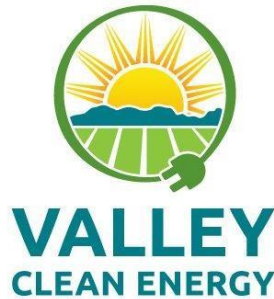


**Valley Clean Energy Alliance
604 2nd Street, Davis, California 95616
Phone: (530) 446-2750**



**REQUEST FOR PROPOSALS
FOR
GENERAL COUNSEL SERVICES**

**PROPOSALS ARE DUE:
Friday, April 9, 2021 BY 4:00 P.M. (Pacific Daylight Time)
Proposals must be e-mailed in PDF form to Alisa.Lembke@ValleyCleanEnergy.org**

**Valley Clean Energy Alliance is a Joint Powers Authority
consisting of the Cities of Davis, Woodland, and Winters and the County of Yolo.**

Scope of Services**GENERAL COUNSEL SERVICES****I. BACKGROUND**

Valley Clean Energy Alliance (VCE) is a Joint Powers Agency that serves as the Community Choice Aggregator (CCA) for electricity customers in the cities of Woodland, Davis, Winters, and the unincorporated areas of Yolo County. VCE offers choice in the electric utility market; empowers local control of electricity procurement decisions; reduces the carbon footprint associated with electricity service; and helps support the growth of local energy projects.

VCE is governed by an eight-member Board of Directors, two each from the Woodland City Council, Davis City Council, Winters City Council, and the Yolo County Board of Supervisors. As a community-governed entity, VCE gives customers access to the people who make the rate and service decisions: supervisors and council members whom they already know. The Board is advised by its twelve-member Community Advisory Committee (CAC).

When VCE was formed through a JPA Agreement between Davis and Yolo County in 2017, VCE received general legal services from the Davis City Attorney and an attorney with the Yolo County Counsel's Office, who served as Co-General Counsel. Specialized legal services were also provided by outside counsel. Due to upcoming retirements and internal reassignments, VCE is considering candidates to fill the General Counsel role.

II. DETAILED SCOPE OF SERVICES

VCE is releasing this Request for Proposals (RFP) to obtain proposals from qualified attorneys and law firms to provide general counsel legal services. The successful firm must provide a designated individual to serve as VCE General Counsel that possesses expertise in the areas including, but not limited to, public sector law, CCAs, power purchase agreements, public meetings, land use, environmental, personnel, and contracting. Familiarity and working experience with the California CCA business model is highly preferred. A description of the services sought is described herein.

VCE anticipates that an individual or firm will provide services as General Counsel under a fixed monthly retainer with additional services billed at an hourly rate. It is expected that the services provided under a retainer as General Counsel would be an average of 20 to 30 hours per month. Expectations for general counsel legal services include:

1. Attendance at all meetings of the Board of Directors (monthly) and special meetings if called. Attendance may also be needed at monthly standing committees depending on the matters under consideration. The standing meetings include the staff review of Board Agenda (weekly), Enterprise Risk Oversight Committee (monthly) and the CAC (monthly). Currently, meetings are held virtually, but some are expected to resume being in-person in the future.

2. Provide general legal advice and counsel to VCE Members, Chair and Vice-Chair, General Manager, and other VCE staff related to matters important to the agency.
3. Research and interpret laws, proposed legislation, court decisions, and other legal authorities to prepare legal opinions and to advise the Board and staff accordingly.
4. Review and assist in preparation of VCE Board and Standing Committees meeting agenda packets, resolutions, ordinances, contracts, agreements, memoranda, and other writings as needed.
5. Present written or oral legal reports or advice to the VCE Board, CAC, and staff.
6. Coordination of required work of outside legal counsel retained by VCE for finance activities, regulatory compliance, litigation, or other proceedings.
7. Provide advice and assistance as needed on its application to the operation of VCE, on matters pertaining to the organization of VCE, contracts/agreements, procurement, conflicts of interest, and human resources.
8. Maintain VCE's standard contract/agreement provisions ("boilerplate templates") required of vendors, consultants, or contractors.
9. Time incurred for internal conversations, consultation, emails, memoranda, cross training, etc. between attorneys, paralegals and other staff within the firm.
10. Assist with delivery, development, and contract review and management for VCE programs including the programs plan, any Federal and/or State grants, and any additional programs that may be created.
11. Other routine legal advice, consultation, and opinions to VCE and staff on areas such as: public sector law, public meetings, public records act requests, contracts/agreements, existing and proposed transportation laws and regulations, land use, employment laws, human resources management, conflicts of interest, environmental and hazardous material laws, litigation, risk management, procurement of goods and services, and knowledge of applicable California Codes and federal codes and regulations.

Additional Services

- III.** There will likely be matters that, due to complexity, size in scope, litigation, special projects, new laws or regulations, ballot measures, etc. requiring services beyond that which are encompassed in general counsel legal services. Effective communication will be essential to ensure that the need for Additional Services is discussed in advance and with a reasonable expectation of the number of legal services required. It may also be in VCE's best interest to retain additional outside counsel for unique or specialized matters of law. In those circumstances, VCE General Counsel may be asked to coordinate with outside counsel. Additional Services, beyond the scope of General Counsel, will be billed on an hourly rate. Such services would be authorized by task orders on a case-by-case basis.

IV. PROPOSER MINIMUM QUALIFICATIONS

1. All attorneys proposed by any firm must be admitted to practice in the State of California and in good standing with the California State Bar.
2. The attorney proposed to act as General Counsel to VCE must have at least 10 years legal experience.

3. Demonstrated legal expertise in the following areas as it relates to public agencies or CCAs:
 - a. Laws and regulations governing California, such as the California Government Code, Ralph M. Brown Act, Public Records Act, Political Reform Act, General Municipal Law, and operating procedures relative to the conduct of business.
 - b. Experience and knowledge of the bidding, award, and administration of public contracts, including Public Contract Code, Labor Code, and other California statutes governing the procurement process.
 - c. Experience in public employment labor laws.
 - d. Environmental laws, including the California Environmental Quality Act (CEQA);
 - e. Contracts, joint powers authorities, memoranda of understanding, including risk transfer provisions.
 - f. Preparation and review of ordinances and resolutions.
 - g. Real estate law, easements, rights-of-way, and other related agreements and negotiations.
 - h. Other relevant areas pertaining to special districts, CCAs or municipal law.

V. PROPOSAL EVALUATION

1. VCE will establish a Consultant Selection Panel (Panel) including but not limited to representatives from the Board, General Manager and staff. The Panel will evaluate the proposals based on the information submitted according to the proposal evaluation criteria below.
2. VCE reserves the option to invite short-listed Proposers for a pre-selection interview.
3. Based on the proposals and/or interviews, the Panel will rank proposals and may recommend to Board of Directors to enter a contract (sample contract attached) with the top ranked individual/firm. The Board of Directors has final approval authority to enter a contract with the selected individual/firm.
4. VCE reserves the option to not select any proposals from this RFP.

PROPOSAL EVALUATION CRITERIA: The proposals submitted in response to this Request for Proposals shall be evaluated for award based on the following criteria and weighting.

Item	Criteria Description	Weighting
	Minimum Qualifications (Section III)*	Pass/Fail
	Experience and Qualifications <ol style="list-style-type: none"> 1. Experience of firm and specific qualifications of attorney designated to serve as VCE General Counsel in the areas identified in section II “Detailed Scope of Services” 2. Resumes of staff designated to support the attorney serving as VCE General Council 3. CCA/Energy experience 	65%
	Proposer’s Approach to Working with VCE	15%
	Commercial Terms (Price)** and Compliance with VCE Sample Contract***	20%
	Total	100%

- * Proposer shall pass section III “Proposer Minimum Qualifications” listed above to be declared qualified.

VI. PROPOSAL SUBMITTAL REQUIREMENTS

1. Ten pages maximum submitted electronically. Executive Summary with brief description of company including Firm or individual name and contact information, including e-mail and website addresses, year organized, principals with the firm, types of work performed, number of employees.
2. Summary aligned with Section II “Detailed Scope of Services” above including qualifications, specializations, experience, professional affiliation, special training, availability, California Bar license numbers, and contact information for key personnel and proposed lead and back-up attorneys for the CCA organization.
3. Resumes of key staff that would work on VCE projects.
4. Information on any previous experience or services provided, including CCA experience, General Counsel services, public agency representation, relevant litigation experience, list of relevant past or present clients, etc.
5. List of clients you currently represent that could cause a conflict of interest with your responsibilities as General Counsel for VCE.
6. If your firm or you have filed any litigation in the past five years in which VCE, its city/county members, or one of their employees was named as a party, please describe the case(s).
7. Other factors or special considerations you feel would influence your selection.

8. List of references and contact information.
9. Proposed hourly rates for the attorney assigned to VCE or any alternative fee structure you propose.

VII. MISCELLANEOUS

1. Travel

Travel time billed at 50% of the hourly rate. Any billings for travel time to, from, or within Yolo County will be limited to 1 hour per way. Reasonable travel expenses will be reimbursed without mark-up.

2. Additional Information

Scope of Services may be revised upon mutual agreement between the Contractor and the VCE Contract Manager.

3. Ownership of Work Products

All notes, documents, and final products in all native formats (e.g., Word, Excel, PowerPoint, databases, handwritten notes) produced in the performance of this agreement shall be the property of VCE and shall not be shared with other entities without permission from VCE staff.

4. Request for Proposal Schedule

VCE anticipates that the process for selection of General Counsel and awarding the contract will be according to the following tentative schedule.

Event	Completion Date
1. Issue RFP	Wednesday, March 24, 2021
2. Questions & Notification of Intent*	Monday, March 29, 2021
3. Responses to Questions	Friday, April 2, 2021
4. Proposal Due Date	Friday, April 9, 2021
5. Notification of Preliminary Selection	Monday, April 19, 2021
6. Interviews	Monday, April 26, 2021
7. Anticipated Contract Award Date	Thursday, May 13, 2021
8. Contract Begins	Tuesday, June 1, 2021

* Notification of intent is required to receive a copy of questions and responses to all proposers.

VIII. INSTRUCTIONS TO PROPOSERS

1. Time and Manner of Submission

The Proposal shall be submitted electronically to and received by VCE's office no later than 4:00 p.m. on Friday, April 9, 2021.

Submit to:

Alisa Lembke, Board Clerk

Email: Alisa.Lembke@ValleyCleanEnergy.org

- Each proposal shall include the full business legal name, DBA, and address and shall be signed by an authorized official of the company. The name of each person signing the proposal shall be typed or printed below the signature.
- All proposals submitted become the property of VCE.

2. Explanations to Proposers

All requests, questions or other communications regarding this RFP shall be made in writing to VCE via email. Address all communications to Alisa Lembke, Board Clerk. To ensure that written requests are received and answered in a timely manner, email correspondence is required. Ms. Lembke will distribute questions and the answers to all potential Proposers electronically.

Alisa Lembke, Board Clerk

604 2nd Street

Davis, CA 95616

Email: Alisa.Lembke@ValleyCleanEnergy.org

VCE will not be bound by any oral interpretation of the Request for Proposal, which may be made by any of its representatives or employees, unless such interpretations are subsequently issued in the form of an addendum to this Request for Proposal.

3. Withdrawal or Modification of Proposals

Proposals may be modified or withdrawn only by an electronic request received by VCE prior to the Request for Proposal due date.

4. Revisions and Supplements

Addenda: If it becomes necessary to revise or supplement any part of this Request for Proposal an addendum will be provided.

5. Proposal Evaluation and Selection Process

The proposals submitted shall be evaluated for award based on the criteria described in the Section IV "Proposal Evaluation Criteria" section of this Request for Proposal.

VCE may request additional information from any or all Proposers after the initial evaluation of the proposals to clarify terms and conditions.

Based on VCE's review of the proposals received, a "short listed" group of Proposers may be selected. The "short listed" firms may be required to make verbal presentations

of their qualification to VCE. If a presentation is determined to be required, the presentation will be considered in the overall technical rating.

The contract will be awarded to the best-qualified Proposer, after price and other factors have been considered, provided that the proposal is reasonable and is in the best interests of VCE to accept it.

The right is reserved, as the interest of VCE may require, to reject any or all proposals and to waive any irregularity in the proposals received.

In the event a Proposer elects to protest VCE's selection, the protest must be submitted in writing to VCE within five (5) business days of April 28, 2021.

Within fourteen (14) calendar days after notice of award, the successful Proposer shall deliver to VCE the required insurance certificates as per section 3.10 of the sample contract and the signed copies of the contract. The contract forms will be forwarded to the Proposer with the award notification.

6. Duration of Contract

This contract shall be for an initial three-year period, subject to approval by VCE's Board of Directors of the corresponding annual budget, unless otherwise mutually agreed upon in writing.

The Budget is subject to the approval of VCE's Board of Directors.

7. Qualifications of Proposers

VCE expressly reserves the right to reject any proposal if it determines that the business and technical organization, financial and other resources, or experience of the Proposer, compared to the work proposed justifies such rejection.

8. Proposal Preparation Costs

The costs of developing proposals are entirely the responsibility of the Proposer and shall not be charged in any manner to VCE.

9. Conflicts

If conflicts exist between the contract and the other elements of this Request for Proposal, the contract prevails. If conflict exists within the contract itself, the Terms and Conditions govern, followed by Scope of Services. If conflict exists between the contract and applicable Federal or State law, rule, regulation, order, or code; the law, rule, regulation, order, or code shall control. Varying levels of control between the Terms and Conditions, drawings and documents, laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement(s) shall control.

10. Manner and Time of Payment

Billing shall be submitted monthly with a detailed, itemized billing on a monthly basis in order to avoid any confusion of services provided.

11. Subcontractors

The Proposers must describe in their proposals the areas that they anticipate subcontracting to specialty firms. Identify the firms and describe how Proposer will manage these subcontracts.

Contractor will pay subcontractors in a timely manner.

Nothing contained in the Contract shall create any contractual relation between any subcontractor and VCE.

12. Notice Related to Proprietary/Confidential Data

Proposers are advised that the California Public Records Act (the "Act", Government Code §§ 6250 et seq.) provides that any person may inspect or be provided a copy of any identifiable public record or document that is not exempted from disclosure by the express provisions of the Act. Each Proposer shall clearly identify any information within its submission that it intends to ask VCE to withhold as exempt under the Act. Any information contained in a Proposer's submission which the Proposer believes qualifies for exemption from public disclosure as "proprietary" or "confidential" must be identified as such at the time of first submission of the Proposer's response to this RFP. A failure to identify information contained in a Proposer's submission to this RFP as "proprietary" or "confidential" shall constitute a waiver of Proposer's right to object to the release of such information upon request under the Act. VCE favors full and open disclosure of all such records. VCE will not expend public funds defending claims for access to, inspection of, or to be provided copies of any such records.

13. Contract

VCE's standard contract is included in the Sample Contract section of this Request for Proposal. VCE may reject proposals that contain exceptions to the Terms and Conditions included in the sample contract.

SAMPLE CONTRACT

A SAMPLE CONTRACT IS ATTACHED HERETO.

AGREEMENT FOR LEGAL SERVICES

This **Agreement** is made and entered into as of _____, 20____ by and between **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 *****INSERT NAME*****, a *****INSERT TYPE OF ENTITY - CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP OR OTHER LEGAL ENTITY***** with its principal place of business at *****INSERT ADDRESS***** (hereinafter referred to as “Law Firm”). VCE and Law Firm are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

RECITALS

WHEREAS, Law Firm desires to perform and assume responsibility for the provision of certain legal services required by VCE on the terms and conditions set forth in this Agreement. Law Firm represents that it is experienced in providing legal services to public clients and is familiar with the plans of VCE with respect to the representation, as defined below.

NOW, THEREFORE, VCE and Law Firm agree as follows:

1. SCOPE OF SERVICES AND TERM.

1.1 Scope of Services. Law Firm promises and agrees to furnish to VCE all labor, services, and incidental and customary work necessary to fully and adequately perform the role of General Counsel of VCE (“Services”). The Services are more particularly described in **Exhibit A**. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state, and federal laws, rules, and regulations. In the event of a conflict between a provision in this Agreement and a provision in **Exhibit A** or in any other exhibit to this Agreement, the provision in this Agreement shall control.

1.2 Facilities, Equipment, and Other Materials. Except as specifically provided in **Exhibit B**, Law Firm shall, at its sole cost and expense, furnish all facilities, tools, equipment, and other

materials necessary for performing the Services pursuant to this Agreement. VCE shall furnish to Law Firm only those facilities, tools, equipment, and other materials specifically listed in **Exhibit B**, according to the terms and conditions set forth in that exhibit.

1.3 Term. The term of this Agreement shall begin on the date VCE Board of Directors approves this Agreement with a term period of (Month), Day, Year through Month, Day, Year or when terminated as provided in Article 5.

2. PROJECT COORDINATION.

3. RESPONSIBILITIES OF LAW FIRM.

3.1 Independent Contractor. VCE retains Law Firm on an independent contractor basis and not as an employee. Law Firm retains the right to perform similar or different services for others during the term of this Agreement. Nor shall any additional personnel performing the Services under this Agreement on behalf of Law Firm be employees of the VCE; such personnel shall at all times be under Law Firm's exclusive direction and control. Law Firm shall be entitled to no other benefits or compensation except as provided in this Agreement.

3.2 Control and Payment of Subordinates. The Services shall be performed by Law Firm or personnel under its supervision. Law Firm will determine the means, methods, and details of performing the Services subject to the requirements of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Law Firm shall at all times be under Law Firm's exclusive direction and control. Law Firm shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Law Firm shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.3 Conformance to Applicable Requirements. Law Firm shall furnish VCE with every reasonable opportunity to determine that Law Firm's services are being performed in accordance

with this Agreement. VCE's review of Law Firm's services shall not relieve Law Firm of any of its obligations to fulfill this Agreement as prescribed.

3.4 Substitution of Key Personnel. Law Firm has represented to VCE that it will perform and coordinate the Services under this Agreement. Should such personnel become unavailable, Law Firm may substitute other personnel of at least equal competence upon the VCE's written approval. In the event that VCE and Law Firm cannot agree as to the substitution of key personnel, VCE shall be entitled to terminate this Agreement.

3.5 Licenses and Permits. Law Firm represents that it, its employees and subLaw Firms have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services and that such licenses and approvals shall be maintained throughout the term of this Agreement, at Law Firm's sole cost and expense.

3.6 Standard of Care; Performance of Employees. Law Firm shall perform all Services under this Agreement in a skillful and competent manner. Law Firm warrants that all employees and subLaw Firms shall have sufficient skill and experience to perform the Services assigned to them. Law Firm shall perform, at its own cost and expense and without reimbursement from the VCE, any services necessary to correct errors or omissions which are caused by the Law Firm's failure to comply with the standard of care provided for herein. Any employee of Law Firm or its subLaw Firms who is determined by VCE to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the VCE, shall be promptly removed from the Project by the Law Firm and shall not be re-employed to perform any of the Services or to work on the Project.

3.7 Laws and Regulations. Law Firm shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Law Firm shall be liable for all violations of such laws and regulations by Law Firm in connection with the Services. If Law Firm performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the VCE, Law Firm shall be solely responsible

for all costs arising therefrom. Law Firm shall defend, indemnify and hold the VCE, its officials, directors, officers, employees, and agents free and harmless, pursuant to the indemnification provisions of this Agreement and in accordance with the language of Section 6.3, from any claim or liability to the extent arising out of any failure or alleged failure of Law Firm to comply with such laws, rules or regulations.

3.8 Labor Certification. By its signature hereunder, Law Firm certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and, if applicable, agrees to comply with such provisions before commencing the performance of the Services.

3.9 Non-Discrimination. No discrimination shall be made in the employment of persons under this Agreement because of that person's race, color, national origin, ancestry, religion, age, marital status, disability, gender, sexual orientation, or place of birth.

3.10 Insurance.

3.10.1 Time for Compliance. Law Firm shall not commence the performance of Services under this Agreement until it has provided evidence satisfactory to VCE that it has secured all insurance required herein. In addition, Law Firm shall not allow any subLaw Firm to commence work on any subcontract until it has provided evidence satisfactory to VCE that the subLaw Firm has secured all insurance required herein. Failure to provide and maintain all required insurance shall be grounds for VCE to terminate this Agreement for cause.

3.10.2 Minimum Requirements. Law Firm shall, at its expense, procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of this Agreement by Law Firm, its agents, representatives, employees or subLaw Firms. Law Firm shall also require all of its subLaw Firms to procure and maintain the same insurance for the duration of this Agreement. Such insurance shall meet at least the following minimum levels of coverage:

3.10.2.1 Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (a) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (b) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 8 and 9 (Hired & Non Owned); and (c) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

3.10.2.2 Minimum Limits of Insurance. Law Firm shall maintain limits no less than: (a) *General Liability*: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used including, but not limited to, form CG 2503, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (b) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; and (c) *Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of \$1,000,000 per accident for bodily injury or disease.

3.10.3 Professional Liability. Law Firm shall procure and maintain, and require its subLaw Firms to procure and maintain, for a period of five (5) years following completion of the Project errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$1,000,000 per claim, and shall be endorsed to include contractual liability.

3.10.4 Insurance Endorsements. The insurance policies shall contain the following provisions, or Law Firm shall provide endorsements on forms supplied or approved by VCE to add the following provisions to the insurance policies:

3.10.4.1 General Liability. The general liability policy shall include or be endorsed (amended) to state that: (a) the VCE, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insureds with respect to the work or operations performed by or on behalf of Law Firm, including materials, parts or equipment furnished in connection with such work; and (b) the insurance coverage shall be primary insurance as respects

the VCE, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Law Firm's scheduled underlying coverage. Any insurance or self-insurance maintained by the VCE, its directors, officials, officers, employees, agents, and volunteers shall be excess of Law Firm's insurance and shall not be called upon to contribute with it in any way.

3.10.4.2 Automobile Liability. The automobile liability policy shall include or be endorsed (amended) to state that: (a) the VCE, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Law Firm or for which Law Firm is responsible; and (b) the insurance coverage shall be primary insurance as respects the VCE, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Law Firm's scheduled underlying coverage. Any insurance or self-insurance maintained by the VCE, its directors, officials, officers, employees, agents, and volunteers shall be excess of Law Firm's insurance and shall not be called upon to contribute with it in any way.

3.10.4.3 Workers' Compensation and Employer's Liability Coverage. The insurer shall agree to waive all rights of subrogation against the VCE, its directors, officials, officers, employees, agents, and volunteers for losses paid under the terms of the insurance policy which arise from work performed by Law Firm.

3.10.5 Separation of Insureds; No Special Limitations. All insurance required herein shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the VCE, its directors, officials, officers, employees, agents, and volunteers.

3.10.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the VCE. Law Firm shall guarantee that, at the option of the VCE, either: (a) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the VCE, its directors, officials, officers, employees,

agents, and volunteers; or (b) the Law Firm shall procure a bond guaranteeing payment of losses and related investigation costs, claims, and administrative and defense expenses.

3.10.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the VCE .

3.10.8 Verification of Coverage. Law Firm shall furnish VCE with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to VCE. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by VCE if requested. All certificates and endorsements must be received and approved by VCE before work commences. VCE reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.10.9 Reporting of Claims. Law Firm shall report to the VCE, in addition to Law Firm's insurer, any and all insurance claims submitted by Law Firm in connection with the Services under this Agreement.

3.11 Safety. Law Firm shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out the Services, Law Firm shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (a) adequate life protection and life saving equipment and procedures; (b) instructions in accident prevention for all employees and subLaw Firms, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (c) adequate facilities for the proper inspection and maintenance of all safety measures.

3.12 Records. Law Firm shall allow a representative of VCE during normal business hours to examine, audit and make transcripts of copies of such records and any other documents created pursuant to this Agreement. Law Firm shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement for a period of three (3) years from the date of final payment under this Agreement.

4. FEES AND PAYMENT.

4.1 Compensation. This is a “time and materials” based agreement. Law Firm shall receive compensation, including authorized reimbursements, for Services rendered under this Agreement at the rates, in the amounts and at the times set forth in **Exhibit D**. Notwithstanding the provisions of Exhibit D, the total compensation shall not exceed _____ Dollars (\$XXX) without written approval of VCE. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

4.2 Payment of Compensation. VCE shall, within 45 days of receiving an invoice for services rendered by LAW FIRM in accordance with this Agreement, review the invoice and pay all approved charges thereon.

4.3 VCE’s Right to Withhold Payment. VCE reserves the right to withhold payment from Law Firm on account of Services not performed satisfactorily, delays in Law Firm’s performance of Services past the milestones established in the Schedule of Services (**Exhibit C**), or other defaults hereunder. Law Firm shall not stop or delay performance of Services under this Agreement if VCE properly withholds payment pursuant to this Section 4.3, provided that VCE continues to make payment of undisputed amounts.

4.4 Payment Disputes. If VCE disagrees with any portion of a billing, VCE shall promptly notify Law Firm of the disagreement, and VCE and Law Firm shall attempt to resolve the disagreement. VCE’s payment of any amounts shall not constitute a waiver of any disagreement and VCE shall promptly pay all amounts not in dispute.

4.5 Extra Work. At any time during the term of this Agreement, VCE may request that Law Firm perform Extra Work. As used herein, “Extra Work” means any work which is determined by VCE to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Law Firm shall not perform, nor be compensated for, Extra Work without written authorization from the VCE Manager.

5. SUSPENSION AND TERMINATION.

5.1 Suspension. VCE may suspend this Agreement and Law Firm’s performance of the Services, wholly or in part, for such period as it deems necessary due to unfavorable conditions or to the failure on the part of Law Firm to perform any material provision of this Agreement. Law Firm will be paid for satisfactory services performed hereunder through the date of temporary suspension pro rating for any payment in connection with the next milestone based on the work performed towards such milestone as mutually determined by Law Firm and VCE working together in good faith. In the event that Law Firm’s services hereunder are delayed for a period in excess of six (6) months due to causes beyond Law Firm’s reasonable control, Law Firm may terminate this Agreement and collect payment for any satisfactory services provided through the date of temporary suspension pro rating for any payment in connection with the next milestone as described above.

5.2 Termination for Cause.

5.2.1 If Law Firm at any time refuses or neglects to prosecute its services in accordance with the Schedule of Services, or is adjudicated a bankrupt, or commits any act of insolvency, or makes an assignment for the benefit of creditors without the VCE’s consent, or fails to make prompt payment to persons furnishing labor, equipment, materials or services, or fails in any material respect to properly and diligently prosecute its services, or otherwise fails to perform fully any and all of the material agreements herein contained, Law Firm shall be in default.

5.2.2 If Law Firm fails to cure the default within thirty (30) days after written notice thereof, VCE may, at its sole option, take possession of any documents and data (as more specifically described in Section 6.1) or other materials (in paper and electronic form) prepared for VCE or used by Law Firm exclusively in connection with the Project and (1) provide any such work, labor, materials or services as may be necessary to overcome the default and deduct the cost thereof from any money then due or thereafter to become due to Law Firm under this Agreement; or (2) terminate Law Firm's right to proceed with this Agreement.

5.2.3 In the event VCE elects to terminate, VCE shall have the right to immediate possession of all documents and data and work in progress prepared by Law Firm pursuant to this Agreement, whether located at the Project, at Law Firm's place of business, or at the offices of a subLaw Firm, and may employ any other person or persons to finish the Services and provide the materials therefor. In case of such default termination, Law Firm shall not be entitled to receive any further payment under this Agreement until the Project is completely finished. At that time, if the expenses reasonably incurred by VCE in obtaining the Services necessary to complete the Project exceed such unpaid balance, then Law Firm shall promptly pay to VCE the amount by which such expense exceeds the unpaid balance of the not-to-exceed amount reflected in Section 4.1. The expense referred to in the previous sentence shall include expenses incurred by VCE in causing the Services called for under this Agreement to be provided by others, and for any costs or damages sustained by VCE by reason of Law Firm's default or defective work.

5.2.4 If VCE fails to make timely payment to the Law Firm or otherwise fails to perform fully any and all of the material agreements herein contained, VCE shall be in default. If such default is not cured within thirty (30) days after written notice thereof, the Law Firm may, at its sole option, terminate this Agreement and VCE shall pay the Law Firm all amounts due for services satisfactorily provided to VCE as of the date of Law Firm's written notice of default.

5.3 Termination for Convenience.

5.3.1 In addition to the foregoing right to terminate for default, VCE reserves the absolute right to terminate this Agreement without cause, upon 72-hours' written notice to Law Firm. In the event of termination without cause, Law Firm shall be entitled to payment performed and expenses reasonably incurred at the time of notice .

5.3.2 If this Agreement is terminated by VCE for default and it is later determined that the default termination was wrongful, such termination automatically shall be converted to and treated as a termination for convenience under this Section and Law Firm shall be entitled to receive only the amounts payable hereunder in the event of a termination for convenience.

5.3.3 Force Majeure. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including, without limitation: (a) acts of God; (b) flood, fire, earthquake or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; and (g) national or regional emergency (a "Force Majeure Event"). The party suffering a Force Majeure Event shall give notice to the other party, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized.

6. OTHER PROVISIONS.

6.1 Documents and Data.

6.1.1 Ownership of Documents. VCE shall be the owner of the following items produced exclusively pursuant to this Agreement, whether or not completed: all data collected, all documents prepared, of any type whatsoever, and any material necessary for the practical use of the data and/or documents from the time of collection and/or production whether performance under this Agreement has been completed or if this Agreement has been terminated prior to completion. Law Firm shall not release any materials under this Section except after prior written approval of VCE. Law Firm assumes no liability for VCE's use of Documents in any manner not contemplated in the scope of the Project.

6.1.2 Copyright. No materials produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country except as determined at the sole discretion of the VCE. VCE shall have the unrestricted authority to publish, disclose, distribute, and otherwise use in whole or in part, any reports, data, documents or other materials prepared under this Agreement.

6.1.3 Release of Documents to VCE. Law Firm shall deliver to VCE all materials prepared by Law Firm exclusively in connection with this Agreement, including all drafts, memoranda, analyses, and other documents, in paper and electronic form, within five (5) days of receiving a written request from VCE.

6.1.4 Confidentiality. All documents, reports, information, data, and exhibits prepared or assembled by Law Firm in connection with its performance under this Agreement are confidential until released by VCE to the public, and Law Firm shall not make any of these documents or information available to any individual or organization not employed by Law Firm or VCE without the written consent of VCE before any such release, unless Law Firm is required to do so under applicable law.

6.2 Assignment; Successors. Upon mutual written consent, VCE may assign this agreement and its obligations to a Joint Powers Agency formed for the purpose of forming and operating a

CCE program. Law Firm shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of the VCE. All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

6.3 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California and any legal actions concerning this Agreement's validity, interpretation and performance shall be governed by the laws of the State of California. . Venue shall be in Yolo County. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Law Firm must comply with the claim procedures set forth in Government Code sections 900 *et seq.* prior to filing any lawsuit against the VCE . Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by the Parties hereunder. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Law Firm shall be barred from bringing and maintaining a valid lawsuit against the VCE.

6.4 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Law Firm: NAME

Street Address
City, State, Zip
Attn: XXXXX XXXXX

VCE: Valley Clean Energy Alliance
604 2ND Street
Davis, CA 95616
Attn: Mitch Sears

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

6.5 Incorporation by Reference. All exhibits referred to in this Agreement are attached hereto and are by this reference incorporated herein.

6.6 VCE 's Right to Employ Other Law Firms. VCE reserves the right to employ other Law Firms in connection with the Project, provided that such other Law Firms shall not be performing the work set forth in the Scope of Services of this Agreement.

6.7 Construction; References; Captions. The language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. The captions of the various sections and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement.

6.8 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both parties.

6.9 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel or otherwise.

6.10 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the parties.

6.11 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

6.12 Interest of Law Firm. Law Firm covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Services under this Agreement. Law Firm certifies that no one who has or will have any financial interest under this Agreement is an officer or employee of the VCE.

6.13 Interest of SubLaw Firms. Law Firm further covenants that, in the performance of this Agreement, no subLaw Firm or person having any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Services under this Agreement shall be employed. Law Firm has provided VCE with a list of all subLaw Firms and the key personnel for such subLaw Firms that are retained or to be retained by Law Firm in connection with the performance of the Services, to assist VCE in affirming compliance with this Section.

6.14 Prohibited Interests. Law Firm maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Law Firm, to solicit or secure this Agreement. Further, Law Firm warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Law Firm, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. If required, Law Firm further agrees to file, or shall cause its employees or subLaw Firms to file, a Statement of Economic Interest with the VCE 's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, VCE shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of the VCE, during the term of his or her service with the VCE, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

6.15 Cooperation; Further Acts. The parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

6.16 Attorneys' Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorneys' fees and all other costs of such action, provided, however, that the prevailing party's fees and costs shall not exceed that of VCE in association with the action.

6.17 Authority to Enter Agreement. Each party has all requisite power and authority to conduct its business and to execute, deliver, and perform this Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.

6.18 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

6.19 Entirety of Agreement. This Agreement contains the entire agreement of VCE and Law Firm with respect to the subject matter hereof, and no other agreement, statement or promise made by any party, or to any employee, officer or agent of any party, which is not contained in this Agreement, shall be binding or valid.

[Signatures on following page]

SIGNATURE PAGE TO LAW FIRM SERVICES AGREEMENT

IN WITNESS WHEREOF, VCE and Law Firm have entered into this Agreement as of the date first stated above.

VCE

_____ (Law Firm Name)

By: _____
Mitch Sears
VCE Interim General Manager

By: _____
Its: _____
Printed Name: _____

APPROVED AS TO FORM:

By: _____
Eric May
VCE Co-General Counsel

EXHIBIT A

SCOPE OF SERVICES

EXHIBIT B

FACILITIES, EQUIPMENT, AND OTHER MATERIALS PROVIDED BY VCE

EXHIBIT C

SCHEDULE OF SERVICES

EXHIBIT D

BUDGET, PAYMENT, RATES