

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 16

TO: Board of Directors

FROM: Mitch Sears, Executive Officer
Rebecca Boyles, Director of Customer Care and Marketing

SUBJECT: Communications and Outreach Vendor Selection

DATE: December 8, 2022

RECOMMENDATION

Adopt a resolution approving an agreement for communications and outreach services with REACH Strategies for a two (2) year term.

BACKGROUND AND ANALYSIS

In August 2022, VCE staff released a Request for Proposals (RFP) seeking proposals for marketing, website, and social media services to support ongoing marketing and outreach efforts. Four (4) proposals were received from marketing firms. An evaluation team comprised of Staff and Community Advisory Committee (CAC) Outreach Task Group members reviewed the proposals and identified three (3) semi-finalists to interview. After careful evaluation and consideration, a decision was made to recommend REACH Strategies as the new marketing and outreach firm for VCE.

Evaluation Criteria and Process

The following summarizes the criteria used to evaluate the proposals:

I. Experience and Qualifications

1. Experience in the areas identified in the “Detailed Scope of Services”
2. Meets “Bidder Qualifications” section
3. Resumes of staff performing the work
4. CCA/Energy experience

II. Proposer’s Approach to Working with VCE

III. Commercial Terms (Price) and Compliance with VCE Contractual Terms

After evaluating the proposals, the three (3) semi-finalists were asked to provide a draft work sample highlighting how the firm would address a campaign that included diverse audiences.

The semi-finalists were evaluated on the following:

- 1) Responsiveness to the RFP, interview performance, and quality of the draft work sample.
- 2) The firm’s approach (web/social media) and work product samples.

- 3) Firm experience in the energy sector and with CCAs.
- 4) Demonstrated ability to meet VCE's unique needs in a way that is congruent with a fast-paced, small team setting.

After evaluating all the information (proposals, interviews, work product), the evaluation team unanimously agreed that REACH Strategies provided the best combination of skills, experience, cost, and fit and alignment with VCE's communication and outreach needs.

Scope of Work

The scope that the selected firm will be performing includes the following key activities:

1. Program Branding, Website and Social Media:
 - a. Working with existing program mission and branding style guides, refine style guides, and ensure alignment with VCE's Strategic Plan and Outreach and Marketing Plans.
 - b. Maintain and update multi-functional, multi-lingual website (English and Spanish).
 - c. Maintain and improve social media presence for VCE utilizing existing platforms in VCE member communities. Work with VCE staff to measure and improve marketing/communications analytics.
 - d. Develop/update program collateral including FAQs, program brochures, fact sheets and PowerPoint templates.
2. Marketing, Advertising and Press:
 - a. Manage and conduct press outreach - schedule editorial meetings; draft press releases, op-eds and news articles.
 - b. Maintain a social media presence for VCE on Facebook, Twitter, Instagram, and other platforms as requested.

Agreement Terms

Staff is seeking Board authorization to proceed with negotiations and contracting with REACH Strategies within the proposed scope of services and budget. If approved, the Executive Officer will negotiate a two-year contract with REACH Strategies for signature by the Executive Officer based on the following parameters:

- Scope. Project scope and budget consistent with the scope identified in the RFP and the proposal submitted by REACH Strategies. Any significant changes to the scope, schedule or budget, will be brought back to the Board for consideration.
- Budget. A not-to-exceed amount of \$425,000 for a two-year period. This amount is in VCE's existing budget. Staff will review the work of REACH Strategies at 6-month intervals to ensure projects are on track and that VCE is satisfied with work performance. This is a time and materials contract with work being assigned and reviewed by VCE staff.
- Term. Two-year contract term with the option for an extension of up to 1 year by mutual agreement at agreed prices, with all other terms and conditions remaining the same (consistent with RFP language).

CONCLUSION

Effective communication and outreach is important to the overall success of VCE and central to realizing its mission and achieving its strategic goals. Staff believes that the recommended firm provides a strong combination of experience and a cost effective approach that is closely aligned with VCE's mission.

Attachments:

1. REACH Strategies Consultant Agreement
2. Resolution 2022-XXX

**AGREEMENT BETWEEN THE VALLEY CLEAN ENERGY ALLIANCE AND
REACH STRATEGIES
FOR
MARKETING, WEBSITE, AND SOCIAL MEDIA SERVICES**

THIS AGREEMENT, is entered into this _____ day of December 2022, by and between the **VALLEY CLEAN ENERGY ALLIANCE**, a Joint Powers Authority organized and operating under the laws of the State of California, with its principal place of business at 604 Second Street, Davis, California, 95616 ("VCE"), and **REACH Strategies**, a California corporation whose address is 100 Shoreline Hwy Suite 100, Building B, Mill Valley, CA 94941 (hereinafter referred to as "Consultant") (collectively referred to as the "Parties" and individually as a "Party").

RECITALS:

A. VCE 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. VCE and Consultant desire to enter into an agreement for Marketing, Website and Social Media Services upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on January 1, 2023, and shall terminate on December 21, 2024, unless terminated earlier as set forth herein. At the end of the initial term, the Parties may mutually agree to extend the term of the Agreement for one additional year, at no additional cost to VCE.

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 Four Hundred Twenty-five Thousand dollars (\$425,000.00) 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 VCE 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 VCE and agrees that all services shall be performed by qualified and experienced personnel. Consultant shall be responsible to VCE 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 VCE 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 VCE, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, VCE may deduct the cost of such correction from any retention amount held by VCE or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction.

6. **INDEPENDENT PARTIES**

VCE 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 VCE to its employees, including but not limited to, unemployment insurance, workers' compensation plans, vacation and sick leave are available from VCE 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 VCE and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of VCE officials, from any and all liability, damages, claims, costs, and expenses of any nature to the extent arising from Consultant's personnel practices. VCE shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to VCE from Consultant as a result of Consultant's failure to promptly pay to VCE any reimbursement or indemnification arising under this section.

7. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF VCE

VCE is organized as a Joint Powers VCE 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. VCE 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 VCE'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 VCE and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those VCE agents serving as independent contractors in the role of VCE 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 VCE's choice, expert fees and all other costs and fees of litigation.

C. The acceptance of the services by VCE 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 VCE 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 VCE by certified mail, Attention: 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 VCE and licensed to do insurance business in the State of California. Endorsements naming VCE 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 VCE, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Consultant or VCE with respect to the services of Consultant herein, a waiver of any right to subrogation which any such insurer of Consultant may acquire against VCE 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, VCE 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. VCE, 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 VCE 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 VCE 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 VCE, 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 VCE. 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 VCE 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 VCE 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 ventures 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 VCE 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 VCE in the same manner and to the same extent as Consultant is bound to VCE 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 VCE.

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 VCE. Consultant shall not copyright any Report required by this Agreement and shall execute appropriate documents to assign to VCE 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 VCE, and all publication rights are reserved to VCE. Consultant may retain a copy of any Report furnished to VCE pursuant to this Agreement.

B. All Reports prepared by Consultant may be used by VCE 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 VCE projects as VCE deems appropriate in its sole discretion.

C. Consultant shall, at such time and in such form as VCE 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 VCE.

F. VCE 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 VCE 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 VCE or its designees at all proper times, and gives VCE 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 VCE for all services required under this agreement

16. **PARTY REPRESENTATIVES**

The Executive Officer (“VCE Representative”) shall represent VCE in all matters pertaining to the services to be performed under this Agreement. Kirk Brown (Consultant Representative”) shall represent Consultant in all matters pertaining to the services to be performed under this Agreement.

17. **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 VCE. VCE shall grant such authorization if applicable law requires disclosure. Consultant, its officers, employees, agents, or subcontractors shall not without written authorization from the VCE Representative or unless requested in writing by VCE’s 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 VCE. Response to a subpoena or court order shall not be considered “voluntary,” provided Consultant gives VCE notice of such court order or subpoena.

B. Consultant shall promptly notify VCE 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 VCE. VCE may, but has no obligation to, represent Consultant or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate fully with VCE and to provide VCE with the opportunity to review any response to discovery requests provided by Consultant. However, VCE’s right to review any such response does not imply or mean the right by VCE to control, direct or rewrite the response.

C. In the event VCE gives Consultant written notice of a “litigation hold”, then as to all data identified in such notice, Consultant shall, at no additional cost to VCE, isolate and preserve all such data pending receipt of further direction from VCE.

D. 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 VCE'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 VCE:

Valley Clean Energy Alliance
604 Second Street
Davis, CA 95616
Attention: Executive Officer

TO CONSULTANT:

Kirk Brown, CEO
REACH Strategies
100 Shoreline Hwy Suite 100, Bldg. B
Mill Valley, CA 94941

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 VCE but shall be not less than 10 days) and according to the requirements set forth in VCE's written notice of default, and in addition to any other remedy available to VCE by law, the VCE Representative may terminate the Agreement by giving Consultant written notice thereof, which shall be effective immediately. The VCE 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 VCE's termination of this Agreement due to no fault or failure of performance by Consultant, VCE shall pay Consultant for services satisfactorily performed up to the effective date of termination. Upon termination, Consultant shall immediately deliver to VCE 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 VCE. Consultant shall have no other claim against VCE 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. VCE, 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 VCE 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 Yolo, 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 VCE to do otherwise.

23. **WAIVER**

A waiver by VCE 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 VCE 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. **VCE'S RIGHTS TO EMPLOY OTHER CONSULTANTS**

VCE 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 VCE'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 VCE 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 VCE'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 VCE 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 VCE 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.

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

RECOMMENDED FOR APPROVAL

REACH STRATEGIES

By: _____

Name: Kirk Brown

Title: CEO

Date: _____

VALLEY CLEAN ENERGY ALLIANCE

A Joint Powers Authority

By: _____

Name: Mitch Sears

Title: Executive Officer

Date: _____

APPROVED AS TO FORM:

Counsel for VCE

Exhibit A
Scope of Services

The scope that REACH Strategies is expected to work on includes but is not limited to:

1. Program Branding, Website and Social Media:

a. Working with existing program mission and branding style guides, refine style guides, and ensure alignment with VCE's Strategic Plan and Outreach and Marketing Plans.

b. Maintain and update multi-functional, multi-lingual website (English and Spanish).

c. Maintain and improve social media presence for VCE utilizing existing platforms in VCE member communities. Work with VCE staff to measure and improve marketing/communications analytics.

d. Develop/update program collateral including FAQs, program brochures, fact sheets and PowerPoint templates.

2. Marketing, Advertising and Press:

a. Manage and conduct press outreach - schedule editorial meetings; draft press releases, op-eds and news articles.

b. Maintain a social media presence for VCE on Facebook, Twitter, Instagram, and other platforms as requested.

Exhibit B
Schedule of Performance

Not Applicable

Intentionally Left Blank

Exhibit C
Compensation

VCE 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 Four Hundred Twenty-five thousand dollars (\$425,000), 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 VCE unless previously approved in writing by VCE.

Task	Estimated Budget
1. Marketing, Website, and Social Media Services	\$15,000/month
Total Not To Exceed Amount	\$425,000

Rates

Personnel	Title	Hourly
Kirk Brown	CEO and Project Lead	\$150.00
Oshi Jauco	Project Manager	\$145.00
Amy Riley	Project Manager	\$125.00
Susan Fogarasi	Web & Graphic Design	\$75.00
Finance Support		\$50.00
Project Support		\$50.00

Invoices

Monthly Invoicing: In order to request payment, Consultant shall submit monthly invoices to VCE 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). VCE shall pay all undisputed invoice amounts within thirty (30) calendar days after receipt up to the maximum compensation set forth herein. VCE 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 VCE.

Additional Services

Consultant shall provide additional services outside of the services identified in Exhibit A only by advance written authorization from VCE Representative prior to commencement of any additional services. Consultant shall submit, at the VCE 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.

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.

VALLEY CLEAN ENERGY ALLIANCE

RESOLUTION NO. 2022- ____

A RESOLUTION OF VALLEY CLEAN ENERGY ALLIANCE APPROVING AN AGREEMENT WITH REACH STRATEGIES FOR MARKETING, WEBSITE AND SOCIAL MEDIA SERVICES AND AUTHORIZING THE EXECUTIVE OFFICER IN CONSULTATION WITH LEGAL COUNSEL TO FINALIZE AND EXECUTE THE AGREEMENT

WHEREAS, the Valley Clean Energy Alliance (“VCE”) was formed as a community choice aggregation agency (“CCA”) on November 16, 2016, under the Joint Exercise of Power Act, California Government Code sections 6500 et seq., among the County of Yolo, and the Cities of Davis and Woodland, to reduce greenhouse gas emissions, provide electricity, carry out programs to reduce energy consumption, develop local jobs in renewable energy, and promote energy security and rate stability in all of the member jurisdictions. The City of Winters, located in Yolo County, was added as a member of VCE and a party to the JPA in December of 2019; and,

WHEREAS, in August 2022 a Request for Proposal (RFP) was released by Valley Clean Energy staff seeking proposals to provide customer outreach and marketing services; and

WHEREAS, VCE staff and several members of the VCE Community Advisory Committee reviewed and evaluated the RFP responses and completed interviews; and

WHEREAS, staff recommend that VCE enter into an agreement with REACH Strategies to provide marketing, website and social media services.

NOW, THEREFORE, the Board of Directors of the Valley Clean Energy Alliance resolves as follows:

1. The VCE Executive Officer, in consultation with VCE Legal General Counsel, is authorized to finalize, approve, execute, and extend on behalf of VCE the agreement with REACH Strategies for marketing, website and social media services for a term of two (2) years ending December 31, 2024, with a one-year option to extend and for a not to exceed amount of \$425,000.

PASSED, APPROVED AND ADOPTED, at a regular meeting of the Valley Clean Energy Alliance, held on the ____ day of December 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jesse Loren, VCE Board Chair

ATTEST: _____
Alisa M. Lembke, VCE Board Secretary

Exhibit A: REACH Strategies Consultant Agreement

EXHIBIT A

REACH STRATEGIES CONSULTANT AGREEMENT