behalf of SVCE are trustees and therefore fiduciaries subject to the prudent investor standard which states, “When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency”.

5. Delegation of Authority

The following individuals are authorized to sign investment documents and/or execute cash transfers and make investments of SVCE’s funds:

- a. Chief Executive Officer
- b. Director of Administration and Finance

SVCE may also delegate investment decision making and execution authority to an investment advisor. The advisor shall follow this Investment Policy and such other written instructions as are provided. Investment advisors must be approved by the SVCE Board prior to engaging with SVCE.

6. Ethics and Conflicts of Interest

The authorized employees who are responsible for the investment of SVCE funds shall refrain from personal business activity that could conflict with the proper execution of SVCE’s investment program, or which could impair the ability to make impartial investment decisions.

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Pursuant to SVCE's Conflict of Interest Code, employees shall disclose any financial interests and investment holdings that could affect the performance of SVCE's portfolio or the individual's judgement or decisions regarding SVCE's portfolio.

7. Authorized Financial Dealers and Institutions

The Director of Administration and Finance will maintain a list of approved financial institutions authorized to provide investment services to SVCE. These may include "primary" dealers or regional dealers that qualify under Securities & Exchange Commission Rule 15C3-1 (uniform net capital rule). A determination should be made to ensure that all approved broker/dealer firms, and individuals covering SVCE, are reputable and trustworthy. In addition, the broker/dealer firms should have the ability to meet all of their financial obligations in dealing with SVCE. The firms, and individuals covering SVCE, should be knowledgeable and experienced in Public Agency investing and the investment products involved. No public deposit shall be made except in a qualified public depository as established by the established state laws. All financial institutions and broker/dealers who desire to conduct investment transactions with SVCE must supply the Director of Administration and Finance with the following: audited financial statements, proof of NASD certification, trading resolution, proof of State of California registration, completed broker/dealer questionnaire, certification of having read the SVCE's investment policy and depository contracts.

An annual review of the financial condition and registrations of qualified bidders will be conducted by the Director of Administration and Finance. A current audited financial statement is required to be on file for each financial institution and broker/dealer in which SVCE invests.

If SVCE utilizes an investment advisor, the investment advisor may use its own list of authorized broker/dealers to conduct transactions on behalf of SVCE.

8. Authorized and Suitable Investments

SVCE is authorized by California Government Code Section 53600 et

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seq. to invest in the types of securities listed below. A security purchased in accordance with this section shall not have a forward settlement date exceeding 45 days from the time of investment.

Where this section specifies a percentage limitation for a particular security type, that percentage is applicable only on the date of purchase. Credit criteria listed in this section refer to the credit rating at the time the security is purchased. If an investment's credit rating falls below the minimum rating required at the time of purchase, the Director of Administration and Finance will perform a timely review and decide whether to sell or hold the investment.

U.S. Treasury Obligations; United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

U.S. Agency Obligations; Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.

Municipal Obligations; Registered state warrants or treasury notes or bonds of California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of California.

Registered treasury notes or bonds of any of the other 49 states in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 states, in addition to California.

Bonds, notes, warrants or other evidence of indebtedness of a local agency within California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

Bonds issued by SVCE, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by SVCE or by a department, board, agency, or authority of

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SVCE.

SVCE is prohibited from investing in any debt issued by member agencies of SVCE who are parties to the SVCE Joint Powers Agreement.

Deposits at Bank(s); FDIC insured or fully collateralized demand deposit accounts, savings accounts, market rate accounts, time certificates of deposits ("TCDs") and other types of bank deposits in financial institutions located in California. The amount on deposit in any financial institution shall not exceed the shareholder's equity. To be eligible to receive SVCE's deposits, the financial institution must have received a minimum overall satisfactory rating, under the Community Redevelopment Act, for meeting the credit needs of California Communities in its most recent evaluation. Bank deposits are required to be collateralized as specified under Government Code Section 53630 et seq. The Director of Administration and Finance, at his/her discretion, may waive the collateralization requirements for any portion that is covered by federal deposit insurance. SVCE shall have a signed agreement with any depository accepting SVCE's funds per Government Code Section 53649. The maturity of TCDs may not exceed 5 years in maturity. There is no limit on the percentage of the portfolio that may be invested in bank deposits. However, a maximum of 50 percent of the portfolio may be invested in TCDs.

Banks eligible to receive deposits will be federally or state chartered and will conform to Government Code 53635.2.

Placement Service Deposits. Bank deposits placed with a private sector entity that assists in the placement of deposits with eligible financial institutions located in the United States. The full amount of the principal and the interest that may be accrued during the maximum term of each deposit shall at all times be insured by federal deposit insurance. Placement Deposits shall meet all of the requirements of Government Code Section 53601.8. Purchases of Placement Service CDs may not exceed 50% of SVCE's investment portfolio.

Local Agency Investment Fund (LAIF); Funds may be invested in the Local Agency Investment Fund. The LAIF was established by the California State Treasurer for the benefit of local agencies.

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Commercial Paper; Commercial paper of “prime” quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical rating organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (1) or (2):

- (1) The entity meets the following criteria: (A) Is organized and operating in the United States as a general corporation. (B) Has total assets in excess of five hundred million dollars (\$500,000,000). (C) Has debt other than commercial paper, if any, that is rated in a rating category of “A” or its equivalent or higher by an NRSRO.
- (2) The entity meets the following criteria: (A) Is organized within the United States as a special purpose corporation, trust, or limited liability company. (B) Has program wide credit enhancements including, but not limited to, overcollateralization, letters of credit, or a surety bond. (C) Has commercial paper that is rated “A-1” or higher, or the equivalent, by an NRSRO.

Eligible commercial paper shall have a maximum maturity of 270 days or less. Purchases of eligible commercial paper shall not exceed 40% of SVCE’s funds.

Medium Term Notes; Defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated in a rating category of “A” or better by a nationally recognized statistical rating organization (NRSRO). Purchases of medium-term notes shall not exceed 30% of SVCE’s funds.

Negotiable Certificates of Deposits; Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings association or a federal association (as defined by Section 5102 of the California State

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Code), a state or federal credit union, or by a federally licensed or state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposits shall not exceed 30% of the SVCE's funds.

Mortgage Pass-Through and Asset-Backed Securities; A mortgage pass-through security, collateralized mortgage obligation, mortgaged backed or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate or consumer receivable backed bond. Securities eligible for investment under this subdivision shall be rated in a rating category of "AA" or its equivalent or better by an NRSRO and have a maximum remaining maturity of five years or less. Purchase of securities authorized by this subdivision shall not exceed 20% of SVCE's funds.

Supranational Obligations; United States dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank, with a maximum remaining maturity of five years or less, and eligible for purchase and sale within the United States. Investments under this subdivision shall be rated in a rating category of "AA" or better by an NRSRO and shall not exceed 30% of SVCE's funds.

Joint Power Authority Pool; Shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 that invests in the securities and obligations authorized in subdivisions (a) to (r), inclusive, of Government Code 53601. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets all of the following criteria:

- 1) The adviser is registered or exempt from registration with the Securities and Exchange Commission.
- 2) The adviser has not less than five years of experience investing in

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the securities and obligations authorized in subdivisions (a) to (q), inclusive, of Government Code 53601.

- 3) The adviser has assets under management in excess of five hundred million dollars (\$500,000,000).

Money Market Funds; Shares of beneficial interest issued by diversified management companies that are Money Market Funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940. These funds must either have attained the highest rating/ranking by at least two NRSROs or have retained an investment advisor registered with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars (\$500,000,000).

Investments in this category will not exceed 20% of SVCE's funds and no more than 10% may be invested in any one money market fund.

9. Hedging Program

Staff may examine and recommend to the Board an investment strategy that is consistent with this policy and which will hedge against revenue loss due to high PCIA or increased prices of natural gas commodity.

10. Reporting Requirements

The Director of Administration and Finance shall be responsible for preparing a monthly report of transactions for the Board of Directors, as required by California Government Code 53607.

The Director of Administration and Finance may also prepare an investment report four times a year and the report shall include:

- a. Type of Investment
- b. Institution of Purchase
- c. Date of purchase and maturity
- d. Par and dollar amounts invested

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- e. Current market value
- f. Interest rate
- g. Target benchmark
- h. State compliance of the portfolio in accordance with the Policy

11. Investment Pools/Mutual Funds

A thorough investigation of the pool/fund is required prior to investing, and on a regular basis. Best efforts will be made to acquire the following information:

1. A description of eligible investment securities, and a written statement of investment policy and objectives.
2. A description of interest calculations and how it is distributed, and how gains and losses are treated.
3. A description of how the securities are safeguarded (including the settlement processes), and how often the securities are priced and the program audited.
4. A description of who may invest in the program, how often, what size deposit and withdrawal are allowed.
5. A schedule for receiving statements and portfolio listings.
6. Are reserves, retained earnings, etc. utilized by the pool/fund?
7. A fee schedule, and when and how is it assessed.
8. Is the pool/fund eligible for bond proceeds and/or will it accept such proceeds?

12. Collateralization

Collateralization will be required on certificates of deposit. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be 110% of market value for Certificate of Deposits.

Collateral will always be held by an independent third party with whom SVCE has a current custodial agreement. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to the entity and retained. The right of collateral substitution is granted.

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13. Safekeeping and Custody

All security transactions, entered into by SVCE shall be conducted on a delivery-versus-payment (DVP) basis. Securities will be held by a third-party custodian and evidenced by safekeeping receipts.

14. Diversification

SVCE will diversify its investments by security type and institution. With the exception of U.S. Treasury securities, federal agencies, and authorized pools, no more than 5% of SVCE's total investment portfolio will be invested in a single security type or with a single financial institution

15. Maximum Maturities

To the extent possible, SVCE will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, SVCE will not directly invest in securities maturing more than 5 years from the date of purchase unless the Board of Directors has provided approval at least three months prior to the investment. For purposes of compliance with this section, an investment's term or remaining maturity shall be measured from the settlement date to final maturity. Reserve funds may be invested in securities exceeding 5 years if the maturity of such investments is made to coincide as nearly as practicable with the expected use of the funds.

16. Internal Controls

The Director of Administration and Finance is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of SVCE are protected from loss, theft, fraud or misuse.

Accordingly, the Director of Administration and Finance shall establish an annual process of independent review by an external auditor. This review will provide internal control by assuring compliance with policies and procedures.

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17. Performance Standards

The investment portfolio shall be designed with the objective of obtaining a rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow needs.

SVCE shall establish an appropriate performance benchmark and compare the total return of its portfolio to the total return of the benchmark.

18. Annual Review

The Investment Policy will be reviewed annually. Any changes to the Investment Policy will be submitted to the Board of Directors for approval.