

VALLEY CLEAN ENERGY ALLIANCE**Staff Report – Item 18**

TO: Board of Directors

FROM: Mitch Sears, Executive Officer
Gordon Samuel, Assistant General Manager and Director of Power Resources

SUBJECT: Wholesale Energy Services Agreement

DATE: December 8, 2022

RECOMMENDATION

Approve the Wholesale Energy Services (WES) agreement between VCE and The Energy Authority (TEA).

BACKGROUND

In October 2017, the VCE Board approved a Professional Services Agreement with Sacramento Municipal Utility District (SMUD), along with initial task orders to provide program launch and operational services. Soon thereafter, a series of additional Task Orders were added to the Agreement, including Task Order 3 to provide WES. A large portion of the scope of services identified in Task Order 3 expires in mid-2023 and the remainder (primarily resource adequacy support) expires at the end of 2023¹. SMUD indicated in early 2022 that it would be winding down its WES offering since it included activities outside those energy services that it needed to perform for its own operations (i.e. Resource Adequacy, CPUC regulatory activities such as PCIA and Integrated Resource Plan, etc.). It would, however, continue to offer non-WES support services to VCE and its other CCA clients.

At the September 8, 2022 Board meeting, staff informed the Board of the activities that would be occurring in the fourth quarter of 2022 related to the selection of a new WES provider for VCE. VCE and SMUD have been engaged in developing a WES transition plan in order to have a seamless hand-off from SMUD to a newly selected vendor. A pool of potential vendors was identified, and staff had informal discussions with potential vendors to gauge the vendors interest and the range of services they could provide. Staff issued a request for offers (RFO) for a wholesale energy services provider on September 26, 2022 and responses were received on October 14, 2022. Four qualified entities responded to the solicitation and the preferred vendor is TEA as a result of their qualifications, cost and ability to satisfy all the items identified in the scope of work².

¹ SMUD will continue to provide other essential services to VCE under the overall Agreement through at least 2025 (e.g. Call Center Services, Billing/Data Services, etc.)

² VCE's [Wholesale Energy Services Request for Proposals](#)

ANALYSIS

Wholesale Energy Services represent the core activities of VCE (and any other CCA): procuring electricity for its customers. An experienced and reliable service provider for the range of WES activities required by VCE is critical to the organization's continued success. Based on VCE's RFO process and knowledge of service providers built up over the past 4+ years of operations, staff believes that the recommended vendor has the required expertise, experience and importantly, the commitment to the success of VCE as a community based electricity provider.

Recommended Vendor

The Energy Authority (TEA) is a non-profit wholesale energy services company that is owned by seven public power utilities and provides services to another 60 community-owned load serving entities (LSEs) throughout the United States. TEA offers three unique advantages to California CCAs in delivering the services:

- **Nonprofit entity with CCA experience** – As a public power-owned service provider serving the California CCA community since 2015, TEA has an appreciation for the challenges, responsibilities, and risk tolerances that make CCAs unique. TEA exists to serve community-owned LSEs and is directed by the GMs/CEOs of seven public power entities.
- **California market expertise** – TEA actively trades in CAISO and is currently providing a subset or the whole set of services requested by VCE to eight operating California CCAs and one Energy Services Provider. TEA has the knowledge and experience to leverage this expertise for the benefit of its clients.
- **Deep California and WECC market experience** – TEA has deep trading and portfolio procurement expertise, experiences, and maintains relationships with key market participants throughout California and the western US. TEA's approach allows for flexible and cost-effective decision making and the ability to leverage economies of scale in work products and experiences.

TEA has over 240 employees at its two primary offices in Bellevue, Washington and Jacksonville, Florida. Services for VCE will be directed by staff located in California and TEA's Western Region Office. TEA currently provides some combination of scheduling coordinator (SC), portfolio management (PM), portfolio analytics, and/or load forecasting services to the following California LSEs:

- Central Coast Community Energy – SC, Congestion Revenue Rights (CRR), and Load Forecasting services
- Clean Energy Alliance (LA area) – SC & CRR services
- Desert Community Energy – SC & CRR, PM, Portfolio Analytics (PA), and Load Forecasting services
- Joint CCAs (Central Coast Community Energy, East Bay Community Energy, Peninsula Clean Energy, and San Jose Clean Energy) – Resource Adequacy (RA) procurement advisory & compliance services
- Merced Irrigation District – primarily PM services

- Orange County Power Authority – SC, CRR, and Load Forecasting services
- Redwood Coast Energy Authority – SC & CRR, PM, PA, and Load Forecasting services
- Roseville Electric Utility – Energy Risk Management and Hedging policies advisory services
- University of California – SC & CRR, PM, PA, and Load Forecasting services

Agreement

If approved by the Board, the services that TEA will be providing VCE are included in the attached agreement and are summarized below:

1. **Portfolio Management** -Advise on long-, medium-, and short-term resource optimization, including procurement strategies, solicitation structure and timing, preferred products, and trade-offs among these, taking account of the risk management strategies and requirements adopted by VCE;
- 2) **Scheduling Coordinator (SC)**. VCE has contracted through power purchase agreements (PPAs) for the output from variable energy resources (VER), storage resources, hybrid or co-located solar + storage resources, and firm renewable PPAs, and may add additional resources. The SC will forecast, schedule and validate settlement for VCE's contracted generating resources;
- 3) **Long Range Load Forecast** including the development of a long term (10 yr) load forecast model by customer load class, to use for planning and budgeting; and
- 4) **Credit Support** needed to facilitate transactions associated with VCE's power supply, excluding the long-term PPAs executed in VCE's name.

Agreement Terms

Staff is recommending that the initial term of the agreement be three (3) years with the right to extend for two (2) additional two (2) year terms. This would provide certainty and stability over the next several years as VCE transitions from a portfolio of short-term energy contracts to one focused on longer term power purchase agreements. For the services described above the three-year total cost would be \$2,476,900. This amount represents a net reduction in cost for the range of WES services VCE currently contacts for.

CONCLUSION

The wholesale energy services scope is an extremely important function for VCE. The partnership VCE has had with SMUD has been instrumental in VCE's success to date and transitioning to TEA is important to VCE's future success. The role impacts over 80% of VCE's annual budget so it is important to partner with a well-established, proven entity like TEA. Staff is recommending Board approval of WES agreement between VCE and TEA.

ATTACHMENTS

1. The Energy Authority Agreement
2. Resolution 2022-XXX

ATTACHMENT A

**AGREEMENT BETWEEN THE VALLEY CLEAN ENERGY ALLIANCE
AND
THE ENERGY AUTHORITY, INC.
FOR
PORTFOLIO MANAGEMENT, SCHEDULING COORDINATOR, LOAD FORECASTING, AND CREDIT
SUPPORT SERVICES**

THIS AGREEMENT is entered into this _____ day of _____, 202_ (the "Effective Date"), 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 **THE ENERGY AUTHORITY, INC.**, a Georgia non-profit corporation, whose address is 301 W. Bay Street, Suite 2600, Jacksonville, Florida 32202 (hereinafter referred to as "Consultant" or "TEA") (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 portfolio management, scheduling coordinator, load forecasting, and credit support 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 the Effective Date, and shall remain in effect for a period of three (3) years (the "Initial Term") from the Effective Date, unless terminated earlier as set forth herein. At the end of the Initial Term, the Agreement may be renewed for two (2) additional two (2) year terms (each a "Renewal Term"), upon written agreement by the Parties or terminated. Notwithstanding the foregoing, the commencement of

services under this Agreement shall not occur prior to the date this Agreement is executed by both Parties.

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 two million four hundred seventy-six thousand nine hundred dollars (\$2,476,900.00) 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 generally recognized as being employed by professionals in the same discipline in the State of California 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 not be responsible to VCE for any errors or omissions in the performance of work pursuant to this Agreement unless such errors are the result of Consultant's gross negligence or willful misconduct. Should any such 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.

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.

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, each Party shall, at its sole cost and expense, defend, hold harmless and indemnify the other Party and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those agents serving as independent contractors in the role of Party 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 reasonable fees of accountants, attorneys, or other professionals and all costs associated therewith (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 a Party, its officers, agents, servants, employees, subcontractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that the Party 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 gross negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. The indemnifying Party 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. The indemnifying Party shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

B. The cumulative maximum amount of either Party's Liabilities, if any, arising from any and all claims, lawsuits, actions, other legal proceedings by the other Party or any other person or entity arising out of or in connection with performance or nonperformance hereunder, whether based upon contract, warranty, tort, strict liability, or any other theory of liability, shall be no more than six (6) months' compensation hereunder (exclusive of payments made for any power supply or expenses).

C. Risk Management Services. In providing services under this Agreement, in no event shall Consultant be liable to VCE for losses which VCE may incur by reason of engaging in risk management strategies recommended by Consultant, whether or not implemented by VCE, or due to recommendations not made by Consultant in the provision of any risk management services, unless such losses are the result of gross negligence or willful or reckless misconduct on the part of Consultant.

D. Intellectual Property. 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 but not limited to 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. Such IP Rights shall remain the exclusive property of Consultant. 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.

E. 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.

F. Each Party'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: 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 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 to his/her/its insurance for recovery, as opposed to any insurance held by VCE. 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 have an immediate right to terminate this Agreement at VCE's option.

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; NON-EXCLUSIVE RELATIONSHIP.

- A. Each Party 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. Each Party 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.
- B. VCE hereby expressly acknowledges that part of the value of the services to be provided by Consultant comes from Consultant providing the same or similar services as contemplated under this Agreement to other entities. VCE acknowledges that the expertise and business plan of Consultant requires that it be able to represent multiple parties and that the services rendered thereby are and may be beneficial to VCE.
- C. Notwithstanding the nature of the Services, VCE specifically acknowledges that Consultant is not precluded from representing or performing similar or related services for, or being employed by, other persons, companies, or organizations, provided that such services do not violate any applicable conflict of interest laws.
- D. VCE further acknowledges that VCE, from time to time, has established or may establish contractual relationships with users of power resources or natural gas, and generators or producers of such power resources or natural gas. Notwithstanding the existence of such contractual relationships, VCE desires the assistance of Consultant as provided in this Agreement. VCE specifically represents to Consultant that the existence of such contractual relationships does not in and of itself create a conflict of interest unacceptable to VCE.
- E. The Parties specifically recognize and accept that there may be purchases and sales of power, natural gas, and financial instruments between and among Consultant's clients, including VCE, and that such transactions are the normal course of business in providing the services and do not create any conflict of interest for Consultant in carrying out its obligations pursuant to this Agreement.
- F. 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**

Neither Party shall 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 the other Party. 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.

13. **SUBCONTRACTOR APPROVAL**

Consultant will provide VCE with a list of key staff who have been designated to work on VCE's services. However, VCE acknowledges that any of Consultant's employees may provide support services for VCR from time-to-time. Unless prior written consent from VCE is obtained, only those 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 any subcontract(s) with any and all subcontractors selected by Consultant to perform services for VCE 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 to perform services for VCE 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. Consultant shall provide a copy of the Indemnity and Insurance provisions of this Agreement to any subcontractor who is hired to perform services for VCE. Consultant shall require any such 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 specifically and exclusively for VCE pursuant to this Agreement, shall be the

exclusive property of VCE. Consultant shall not copyright any Report required by this Agreement 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 reasonably 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 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 all reimbursed costs, expenses, and receipts 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. During the term of this Agreement and for a period of three years from the date of final payment under this Agreement, and no more than once per year, Consultant shall provide reasonable access, during its normal hours and at VCE's own expense, to such books and records to a representative of VCE or its designee to examine and audit same, and to make transcripts therefrom as necessary. Copies of audit reports shall be provided to Consultant upon Consultant's payment of reasonable copying and delivery costs. 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. Consultant's Client Service Manager for

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

17. **INFORMATION AND DOCUMENTS**

A. The Parties agree 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 be subject to the terms of the Non-Disclosure Agreement in Attachment B hereto.

B. 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.

C. The Parties’ 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:

For billing and invoices:

Attn: Alisa Lembke

Phone: (530) 446-2750

Email: Accounting@valleycleanenergy.org

For all other notices:

Valley Clean Energy Alliance

604 Second Street

Davis, CA 95616

Attention: Executive Officer

TO CONSULTANT:

For billing and invoices:

The Energy Authority, Inc.

301 West Bay Street, Suite 2600
Jacksonville, FL 32202
Attention: Accounts Payable Department
E-mail: accountspayable@teainc.org

For all other notices:

The Energy Authority, Inc.
301 W. Bay Street, Suite 2600
Jacksonville, Florida 32202
Attention: Legal Department
E-mail: legal@teainc.org

19. **TERMINATION**

In the event either Party fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, such Party shall be deemed in default in the performance of this Agreement. If a Party fails to cure the default within the time specified (which shall be not less than 10 days) and according to the requirements set forth in the written notice of default, and in addition to any other remedy available to a Party by law, the VCE or Consultant Representative may terminate the Agreement by giving the other Party written notice thereof, which shall be effective immediately.

The VCE or Consultant representative shall also have the option, at its sole discretion and without cause, of terminating this Agreement by giving 'six (6) months' prior written notice to the other Party as provided herein.

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 performed up to the effective date of termination. Upon termination, Consultant shall promptly 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, provided, however, that Consultant may retain copies of information contained in Consultant's backup archives or necessary for Consultant's compliance, audit requirements, tax, billing, or other financial purposes, to be used solely for such purposes and maintained at the standard set forth in the NDA or as Consultant maintains its own confidential information, whichever is more stringent.

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20. **COMPLIANCE WITH LAWS**

Each Party 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. Each Party shall, at all times, observe and comply with all such laws and regulations. A Party, and its officers and employees, shall not be liable at law or in equity by reason of the failure of the other Party 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**

Neither Party shall 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 other Party to do otherwise. Notwithstanding the above, Consultant acknowledges that VCE is a public agency subject to the Brown Act and Public Records Act and may be required to discuss the Agreement or services performed hereunder, or provide such related documents under these laws.

23. **WAIVER**

A waiver by a Party 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.

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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**

Neither Party shall be liable for any failure to perform its obligations under this Agreement if 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. **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.

32. **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.

33. **SUCCESSORS AND ASSIGNS**

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

34. **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.

35. **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.

36. **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.

THE ENERGY AUTHORITY, INC.

By: _____

Name: _____

Title: _____

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

During the Term of this Agreement, TEA shall provide to VCE certain program operation services (hereinafter, the “Operational Services” or “Program Operations”) as more particularly described herein. For purposes of this Agreement, the Operational Services provided by TEA are separated into and described in Section A.2 (Portfolio Management), Section A.2 (Scheduling Coordinator), Section A.3 (Long Range Forecast), and Section A.4 (Credit Support). Section A.1 (Provision of Trading Services and Allocation of Trading Products) describes the relationship between Parties as it pertains to the provision the Operational Services.

Section A.1 Provision of Trading Services and Allocation of Trading Products

A.1.1 Provision of Trading Services – TEA as principal in transaction.

A.1.1.1 TEA shall provide trading services on behalf of VCE with TEA acting as principal in the transaction utilizing trading agreements between TEA and its counterparties (referred to herein as TEA “trading as principal”), including, but not limited to, transacting as principal in the transaction with third parties for electricity products or with the CAISO. Trading as principal shall include electric power, renewable energy credits, resource adequacy capacity, CAISO services, associated transmission, and other related or ancillary services (collectively, “Trading Products”) between TEA and its counterparties. In performing such trading services, TEA will, on the terms and subject to the conditions set forth in this Agreement, be entitled to enter into matching purchase or sale transactions with VCE and third party transaction counterparties (“Transaction Counterparties”) under which TEA may purchase Trading Products from VCE for resale to one or more Transaction Counterparties, or may purchase Trading Products from one or more Transaction Counterparties for resale to VCE (any such transaction with a Transaction Counterparty a “Matching Transaction”).

A.1.1.2 Unless otherwise mutually agreed to by the Parties, any Trading Products purchase or sale transaction between TEA and VCE under a Matching Transaction shall be on the same terms and conditions (except for billing and payment, which shall be pursuant to this Agreement) as the terms and conditions of the applicable Matching Transaction between TEA and the applicable Transaction Counterparty. In the event that TEA purchases Trading Products on behalf of VCE in a Matching Transaction, TEA shall resell such Trading Products to VCE at the same price as TEA paid for such Trading Products, and VCE shall pay TEA the amount payable by TEA to the Transaction Counterparty and the amounts payable to any third parties related to the purchase of Trading Products, including, but not limited to, transmission service charges, transmission loss payments costs, CAISO fees and assessments, and the like, incurred by TEA. In the event that TEA purchases Trading Products from VCE for purposes of resale to a Transaction Counterparty under a Matching Transaction, TEA shall pay to VCE the amount paid by the Transaction Counterparty to TEA less the amounts payable to any third parties related to the purchase of Trading Products from VCE and resale to the Transaction Counterparty, including,

but not limited to, transmission service costs, transmission loss payments, CAISO fees and assessments, and the like, incurred by TEA.

A.1.1.3 Notwithstanding any provision of this Section to the contrary, if the Transaction Counterparty to a Matching Transaction is another TEA client for which TEA is providing trading services, the price of the transaction shall be set at market.

A.1.1.4 Notwithstanding any terms of this Agreement, nothing contained in this Agreement hereto shall be construed as requiring TEA to execute any transaction as principal in the transaction where such transaction or traded commodity or instrument is regulated under regulations promulgated pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”).

A.1.1.5 VCE agrees to provide credit enhancement to support VCE specific transactions executed by TEA as principal in the transaction, as more particularly described in Section A.5 below. In the event that VCE is unable to provide such requested credit enhancement, TEA will attempt to source supply from CAISO, but only to the extent of TEA’s credit limit with CAISO related to VCE transactions. In the event TEA is unable to source supply from CAISO, then TEA shall have no obligation to proceed with any transaction in regard to which the enhancement was requested. To the extent that VCE prefers to enter directly into a contract with the counterparty, TEA may execute the transactions as VCE’s agent, provided the counterparty’s credit requirements are met by VCE. In any such case, VCE becomes the principal to the transaction with the counterparty and the counterparty relies on VCE’s credit.

A.1.1.6 TEA shall not be liable to VCE for the failure of any counterparty, including but limited to any Transaction Counterparty (i.e. when TEA is trading as principal in the transaction), to pay or perform on its obligations. In the event of such failure by a Transaction Counterparty, TEA shall pursue any action against such defaulting entity at the direction of VCE, at VCE’s sole cost and expense.

A.1.1.7 Under no circumstances shall TEA be liable to VCE for the failure of CAISO to pay, or for assessments made by the CAISO for any of the CAISO’s Scheduling Coordinators’ failure to pay or perform, related to transactions with the CAISO performed on VCE’s behalf by TEA as principal in the transaction (i.e. TEA acting as Scheduling Coordinator on VCE’s behalf), unless such failure to pay or assessments result from TEA’s breach of this Agreement, subject in all cases to the limitations contained in Section 9 hereof.

A.1.1.8 If VCE interrupts a financially firm sale transaction without the contractual right to do so, TEA shall use reasonable efforts to purchase replacement capacity and energy in the wholesale marketplace and deliver it. VCE shall receive any resulting gain or be responsible for any resulting loss on the transaction.

A.1.1.9 Unless otherwise mutually agreed to by the Parties in writing, TEA shall have no obligation to enter into transactions on behalf of VCE utilizing TEA's trading agreements that extended beyond the current termination date of this Agreement, which termination date shall be the last day of the current (i) Initial Term or (ii) if applicable, Renewal Term. If the term of this Agreement is terminated early due to an Event of Default other than bankruptcy, then for existing transactions, TEA and VCE will continue to operate under the terms of this Agreement with regard to such transactions until such time as the individual transactions terminate or are fully settled. Nothing in this Agreement shall prevent TEA and VCE from agreeing to settle any such transaction prior to the previously agreed settlement date of the transaction. Obligations between the Parties to pay for transactions or other Services effected or rendered hereunder shall remain in force notwithstanding the termination of this Agreement.

A.1.2 Provision of Trading Services – TEA as agent in transaction.

A.1.2.1 As mutually agreed to in writing by the Parties, TEA will provide trading services pursuant to this Agreement by trading as agent for VCE utilizing trading agreements between VCE and its counterparties. VCE agrees that effecting a change from TEA trading as principal to TEA trading as agent under transactions made on VCE's behalf does not release VCE from its obligations to TEA resulting from obligations incurred by TEA under transactions made while trading as principal.

A.1.3 Allocation of Trading Products

A.1.3.1 VCE recognizes that from time to time the Trading Products (as defined in Section A.1.1.1 of this Agreement) that TEA purchases or sells for VCE and other entities may require allocation of amounts available among all such entities including VCE. Decisions by TEA to transact VCE's Trading Products in the market will be made on a non-discriminatory basis and will be based on the same methods and procedures used to purchase or sell Trading Products on behalf of TEA's other clients that hold agreements similar to this Agreement.

Section A.2 Portfolio Management

A.2.1 Power Purchases

Subject to Section A.1 of the Agreement, TEA shall provide trading services on behalf of VCE with TEA acting as principal or agent in the transaction utilizing trading agreements between TEA and its counterparties, including but not limited to transacting with third parties or with CAISO for electricity products, including energy, resource adequacy capacity, ancillary services, and environmental attributes. As part of this effort TEA shall develop, maintain, and manage relationships with qualified market participants on behalf of VCE.

///

A.2.2 Long-Term Power Procurement

TEA shall assist VCE with (i) issuing RFPs for power supplies, (ii) evaluating bids and developing short-lists and (iii) negotiating the business terms of agreements for long-term power with the prevailing candidates. As part of this effort TEA shall develop, maintain, and manage relationships with qualified market participants on behalf of VCE.

A.2.3 Financial and Portfolio Modeling

For the purposes of ongoing risk analysis, budgeting, financial planning, portfolio optimization, and other applications, TEA shall maintain a financial/portfolio model of VCE's financial projections, which typically include load, rates design, resources with associated costs, market prices, various fixed costs and CAISO fees, executed short-term market transactions, program goals and compliance requirements, and any other variables, as necessary, to inform a complete cost and power portfolio picture for VCE, including hedges, RA, and environmental procurement. TEA shall coordinate with VCE staff on all necessary inputs required to derive an accurate financial and power portfolio projection. The financial model shall be updated daily with the most recent market price information and hedge transactions. VCE shall have on-demand access to the most recent model runs through a web portal.

A.2.4 Risk Modeling

For the purposes of ongoing risk analysis, portfolio optimization, and other applications, TEA shall apply its modeling framework for VCE. The risk model generates scenarios by using inputs for several variables that may include market implied heat rates, natural gas prices, power prices, load variables, and other relevant inputs. The risk model will be used as an important component to the entire risk management function, including calculating potential variability in VCE's cash flows to inform the analysis and recommendation of hedging transactions.

A.2.5 Advisement on Portfolio Optimization

TEA shall provide advice to VCE staff regarding long-, medium, and short-term resource optimization, including recommended procurement strategies, solicitation structure and timing, preferred products to meet VCE's defined goals and targets, and trade-offs among these, taking into account all power procurement policies and risk management guidelines as well as TEA's ongoing market fundamentals and technical analyses.

A.2.6 Congestion Revenue Rights ("CRR") Bid Strategy Development and Implementation

TEA shall manage the annual and monthly CRR nomination and allocation process on behalf of VCE. Annually and monthly, TEA shall provide VCE with an estimate of the dollar value of the potential CRRs based upon historic and forecasted Locational Marginal Prices for the source and sink pricing nodes associated with the applicable source and load pricing nodes, and TEA shall consult with VCE to select the CRRs to nominate. Selection of any CRRs to nominate shall be at VCE's sole discretion. TEA shall nominate any CRRs selected by VCE and TEA shall notify VCE of the CRRs awarded for VCE's account. TEA shall review the settlement statement and invoices associated with the CRRs for accuracy. Unless otherwise agreed by the Parties, VCE shall be responsible for any required collateral support due to the CAISO to support the CRR auction process.

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A.2.7 Undertaking Continual Risk Management

TEA shall assist VCE in maintaining its formal framework for performing continual risk management as memorialized through VCE's approved risk management policy and procedures documents. TEA will also assist VCE in developing and maintaining these prudent power procurement policies, risk management policies, credit policies, and long-term hedging guidelines. This effort will be overtaken jointly by TEA's Portfolio Management team and its Credit & Risk team, which shall perform mid-office functions on VCE's behalf, such as counterparty credit evaluation and limit monitoring.

TEA shall be available on a monthly basis for a meeting with members of VCE's enterprise risk oversight committee (EROC) meetings. TEA shall compile all risk-related information related to its Operational Services into a single document or presentation that can be reviewed and discussed at the monthly meeting. Upon approval by VCE, the results of the monthly meeting shall serve as the approved strategy guide for TEA market activities on behalf of VCE for the prompt month. This agreed upon strategy shall be consistent with VCE's program goals, risk policies, and compliance requirements. The strategy will incorporate TEA's current market outlook and discussion of expected VCE loads and resources. The Parties agree no strategy shall be adopted which violates the risk policies of VCE or TEA.

At VCE's direction, a TEA representative shall be available on a quarterly basis to help prepare and present to the VCE Board of Directors on risk management, financial, and procurement-related issues.

A.2.8 Regulatory and Legal Compliance

TEA shall perform the following compliance related activities:

- Prepare and submit monthly and annual Resource Adequacy ("RA") showings to the California Public Utilities Commission ("CPUC") and CAISO and otherwise act as a point of contact with regulatory agencies regarding RA requirements and compliance;
- Prepare and submit historical load, monthly, and annual load forecasts to the CPUC and California Energy Commission ("CEC"), and separately to PG&E as part of the Electric Resource Recovery Application Meet and Confer process;
- Prepare and submit annual filing and verification documentation for the CA Air Resources Board's ("CARB") Mandatory Reporting Requirement, and, in the event that VCE is a first importer of power, support the efforts of a third-party verification body on behalf of VCE;
- Assist VCE with preparing its annual RPS Procurement Plan and RPS Compliance Report;
- Assist VCE with preparing annual Power Source Disclosure and Power Content Label;
- Support or review of portfolio-related quantitative data for VCE's IRP and review of all narrative text as requested; and
- Assist VCE with preparing responses to CPUC data requests, as needed

TEA's contractual obligations under this section shall be limited to performing the activities outlined above and preparing the required load and/or generation data in a format consistent with that established by the applicable regulatory agency and/or VCE. Certain compliance filings may require VCE or VCE's legal counsel to assist with preparing written documentation and providing submittals to the appropriate service list.

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TEA shall monitor regulatory and compliance obligations and requirements associated with operating in the CAISO market and under the various regulatory agencies applicable to VCE and the Operational Services provided by TEA, e.g. TEA shall report on changes to the RA processes or market rules by the CAISO, CPUC, CEC, or other regulatory bodies and discuss potential impacts to VCE with VCE staff.

Section A.3 Scheduling Coordinator

TEA shall be the Scheduling Coordinator (“SC”) in the CAISO market on VCE’s behalf and shall provide a comprehensive suite of SC and related services to fulfill the requirements of a SC, including meeting all FERC and CAISO-related requirement for an SC. TEA shall conduct the following activities while performing its duties and responsibilities as SC on VCE’s behalf:

- **Maintain credit facilities with CAISO.** Subject to Section A.5 contained herein, TEA shall maintain credit with the CAISO sufficient to make payments to, and receive payments from, the CAISO on VCE’s behalf.
- **Provide daily forecast of VCE hourly loads.** Each business day TEA shall generate an hourly forecast of loads for the next 7 days for VCE. TEA shall periodically reconcile the short-term load forecast with VCE’s long-term load forecast to reduce forecasting errors.
- **Submit demand bids to Day Ahead (“DA”) market.** TEA shall submit Demand Bids to the CAISO Day Ahead Market to meet VCE’s forecasted load requirements. TEA shall monitor and compare Demand Bid information resident in the CAISO portal with submitted information and use commercially reasonable efforts to validate Day Ahead Market data submissions.
- **Submit supply bids to DA and Real-Time market (both economic and self-schedule).** To the extent that TEA enters into agreements on behalf of VCE or VCE directly enters into agreements with generators to acquire the output of a specific generating resource, TEA shall provide the scheduling, optimization, and settlement activities required to schedule VCE’s supply agreements with CAISO, including outage coordination. For any supply agreements linked to a specific generation source, VCE shall require its counterparty to provide TEA with a forecast of expected hourly generation levels that TEA will use in submitting day-ahead supply offers to CAISO.
- **Develop resource optimization strategies.** TEA shall monitor resource performance on behalf of VCE and provide recommendations for resource scheduling and dispatch to support portfolio optimization strategies. This includes the use of TEA’s priority STORA software for battery storage (co-located, hybrid, or standalone) dispatch optimization, which will be customized for each applicable VCE resource. TEA shall also analyze and monitor contract requirements for each resource and provide recommendations and strategies to utilize contractual provisions to VCE’s benefit.
- **Support on-boarding of new resources into VCE portfolio.** TEA shall provide pre-commercial online date support, including but not limited to modeling and support during resource testing, incorporating resources into existing systems, typing Scheduling Coordinator Identification Number (SCID) to resources, determining objectives and constraints for optimizing resources, developing bidding strategies, and providing metrics for performance.
- **Settlement validation and allocation of costs.** TEA shall use reasonable efforts to validate CAISO invoices. Should TEA and VCE elect to dispute a CAISO invoice amount, TEA shall file a dispute with CAISO pursuant to the CAISO tariff. Once a dispute determination has been made

by CAISO, further appeals or action from TEA on VCE's behalf would be provided as requested and paid for by VCE on a time and materials basis using the billing rates provided in Exhibit C herein.

- **Act as VCE's UAA.** TEA shall provide all necessary functions as VCE's UAA, including coordinating with VCE, counterparties, and the CAISO for data & documentation needs, as well as providing access to the relevant CAISO Market Participant Portal tools.
- **Maintain appropriate back-office and mid-office functions to support SC efforts.** TEA shall maintain a robust back-office and mid-office in support of its SC work for VCE, including operating a deal capture system that meets all FERC requirements, performing month-end checkouts and settlements for physical and financial energy, energy related product transactions, inter-SC trades (ISTs) and initiate and process related disputes, and providing other contract management functions as Parties mutually agreed
- **Perform Additional Tasks.** In addition to the above, TEA shall provide the following:
 - Import schedule, as required, including preparing e-tags.
 - Coordinating with generation operators to forecast generation.
 - Coordination of unit outages with generation operators and CAISO
 - IST for system power transactions
 - Coordinate with VCE's third-party meter data management provider to obtain settlement quality meter data as necessary
 - Provide data and data analysis as needed to support VCE compliance reporting.
 - Act as VCE's WREGIS Agent and provide REC compliance coordination and reporting
 - Develop, maintain, and provide regular daily and monthly reports regarding the above activities performed as SC, including engagement in VCE's monthly EROC meetings or weekly operational briefings

Section A.4 Long Range Load Forecast

TEA shall develop and maintain a long-term (10-year) load forecast model by customer load class for use by VCE and TEA staff in portfolio planning and financial planning. TEA's load forecast will be developed via appropriate AI and machine-learning modeling techniques. The long-term load forecast will incorporate, as appropriate:

- Historical load data and customer counts
- Historical economic data
- Quantitative & qualitative impacts from prevailing conditions and forecasted developments (e.g. increased distributed energy resource penetration)
- Scenario analysis as requested, including building electrification, EV adoption, etc.

TEA shall update VCE's long-term load forecast in Q1 of each year to meet various compliance requirements, and will revise as needed in the remainder of the year.

Section A.5 Credit Support

TEA shall provide credit support services to VCE by acting as principal (as described in Section A.1.1) on all wholesale market and bilateral transactions going out 24 months, contingent on VCE meeting TEA creditworthiness and credit assurance standards, as determined via a review of two years of audited financials and/or an assigned investment-grade credit rating. Credit assurance standards may include a

requirement of cash or letter of credit posting by VCE for transactions undertaken by TEA as principal above a set credit support limit.

Upon both Parties' written agreement, TEA shall act as agent (as described in Section A.1.2) for transactions beyond 24 months in term.

Exhibit B
Schedule of Performance

TEA shall begin Program Operations on behalf of VCE as described in the table below. Both parties acknowledge that several months of start-up effort will be required to transition the full scope of services as described in Exhibit A to TEA due to logistical constraints, prudent risk management practices, and regulatory/compliance requirements.

As described in Section 1, TEA's services may be renewed for up to two additional two-year terms upon written agreement by both parties.

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

Task	Begin	Complete
1. Section A.2 Portfolio Management	01/01/2023	12/31/2025
2. Section A.3 Scheduling Coordinator	01/01/2023	12/31/2025
3. Section A.4 Long Range Load Forecasting	01/01/2023	12/31/2025
4. Section A.5 Credit Support Services	01/01/2023	12/31/2025

Exhibit C
Compensation, Settlement, Billing, and Payment Terms

Section C.1 Compensation

VCE shall compensate Consultant for professional services in accordance with the terms and conditions of this Agreement based on the fixed monthly fee for each year of the three-year Initial Term as 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 two million four hundred seventy-six thousand nine hundred Dollars (\$2,476,900), 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.

Section C.1.1 Monthly Fixed Fee

Task	Year 1 Monthly Service Fee (\$/Month)	Year 2 Monthly Service Fee (\$/Month)	Year 3 Monthly Service Fee (\$/Month)
Section A.2 Portfolio Management	██████████	██████████	██████████
Section A.3 Scheduling Coordinator	██████████	██████████	██████████
Section A.4 Long Range Load Forecasting	██████████	██████████	██████████
Section A.5 Credit Support Services	██████████	██████████	██████████
Total	██████████	██████████	██████████

As described in Section 1, Consultant’s services may be renewed for up to two additional two-year terms upon written agreement by both parties. If the Agreement were extended for one or more Renewal Term(s), the Monthly Service Fee would be escalated annually at the greater of CPI or 3%,

Section C.1.2 Hourly Billing Rates

For additional services not provided for in Exhibit A and requested by VCE, VCE shall pay TEA on a time and materials basis using the hourly billing rates provided in the table below. TEA’s billable hourly fees, if any, will be tracked and itemized for each month in which additional TEA services are performed.

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TEA 2023 Billing Rates⁽¹⁾	
Job Group	Billing Rate (\$/hour)
Principal Consultant	\$357
Senior Consultant / Project Manager	\$305
Consultant	\$221
Analyst	\$173
Clerical	\$110
<i>⁽¹⁾Billing rates subject to change after December 31, 2023.</i>	

Section C.1.3 Invoices

C.1.3.1 Monthly Invoicing: In order to request payment, Consultant shall submit monthly invoices to VCE for the applicable Monthly Service Fee describing the services performed and the applicable charges. Any additional fees associated with billable hourly fees or reimbursable expenses will include an itemization of any costs, charges, or expenses incurred which are reimbursable to Consultant (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. Payments shall be made via electronic transfer as either an Automated Clearing House or wire transfer in United States Dollars. Payments owed pursuant to this Agreement and not received when due shall be considered overdue. Consultant reserves the right to charge interest on any unpaid amounts at a rate equal to the prime interest rate as established by PNC Bank, N.A. plus 300 basis points.

Independent of fees paid for services under this Agreement, VCE shall reimburse Consultant for all reasonable actual costs and charges assessed against Consultant incurred in the performance of services, which are approved in writing in advance. Any such obligations that are incurred prior to termination of this Agreement shall survive the termination of this Agreement.

In the event that any portion of an invoice for Consultant's compensation is in dispute, the undisputed amount shall be paid when due and payment may be withheld on the disputed amount. VCE shall notify Consultant as soon as practical of the reason for the dispute, and the Parties shall cooperate to resolve the dispute.

C.1.3.2 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. Actual out-of-pocket expenses for travel and participation in on-site meetings are in addition to the compensation for Services as outlined above. Travel costs such as airfare, hotel, ground transportation, per diem or meals (hereinafter, "Expenses") shall be billed in the amount incurred by Consultant for actual out-of-pocket cost, without any additional mark-up by Consultant. Any Expenses incurred shall be billed for the month in which the Expenses are incurred. Air travel shall be purchased

at coach class fares, with advance purchase discounted tickets used when scheduling permits. Expense reports detailing all Expenses, along with receipts, shall be presented to VCE for reimbursement.

C.1.3.3 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.

Section C.2 CAISO Settlement, Billing, and Payments

TEA shall provide services as Scheduling Coordinator ("SC") representing VCE in CAISO. TEA shall provide VCE with a statement of CAISO settlement activities on a regular basis in coordination with CAISO's settlement calendar (i.e., currently weekly). Additionally, each month TEA shall provide VCE with an aggregate or estimate of VCE Transactions based on available information from CAISO. For Transactions executed by TEA as principal in the Transaction for VCE's account within CAISO, VCE shall owe TEA for the Transactions, and TEA shall make weekly payments to CAISO in a timely manner. Any amounts received from CAISO on behalf of VCE shall serve as a credit to the respective weekly payment by TEA to CAISO for Transactions made on behalf of VCE and due by VCE.

TEA shall use reasonable effort to validate CAISO invoices based on a review of actual CAISO charges. Should TEA and VCE elect to dispute a CAISO invoice amount, such dispute shall be in accordance with Section A.3 of this Agreement.

Section C.3 Physical Bilateral Power Transactions with TEA as Principal in the Transactions

For Transactions executed by TEA as principal in the Transaction for VCE's account with counterparties other than CAISO (such as non-CAISO counterparties referred to herein as "Bilateral Counterparties"), VCE shall owe TEA for the Transactions, and TEA shall make monthly payments to such Bilateral Counterparties, in a timely manner, contingent on the following:

On or before the 5th business day of each month, TEA shall provide VCE with an invoice or statement of TEA's monthly payment to Bilateral Counterparties (the "Monthly Payment") owed, including immediately preceding month's activities and settlement due related to Transactions with Bilateral Counterparties during the monthly billing period. Monthly Payments owed shall include any related penalty, interest, payments, or credits. If an amount is due VCE, considering all amounts owed between the Parties under this Agreement, then TEA shall make a payment to VCE. If an amount is due TEA, VCE shall make a payment to TEA by the 10th of each month. Payments shall be made by electronic transfer as either an Automated Clearing House ("ACH") or wire transfer in United States Dollars.

Notwithstanding the above provision of this Exhibit, billing and payment provisions for these Transactions are dependent upon the market rules or contracts governing the specific transactions. If said billing and payment provisions require earlier payments than the provisions of this Section, then billing and payment shall be in accordance with the earlier payment provisions of such contracts or market rules.

Section C.4 Other Products

For any other products which are not covered in Sections C.2 through C.3, and which are procured or transacted by TEA on behalf of VCE, VCE shall make payments to TEA at least one (1) business day in advance of the date payment is due.

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.

VALLEY CLEAN ENERGY ALLIANCE

RESOLUTION 2022-___

**RESOLUTION OF THE BOARD OF DIRECTORS OF VALLEY CLEAN ENERGY ALLIANCE
APPROVING AN AGREEMENT WITH THE ENERGY AUTHORITY, INC.
FOR PORTFOLIO MANAGEMENT, SCHEDULING COORDINATOR, LOAD FORECASTING,
AND CREDIT SUPPORT 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, the existing wholesale energy services agreement with Sacramento Municipal Utility District (SMUD) will expire in 2023; and,

WHEREAS, on September 26, 2022, a Request for Proposal (RFP) was released by VCE seeking proposals from qualified wholesale energy services company to provide portfolio management, scheduling coordinator (SC) services, load forecasting and credit support services on VCE’s behalf; and,

WHEREAS, VCE staff reviewed and evaluated the RFP responses and conducted interviews; and,

WHEREAS, staff recommend that VCE enter into an agreement with The Energy Authority, Inc. to provide portfolio management, scheduling coordinator, load forecasting, and credit support services.

NOW, THEREFORE, the Board of Directors of 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 The Energy Authority, Inc. for portfolio management, scheduling coordinator, load forecasting, and credit support services attached hereto for a not to exceed amount of \$2,476,900 for a term of three (3) years ending December 31, 2025, with two optional extensions of two years each.
2. The VCE Executive Officer, in consultation with VCE Legal General Counsel, is authorized to approve minor changes to the agreement so long as the term and price are not changed.

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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

Attachment: The Energy Authority Agreement