

**Task Order 4  
Operational Staff Services**

In order to Launch VCEA's CCE Program, SMUD and VCEA agree to the following services, terms, and conditions described in this Task Order. This Task Order is for Operational Staff Services (Task Order 4), the provisions of which are subject to the terms and conditions of the Master Professional Services Agreement (Agreement) between the Parties. If any specific provisions of this Task Order conflict with any general provisions in the Agreement, the provisions of this Task Order 4 shall take precedence.

The Effective Date of this Task Order 4 is the date of last signature below.

**1. SCOPE OF WORK**

SMUD will provide certain Operational Staff Services to VCEA for Phase 1: Program Development & Launch in order to prepare for and enable the successful launch of VCEA's Community of Choice Energy (CCE) Program; and Phase 2: Program Operations, in order to provide organizational capacity in VCEA's early years. As outlined in detail below, the following services will be delivered to VCEA. Additional or continued staff or professional services can be provided at any time during the Term of the Agreement through a mutually agreed upon Task Order or Task Order Amendment, subject to Section 7 below.

SMUD employees assigned to fulfill SMUD's obligations to VCEA will remain employees of SMUD, subject to SMUD direction, employment policies, and ethical obligations. The assigned SMUD employee will, under this Task Order 4, support VCEA under a staffing organizational structure as determined by VCEA. For the duration of this Task Order 4, SMUD shall assign a Principal level staff person to coordinate with VCEA on staffing related issues, including but not limited to staff planning and evaluation.

VCEA recognizes SMUD employees assigned to provide the services in this Task Order 4 will be primarily performing exempt work, and VCEA agrees not to interfere with the nature of their primary duties. To the extent VCEA wants the SMUD employees to work from VCEA's facilities, VCEA will provide required technology, tools, equipment, and any additional materials to perform their duties as assigned. And to the extent VCEA wants SMUD employees to work from VCEA's facilities, it is required to provide a safe working environment for the SMUD employees.

**1.1. Dedicated Operational Staff**

SMUD will provide dedicated full-time SMUD staff to meet VCEA's initial operational needs for launching a CCE Program. SMUD will assign dedicated operational staff to work at VCEA's local office within Yolo County. Policy-setting responsibility with regards to

VCEA remains solely within the power of the VCEA. The following three full-time positions employees will be provided assigned full-time to VCEA:

#### **1.1.1. Finance and Internal Operations**

Consistent with the goals of VCEA, SMUD will assign an employee to manage financial practices and critical operational, administrative and facility related functions of VCEA. This includes the development of the appropriate facilities, technology, and equipment to enable operational agility and the ability to quickly implement policy decisions and perform day-to-day work. This SMUD employee will provide financial forecasting, rate setting and budgeting processes aimed to assist VCEA to meet its financial goals, while providing proper controls and transparency to financial transactions. The SMUD employee responsibilities will include the following tasks:

- Facilitation of strategic plan development and implementation of VCEA goals and objectives;
- Provide operational oversight of office and capital needs;
- Oversight of administrative, office management, human resources, technology, and other support functions;
- Preparation of staff reports and recommendations to the VCEA Board;
- Provide ongoing operational budget development, maintenance, and reporting;
- Provide financial analysis and reporting, including financial statements and long-term analysis;
- Provide financial modeling of rate-setting and ongoing forecasting
- Provide accounting oversight, including Accounts Payable, Accounts Receivable, and periodic bank reconciliations;
- Provide annual audit preparations services;
- Establish appropriate internal controls and office systems;
- Handle cash management and credit risk analysis and controls;
- Provide contract and administrative vendor management;
- Provide financial advice on collections and write-off policies;
- Develop human resource and employment policies and HR management functions; and
- Other duties as assigned by SMUD to meet the needs of the VCEA CEO consistent with SMUD's ethical obligations.

VCEA will be permitted to call this employee by any title it may choose, for example Director of Finance and Internal Operations.

### **1.1.2. Marketing and Customer Care**

Consistent with the goals of VCEA, SMUD will assign a SMUD employee to manage the external marketing, key accounts, and public affairs function including related staff and contractors for VCEA. This employee will also provide oversight of the data management and call center functions. The SMUD employee responsibilities will include the following tasks:

- Development of customer service programs, policies and procedures;
- Oversight of and participation in key account, customer and community outreach, marketing, and public relations;
- Development of customer acquisition and retention strategies;
- Handle customer and community issues and complaint resolution
- Oversee customer satisfaction and market research initiatives
- Communications support to the VCEA Board; and,
- Staff Reports and recommendations to the VCEA Board;
- Other duties as assigned by SMUD to meet the needs of the VCEA CEO consistent with SMUD's ethical obligations.

VCEA will be permitted to call this employee by any title it may choose, for example, Director of Marketing and Customer Care.

### **1.1.3. Key Accounts**

SMUD will provide VCEA with professional key accounts services for designated commercial, industrial, and agricultural customer outreach. Staff services in this area will report up through the Director, Customer Care and Communications. The SMUD employee responsibilities will include the following tasks:

- Meet with customer & key stakeholder leadership to support strategic, long-term planning and goals of the customer and VCEA;
- Develop relationships with the customer and any relevant community organizations to help understand and address any challenges;
- Discuss operations and utility rate structure to identify changes that can save money and energy;
- Development of customer segmentations strategies to better serve business needs consistent to that customer segment; and
- When advanced energy services are available, introduce and facilitate the implementation of customer programs, services, and education programs to customers.

## **1.2. Professional Services**

The Parties acknowledge that SMUD will provide additional professional services as required by VCEA during the term of this Task Order 4. Additional professional services may be authorized by VCEA, and will be compensated at the rates and manner set forth in Section 5.2 of this Task Order 4 Professional Services Hourly Rates.

SMUD may assign highly skilled professional services staff to allow VCEA to flexibly leverage staff required for specific tasks or services. Professional services available are as follows:

- Accounting
- Collections Administration
- Customer program development and operation
- General and administrative
- Human resources
- Information technology
- Key Accounts
- Printing and mail services
- Regulatory
- Technical
- Other services as mutually agreed upon

## **2. NON-SOLICITATION**

For one (1) year after the termination of this Task Order 4, VCEA will not, directly or indirectly solicit for employment on behalf of itself (or its Affiliates) or any third party or any SMUD employee providing services pursuant to this Task Order, however, that notwithstanding anything in this Section to the contrary, VCEA may engage in general solicitations of employment not specifically directed toward any SMUD Employees and VCEA is not prohibited from considering any SMUD employee who elects to apply for employment with VCEA pursuant to the solicitation.

## **3. APPROVAL PROCESS / ACCEPTANCE**

Both Parties agree to perform tasks, review, and approve in a timely manner in order to maintain agreed upon timelines as set forth in the Deliverables Schedule (Appendix A) to this Task Order. SMUD will provide deliverables to VCEA's Interim General Manager or other designated staff for review by VCEA. Deliverables that require VCEA Board approval will be identified and time will be appropriately allocated in the project schedule.

## 4. TERM AND TERMINATION

### 4.1. Term of Task Order 4

This Task Order 4 will remain in effect through the term of the Agreement.

#### 4.1.1. Dedicated Operational Staff

Notwithstanding Section 4.1, Term of Task Order 4, SMUD will assign dedicated operational staff as described in Section 1.1 of this Task Order 4 for Finance and Operations and Customer Care and Communications to be available onsite at VCEA offices starting January 2, 2018, and continue for a minimum twelve (12) month period through December 31, 2018. At the conclusion of this initial twelve (12) month period, the Parties may mutually agree to extend or modify dedicated operational staff.

Notwithstanding Section 4.1, Term of Task Order 4, SMUD will assign dedicated operational staff as described in Section 1.1 of this Task Order 4 for Key Accounts to be available onsite at VCEA offices starting January 2, 2018, and continue for a minimum six (6) month period through December 31, 2018. At the conclusion of this initial six (6) month period, the Parties may mutually agree to extend or modify dedicated operational staff.

If the Parties decide to continue, the Parties will also determine the scope of services to be provided. Thereafter, at any time, the Parties may meet to discuss modifications in services or operational staffing as or termination of one or more services then currently provided. Any changes will be documented in a Task Amendment, as described in Section 7.

#### 4.1.2. Professional Services

Task Order 4 professional services as described in section **Error! Reference source not found.** will commence on the Effective Date of this Task Order 4, and will be available for utilization through the term of the Agreement.

The expiration or termination of this Task Order 4 shall not affect the term of the Agreement.

### 4.2. Termination

Either Party may terminate this Task Order 4 pursuant to Section 4 (“Term and Termination”) of the Agreement.

#### 4.2.1. Dedicated Operational Staff

In the event that VCEA chooses to terminate the use of one or more of the dedicated operational staff as described in Section 1.1 prior to the end of the term in Section 4.1.1 ,

VCEA will provide SMUD with no less than sixty (60) days advance notice in writing and will pay SMUD for the monthly prorated fees attributable to the terminated dedicated operational staff incurred to the date of termination. Such fees shall be due and payable thirty (30) calendar days after the date of invoice by SMUD to VCEA. Any employee badges, keys, and other hardware and/or equipment provided to SMUD staff by VCEA, will be returned to VCEA within fifteen (15) days of Termination.

In the event that VCEA chooses to modify the services provided by the dedicated operational staff, as described in Section 1.1, VCEA will notify SMUD and the parties shall meet and discuss the desired modification or termination of portions of the services provided and the impact on SMUD services and costs. If the parties agree to the modification it shall be memorialized in an amendment to this Task Order 4. If the parties do not agree, both parties retain their ability to terminate this Task Order as set forth herein.

#### **4.2.2. Professional Services**

VCEA may choose to terminate professional services as described in Section 1.2 at any time prior to the end of the term in Section 4.1.2 and VCEA will pay SMUD for the fees incurred to date. Such fees shall be due and payable thirty (30) calendar days after the date of invoice by SMUD to VCEA.

#### **4.3. Transition**

In the event of termination or modification of the Agreement or this Task Order 4, subject to the terms of the Agreement, SMUD shall provide to VCEA all such correspondence, information, and data prepared or collected by SMUD on behalf of VCEA under Task Order 4, kept in the ordinary course of business. The exact data, format and method of return will be reasonably agreed upon by the Parties.

### **5. COMPENSATION FOR SERVICES**

#### **5.1. Dedicated Operational Staff**

Dedicated operational staff will be provided at the following fixed annual fee, to be billed monthly to VCEA.

<b>Dedicated Staff</b>	<b>Fixed Fee</b>
Finance & Internal Operations	\$220,000
Marketing & Customer Care	\$220,000
Key Account Representative	\$190,000

Dedicated operational staff shall have no claim to wages, benefits, or any other rights provided by VCEA to its own employees. VCEA is not required to provide additional benefits to the dedicated operational staff. This not to exceed amount does not include: travel

or expenses defined in Section 0 of this Task Order 4 or any regulatory and market expenses as set forth in Section 8.2 of the Agreement or other pass through expenses as may be mutually agreed by the Parties.

### 5.2. Professional Services Hourly Rates

Services performed under this Task Order 4 are based on “time and materials” compensation structure. SMUD shall receive compensation, including authorized reimbursements, for services rendered under this Task Order at the rates set forth in Section 5.2 of this Task Order 4 Professional Services Hourly Rates. Additional Professional Services work may be requested by VCEA, and if agreeable to SMUD, will be compensated at the rates and manner set forth in Section 5.2.2 of this Task Order 4 Professional Services Hourly Rates.

The SMUD hourly billing rates in the schedule below are applicable to any work performed by SMUD under Task Order 4. Hourly rates are fixed through June 30, 2019, and are subject to escalation at U.S. Department of Commerce, Bureau of Labor Statistics, “Consumer Price Index-All Urban Consumers less food and energy” Series ID: CUUR0000SA0LIE annually thereafter.

Resources	Hourly Rate
SMUD CEO/VP	\$250.00
Principal	\$190.00
Senior Analyst/Specialist	\$150.00
Analyst/Specialist	\$100.00
Administrative	\$80.00

### 5.3. Travel and Other Expenses

Travel within Sacramento and Yolo counties is included at no cost to VCEA.

Other out-of-pocket expenses for travel and participation in on-site meetings outside Sacramento and Yolo Counties are in addition to the compensation outlined in Section 5 of this Task Order 4. Travel costs such as airfare, hotel, ground transportation, reasonable meals and/or per diem expenses will be billed in the amount incurred by SMUD for actual out-of-pocket cost, without any additional mark-up by SMUD. Any of these expenses incurred shall be invoiced, in arrears, for the month in which the expenses are incurred. Expense reports detailing all expenses, along with receipts, will be presented to VCEA for reimbursement. Materials will be billed at cost.

## 6. PAYMENT TERMS

Prior to the Launch Date, SMUD will record monthly fixed fee for dedicated operational staff and hours expended for the professional services of this Task Order 4, and provide a monthly

statement to VCEA for review and validation. Payment for these fees will be deferred until October 1, 2018, subject to Section 8.8 of the Agreement.

For services under this Task Order 4, VCEA shall pay all undisputed invoices within thirty (30) calendar days of the date of the invoice.

## **7. TASK AMENDMENT**

This Task Order 4 may be amended or otherwise modified by the Parties as provided in the Agreement.

It is mutually understood that business requirements, resources, and dates may change subject to the applicable terms of Task Order 4. Any changes to the scope defined in Task Order 4 will be addressed through a task order amendment process. Material changes that require a formal task amendment, are those which will specifically impact defined scope, schedule, budget, or resources.

## **8. CONFLICTS OF INTEREST**

SMUD and VCEA recognize their joint interests in working collaboratively to launch and operate a CCA. Both parties also recognize that to make that happen, SMUD employees are needed to assist VCEA in establishing and running its operations. Both parties recognize SMUD employees may at times be asked to make or come into situations in which they may be able to make or affect decisions that could potentially affect the SMUD employees' financial interests or that of their department's at SMUD. In such situations, VCEA understands and agrees that the SMUD employee shall take any and all necessary steps to comply with all ethics laws, including but not limited to the Political Reform Act and Government Code section 1090 et .seq., Such actions may include but are not limited to, recusing himself or herself from that decision and the decision making process. In such event, VCEA and SMUD, shall discuss staffing the matter and shall determine whether to assign the matter to a VCEA employee or to a different SMUD employee who does not have a potential conflict of interest. VCEA recognizes that the delegation of such decisions for these reasons will not be a breach of this Task Order or any other agreement between the parties.

## **9. OVERSIGHT OF DEDICATED OPERATIONAL STAFF**

SMUD shall hire, oversee performance, terminate, and take appropriate disciplinary action against all dedicated operational staff in compliance with SMUD's employment policies and in compliance with all applicable state and federal laws. SMUD will periodically survey VCEA as to its satisfaction with Dedicated Operational Personnel, but in all circumstances SMUD shall hire, oversee performance, terminate, and take appropriate disciplinary action against all such Dedicated Operational Personnel.



SMUD will maintain control over the direction of how any dedicated operational staff performs their duties. Dedicated operational staff will report to and coordinate with SMUD supervision as required by SMUD.

## **10. EMPLOYMENT-RELATED OBLIGATIONS TO DEDICATED OPERATIONAL STAFF**

### **10.1. Wage Obligations**

For all dedicated operational staff, SMUD will: (1) maintain all necessary personnel and payroll records; (ii) calculate wages and withhold taxes and other government mandated charges, if any; (iii) remit such taxes and charges to the appropriate government entity; (iv) pay net wages and provide appropriate documentation; and (v) abide by all applicable overtime requirements. SMUD assumes total responsibility for payment of all applicable federal, state, and local withholding taxes, social security, or other applicable or mandated payroll charges or deductions.

### **10.2. Workers' Compensation**

For all dedicated operational staff, SMUD shall: (1) provide workers' compensation insurance, provide any necessary notices, and otherwise abide by any applicable legal requirements with respect to workplace injuries and workers' compensation obligations; and (2) process and respond to unemployment insurance claims.

### **10.3. Leave of Absence Obligations**

For all dedicated operational staff, SMUD shall provide necessary notices and administer all leaves of absence provided by applicable policy, MOU, or law.

### **10.4. Recordkeeping**

For all dedicated operational staff, SMUD shall comply with all applicable recordkeeping laws, maintain personnel files, maintain all medical-related files, and respond to any requests for information.

### **10.5. Employment Laws**

For all dedicated operational staff, SMUD shall comply with all employment laws regarding workplace treatment, including laws relating to discrimination, harassment, retaliation, and accommodation (including the obligation to participate in an interactive process regarding any need for workplace accommodation).

### **10.6. Discipline and Direction**

SMUD retains sole discretion to terminate and discipline its employees assigned as dedicated operational staff. However, SMUD will seek input and feedback from VCEA as it relates to the performance of dedicated operational staff. SMUD will maintain control over the direction of how any dedicated operational staff performs their duties. Dedicated operational staff will report to and coordinate with SMUD supervision as required by SMUD.

## **11. INDEMNIFICATION**

- 11.1. SMUD shall indemnify, defend, and hold VCEA harmless from any and all damage or liability (including, but not limited to, attorney's fees and litigation costs incurred by VCEA) arising from any actions taken by dedicated operational staff in connection with their work assignments for VCEA, including (but not limited to) any claims for negligent hiring or negligent retention. SMUD shall also indemnify and reimburse VCEA for any willful damage to VCEA's property by any dedicated operational staff.
- 11.2. SMUD shall indemnify, defend, and hold VCEA harmless from any and all damage or liability (including, but not limited to, attorney's fees and litigation costs incurred by VCEA) arising from any employment-related claims asserted by any dedicated operational staff. The duty to defend shall also include defense against any employment-related allegations or complaints brought by dedicated operational staff against VCEA, including allegations of wage-and-hour violations, discrimination, denial of legally mandated leave, retaliation, or any general allegation of illegal harassment or discrimination.
- 11.3. SMUD shall indemnify, defend, and hold VCEA harmless from any liability or damage (including, but not limited to, attorney's fees and litigation costs incurred by VCEA) arising from the eligibility (or lack thereof) of dedicated operational staff for CalPERS retirement benefits, including any liability for present, past, or future contributions or penalties.
- 11.4. For purposes of this section 11, VCEA is defined to include VCEA and its members, officers, agents, and employees. The provisions of this section 11 shall survive termination of this Task Order 4. The parties agree to notify each other immediately upon assertion or possible assertion of any such claim and to cooperate with one another in the investigation and defense of said claim.

## **12. LEAVE**

SMUD employees assigned under this Task Order 4 shall have the ability to take up to three (3) weeks of vacation per year, appropriate sick leave, and other leaves as required by law.

Any leave taken by a SMUD employee does not obligate SMUD to back-fill the position while the employee is on leave.


**13. NON-DISCRIMINATION**

VCEA assumes responsibility for and warrants that the VCEA workplace and working conditions will be free from illegal discrimination, harassment, and/or retaliation. Further, VCEA will not prohibit, discourage, or dissuade any SMUD employee from any good-faith whistle blowing actions.


**14. SIGNATURES**

The Parties have executed this Task Order 4 and it is effective as of the date of last signature below.

**Valley Clean Energy Alliance**

By:   
Name: DON SAYLOR  
Title: BOARD CHAIR, VCEA  
Date: \_\_\_\_\_  
Approved as to Form: \_\_\_\_\_

**Sacramento Municipal Utility District**

By:   
Name: Arlen Orchard  
Title: CEO & GM  
Date: 3/2/18

